

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

Jul 31 2024

S.C. SUPREME COURT

Certiorari to Greenville County

Honorable R. Lawton McIntosh, Circuit Court Judge

STEVEN LEVON WILLIAMS,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000248

APPENDIX

JOANNA K. DELANY
Appellate Defender

ALAN WILSON
Attorney General

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

MELODY J. BROWN
Senior Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-3727

ATTORNEY FOR PETITIONER

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED MAY 11-12, 2016	1
APPLICATION FOR POST-CONVICTION RELIEF	423
RETURN.....	435
AMENDED RETURN.....	444
MOTION FOR A MORE DEFINITE STATEMENT.....	456
AMENDED APPLICATION FOR PCR.....	462
CONDITIONAL ORDER OF DISMISSAL DATED JUNE 4, 2021	463
CONDITIONAL ORDER OF DISMISSAL DATED JUNE 7, 2021	465
PCR HEARING TRANSCRIPT DATED SEPTEMBER 13, 2021	467
RESPONDENT’S EXHIBIT #1 (NOTE REJECTING PLEA DEAL).....	516
CONDITIONAL ORDER OF DISMISSAL DATED SEPTEMBER 17, 2021.....	517
PCR HEARING DATED MARCH 29, 2023.....	519
APPLICANT’S EXHIBIT #1	546
CONDITIONAL ORDER OF DISMISSAL DATED MARCH 29, 2023	547
ORDER OF DISMISSAL.....	549
INDICTMENTS	576
SENTENCE SHEETS	582

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF GREENVILLE	)	Case No(s) : 2015GS2300238,
	)	2015GS2300239,
State of South Carolina,	)	2015GS2300240,
	)	2015GS2300241
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	
Steven Levon Williams	)	
	)	
Defendant.	)	
_____	)	

May 11-12, 2016
Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

L. MARK MOYER, Esquire
WALKER MILLER, Esquire
Attorneys for the State

CARLYLE STEELE, Esquire
Attorney for the Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

Records are
taken and
produced via



I N D E XDIRECT CROSS REDIRECT RECROSS**May 11, 2016**

Motions	10		
Jury Qualification	14		
Jury Selection	25		
Court Remarks to Jury	35		
Motions	43		
Steven Williams			
by Mr. Steele	52		
by Mr. Moyer		54	
Joey Smith			
by Mr. Moyer	59		
by Mr. Steele		66	
Chris McAlmont			
by Mr. Moyer	68		
by Mr. Steele		75	
Argument of Counsel	75		
Ruling of the Court	76		
Motion to Sequester	77		
Mark Husk			
by Mr. Moyer	79		
by Mr. Steele		85	

I N D E XDIRECT CROSS REDIRECT RECROSS**May 11, 2016 (con't)**

Judson Belding

by Mr. Moyer 88

by Mr. Steele 92

Juan Cabrera

by Mr. Moyer 94

by Mr. Steele 101

Argument of Counsel 103

Ruling of the Court 109

Opening Statement

by Mr. Moyer 111

by Mr. Steele 121

State Witnesses:

Rene Beauford

by Mr. Moyer 128

by Mr. Steele 136

Stephanie Bishop

by Mr. Moyer 140

by Mr. Steele 152

Robert Cullum

by Mr. Miller 155

by Mr. Steele 163

I N D E XDIRECT CROSS REDIRECT RECROSS**May 11, 2016 (con't)**

Karen Brown

by Mr. Miller 167

by Mr. Steele 169

Joey Smith

by Mr. Moyer 171

by Mr. Steele 182

Chris McAlmont

by Mr. Moyer 187

by Mr. Steele 202

by Mr. Moyer 206

by Mr. Steele 207

Mark Husk

by Mr. Moyer 208

by Mr. Steele 217

by Mr. Moyer 219

Judson Belding

by Mr. Miller 221

by Mr. Steele 230

Clarence McBride

by Mr. Miller 236

Court Remarks to Defendant 242

Requests for Charge 245

I N D E XDIRECT CROSS REDIRECT RECROSS**May 12, 2016**

Guilty Plea	259		
Stipulation	264		
State Witnesses (con't):			
Dar Shaw			
by Mr. Moyer	266		
by Mr. Steele		284	
by Mr. Moyer			290
Stipulation	290		
Juan Cabreba			
by Mr. Miller	292		
by Mr. Steele		317	
Dana Lewis			
by Mr. Moyer	323		
by Mr. Steele		329	
State Rests	330		
Motion - Directed Verdict	331		
Court Remarks to Defendant	332		
Defense Rests	344		
Requests for Charge	244		
Closing Argument			
by Mr. Miller	348		
by Mr. Steele	367		

I N D E XDIRECT CROSS REDIRECT RECROSS**May 12, 2016**

Jury Charge	387
Deliberation of Jury	411
Verdict	412
Sentencing of the Court	414
Certificate of Reporter	422

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
STATE EXHIBITS			
S-1	DVD	11	152
S-2	DVD	11	241
S-3	Photo	11	127
S-4	Photo	11	127
S-5	Photo	11	127
S-6	Photo	11	127
S-7	Photo	11	127
S-8	Photo	11	127
S-9	Photo	11	127
S-10	Photo	11	127
S-11	Photo	11	127
S-12	Photo	11	127
S-13	Photo	11	127
S-14	Photo	11	127
S-15	Photo	11	127
S-16	Photo	11	127
S-17	Photo	11	127
S-18	Photo	11	127
S-19	Photo	11	127
S-20	Photo	11	127
S-21	Photo	11	127
S-22	Photo	11	127

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
STATE EXHIBITS (con't)			
S-23	Photo	11	127
S-24	Photo	11	127
S-25	Photo	11	127
S-26	Photo	11	127
S-27	Photo	11	127
S-28	Photo	11	127
S-29	Photo	11	127
S-30	Photo	11	127
S-31	Photo	11	127
S-32	Photo	11	127
S-33	Aerial Map	11	127
S-34	Aerial Map	11	127
S-35	Aerial Map	11	127
S-36	Revolver	200	205
S-37	Stun gun	274	274
S-38	Property Record	327	328

<u>EXHIBITS PAGE</u>			
<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
DEFENSE EXHIBITS			
D-1	DVD	185	186
COURT EXHIBITS			
C-1	Stipulation	291	
C-2	Notice	415	
C-3	Indictment	418	
C-4	Indictment	418	
C-5	Indictment	418	

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 11th day of May, 2016 at approximately 10:00 a.m.)

THE COURT: This is the State versus Steven Williams, is that right?

MR. STEELE: Yes, Your Honor.

THE COURT: All right. Uh, and there's a co-defendant, but he did not show this morning, is that correct? And I think a bench warrant has been signed, is that right?

SPEAKER: Yes, Your Honor.

MR. MOYER: It hasn't been signed yet. If it pleases the Court, we are ready to pass that up.

THE COURT: Oh, okay. Thank you.

(WHEREUPON, Mr. Moyer approaches the bench.)

THE COURT: Do you think these motions will be lengthy?

MR. MOYER: Your Honor, we think they will probably last about an hour. If you want to -- we were thinking if the panel is coming at 10:30, we could do the plea now. We could maybe draw the jury and then send that panel home and then do our motions and then start after lunch.

THE COURT: Is everybody here for the

1 plea?

2 MR. MOYER: I believe Allen is out here
3 somewhere.

4 THE COURT: I'm happy to do that. I've
5 signed the bench warrant.

6 Y'all may want to just hold on to him for a
7 minute.

8 I'm happy to take a break, uh, meet with
9 the attorneys on the plea, come back and do the
10 plea and then we'll bring up the jury and then
11 do motions.

12 (WHEREUPON, a recess is taken.)

13 (WHEREUPON, State's Exhibits 1 through 35 are
14 marked for identification purposes.)

15 THE COURT: Any proposed voir dire from
16 either side?

17 MR. MOYER: I have none, Your Honor.

18 MR. STEELE: We have none.

19 MR. MOYER: Your Honor, I think there were
20 two jurors, I'm not sure if they're going to be
21 on our panel or not, who, it's my
22 understanding, made some comments about
23 hesitancy about their ability to judge based on
24 their religious beliefs. If they are in this
25 panel, I think I may want to have them further

1 questioned.

2 **THE COURT:** If they end up in our panel,
3 then I will speak to them again. My sense was
4 at qualification that when I discussed with
5 them that they were not judging the individual,
6 but rather judging the evidence that's
7 presented by the State, that -- or judging
8 whether or not the State has met its burden,
9 they seemed both comfortable about it. But if
10 they come up, then I'm happy to question them a
11 little bit further if need be.

12 **MR. MOYER:** Thank you, Judge.

13 **THE COURT:** I think they both said it was
14 on the basis of religious beliefs. I do have a
15 State's potential witness list. Anything from
16 the -- anyone y'all want me to ask about from
17 the defense?

18 **MR. STEELE:** Well, if you will be asking
19 about the defendant, that will be enough, Your
20 Honor.

21 **THE COURT:** Very well then. Anything else
22 we need to bring -- take up before we bring up
23 the jury?

24 **MR. MOYER:** No, Your Honor.

25 **MR. STEELE:** We've decided to wait on the

1 motions until after the jury is empaneled?

2 **THE COURT:** Yes, sir.

3 **MR. STEELE:** Okay.

4 **THE COURT:** Yes, sir. I won't swear the
5 jury, but I'll let them go and maybe take a
6 two-hour break so y'all will have an
7 opportunity and we will have an opportunity to
8 take lunch after we hear motions. I will, uh, -
9 - and, uh, just so we're clear on it, 5 and 10
10 on the strikes. Is that what everybody thinks?
11 All right. And then this case, I understand
12 y'all think it's going to go into tomorrow?

13 **MR. STEELE:** Yes, ma'am. I will expect
14 that.

15 **THE COURT:** Tomorrow?

16 **MR. MOYER:** It will go into tomorrow, yes,
17 Your Honor.

18 **THE COURT:** You don't think there's any
19 danger of it going into Friday?

20 **MR. MOYER:** I really don't think so, Your
21 Honor.

22 **THE COURT:** You think there could be any
23 danger, Mr. Steele, of it going into Friday?

24 **MR. STEELE:** Well, most of that goes to
25 the State. I've got one witness right now, so,

1 no.

2 **THE COURT:** All right. Well, if y'all feel
3 pretty confident, uh, I have motions set on
4 Friday morning at 9:30 with 72 lawyers. So we
5 really need to be done tomorrow. All right.
6 Good enough. Seems like I had one other
7 question. Y'all want two alternates?

8 **MR. STEELE:** Two will be fine.

9 **THE COURT:** Two will be fine. All right. I
10 think I've asked for enough jurors for that, so
11 one and two on each alternate as well. All
12 right.

13 **(WHEREUPON,** the jury panel enters at approximately
14 10:57 a.m.)

15 **THE COURT:** Good morning, Ladies and
16 Gentlemen. I've had the pleasure of meeting you
17 all earlier this week when I qualified you to
18 serve generally this week in General Sessions
19 Court in Greenville County. I now need to find
20 out whether you are qualified to serve on the
21 trial of this particular jury.

22 In order to do that, I'm going to have some
23 questions for you. I do not believe that any of
24 them will call for any sort of personal
25 information. I will tell you that if, at any

1 time, anyone feels like they would like to speak
2 with me about their response here at the bench
3 with the attorneys present, I'm happy to do
4 that. Otherwise, when I ask you a question, I'm
5 going to ask you to stand and give me your juror
6 number and name. Then I will hear your answer
7 then. But just so we know exactly who is up
8 talking, I will ask you to give me your juror
9 number and name.

10 All right. This is the matter of the State
11 of South Carolina versus Steven Levon -- am I
12 saying that right -- Levon Williams. Steven
13 Levon Williams. I'm first going to introduce or
14 have the attorneys introduce themselves to you
15 and I'm going to have some questions about
16 whether anyone knows anybody involved in this
17 case.

18 Mr. Moyer?

19 **MR. MOYER:** My name is Mark Moyer. I'm an
20 Assistant Solicitor who works for the
21 Solicitor's office. I will be representing the
22 State, along with Walker Miller, who is also an
23 Assistant Solicitor in the Solicitor's office.

24 **THE COURT:** Any member of the jury panel
25 related by blood or marriage, or otherwise

1 acquainted with any way way, Mr. Moyer or Mr.
2 Miller from the State? Anyone?

3 (No response.)

4 And none are standing.

5 I'm going to go a little bit further and
6 ask you about is any member of the jury panel
7 related by blood or marriage or otherwise
8 acquainted with in any way whatsoever any person
9 who is employed by the 13th Circuit Solicitor's
10 office? Let me explain what that is just so
11 everybody's clear. The 13th Circuit is
12 Greenville and Pickens County. That's our 13th
13 judicial circuit. And the Solicitor's office is
14 the prosecutor's office, or in some states, you
15 might have heard it called the DA. Anybody know
16 anyone who is employed with the 13th Circuit
17 Solicitor's office? And if so, please stand.

18 (No response.)

19 And none is standing.

20 Mr. Steele, I'll ask you to introduce
21 yourself and your client.

22 **MR. STEELE:** Thank you, Your Honor, for
23 that opportunity.

24 Ladies and Gentlemen, my name is Carlyle
25 Steele. I practice law in Greenville. I have the

1 honor of representing Steven Levon Williams.
2 This is Steven Levon Williams. Thank you very
3 much.

4 **THE COURT:** Thank you. Any member of the
5 jury panel related by blood or marriage, or
6 otherwise acquainted with in any way, Mr.
7 Carlyle Steele? That includes ever having been
8 involved in a case with Mr. Steele, represented
9 by Mr. Steele or in a case where Mr. Steele
10 represented a party. Any member of the jury
11 panel related by blood or marriage or otherwise
12 acquainted with Mr. Steele? If so, please stand.

13 (No response.)

14 And none are standing.

15 Any member of the jury panel acquainted
16 with or related by blood or marriage in any way
17 to Steven Levon Williams? If so, please stand.

18 (No response.)

19 And none are standing.

20 All right. Ladies and Gentlemen, I am going
21 to read to you indictments in this case. If you
22 serve on the trial of this case, you will hear a
23 lot about what an indictment is and what an
24 indictment is not. For our purposes here today,
25 it just gives the barest of the allegations that

1 the State is making against the defendant in
2 this case. It is nothing more than that and is
3 in no way evidence of anyone's guilt. It is just
4 simply the document by which someone is charged
5 with a crime to be brought into court.

6 All right. One indictment alleges --
7 excuses me -- is for Assault and Battery in the
8 first degree. It alleges that Steven Levon
9 Williams did, in Greenville County, on or about
10 the 6th day of June, 2014, offer or attempt to
11 injure Juan Ivan Cabrera with the present
12 ability to commit the act and the act occurred
13 during the commission of a robbery, burglary,
14 kidnapping or theft; Possession of a Firearm by
15 a Person Convicted of a Crime of Violence;
16 Attempted Murder, that Steven Levon Williams
17 did, in Greenville County, on or about the 6th
18 day of June, 2014, unlawfully and with malice
19 aforethought and with the intent to kill,
20 attempt to kill Juan Ivan Cabrera; and Armed
21 Robbery, that Steven Levon Williams did, in
22 Greenville County, on or about the 6th day of
23 June, 2014, while armed with a deadly weapon or
24 while alleging either by action or words that he
25 was armed while using the representation of a

1 deadly weapon or any object which a person
2 present during the commission of the robbery
3 would reasonably believe to be a deadly weapon,
4 take by means of force or intimidation, goods or
5 monies as described, uh, money from the person
6 of Juan Ivan Williams, is how the indictment
7 reads. But I believe that's Juan Ivan Cabrera.

8 Any member of the jury panel believes he or
9 she knows anything about the allegations in this
10 particular case, heard anything about it
11 whatsoever?

12 (No response.)

13 And none are standing.

14 I'm going to go through a list of potential
15 witnesses. I do not know that all of these
16 witnesses will testify. However, these attorneys
17 are, all three, outstanding attorneys. And they
18 have listed every possible witness who could
19 testify. So nobody get scared when you hear all
20 of this.

21 But I'm going to go through this list. And
22 if you think you know any witness whatsoever, if
23 you will, please stand. I will tell you there's
24 a couple of fairly common names on this list. So
25 if any member of the jury panel believes he or

1 she knows anyone by that name, please stand and
2 let's try to figure it out, alright, now. It's
3 better to do that than if they come into court
4 and you recognize them.

5 All right. I'm going to go through the
6 list. If you will, stand at the end if you know
7 anyone. Juan Cabrera, Mac McBryde, Robert Cullum
8 or Cullum, C-u-L-L-U-M, Karen Brown, Stephanie
9 Bishop, Joey Smith of the Greenville County Fire
10 Department, Rene Beauford of the Greenville
11 County Department of Public Safety, Dana Lewis
12 of the Greenville County Department of Public
13 Safety, Dar Shaw of the Department of Public
14 Safety, Tracy King of the Greenville County
15 Sheriff's Office, Chris McAlmont, I'm sorry,
16 McAlmont of the Greenville County Sheriff's
17 Office. Did I say that even close?

18 **MR. MOYER:** Yes, it was close. McAlmont.

19 **THE COURT:** McAlmont. Okay. I was not
20 close. Chris McAlmont of the Greenville County
21 Sheriff's Office, Judson Belding of the
22 Greenville County Sheriff's Office and Mark Husk
23 of the Greenville County Sheriff's Office. Any
24 member of the jury panel believe he or she is
25 acquainted with any member or any possible

1 witness in this case?

2 Yes, sir. Tell me -- in the blue shirt,
3 tell me your name and juror number.

4 **THE JUROR:** My name is Carroll Carson. My
5 Juror number is 56.

6 **THE COURT:** Yes, sir.

7 **THE JUROR:** I believe I know Tracy King.
8 I was a city police officer years ago.

9 **THE COURT:** All right. And when is the
10 last time that you believe you've seen Tracy
11 King?

12 **THE JUROR:** It's been probably 15 years.

13 **THE COURT:** And I hate to ask this. Is
14 Tracy King a man or a woman?

15 **THE JUROR:** I believe she's a woman.

16 **MR. MOYER:** A man.

17 **THE COURT:** A man? Okay. I'm hearing that
18 Tracy King is a man. So we may not be talking
19 about the same Tracy King.

20 **THE JUROR:** Okay.

21 **THE COURT:** Let me ask you this though. If
22 you happen to say, oh, I do know Tracy King when
23 he comes into the courtroom, do you believe you
24 could still be a fair and impartial juror in the
25 trial of this case?

1 **THE JUROR:** I believe I could.

2 **THE COURT:** Thank you so much.

3 **MR. STEELE:** Your Honor, what was that
4 juror's number?

5 **THE COURT:** I'm sorry. Tell me your number
6 again.

7 **THE JUROR:** 56.

8 **THE COURT:** 56. Thank you.
9 Yes, ma'am.

10 **THE JUROR:** Hi, Your Honor. I'm Juror
11 Number 60, Kitty Chastine.

12 **THE COURT:** Yes, ma'am.

13 **THE JUROR:** I do know Tracy King. He is a
14 male. He is a police officer with Greenville
15 County. I'm acquainted with his wife, Laura. And
16 I represent the homeowner's association for
17 their community. I've been acquainted with him
18 since 2009.

19 **THE COURT:** Okay. And the fact that Tracy
20 King is likely going to be a witness in this
21 case, do you believe that you could still be a
22 fair and impartial juror in the trial of this
23 case?

24 **THE JUROR:** Absolutely.

25 **THE COURT:** Okay. All right. Thank you.

1 And, yes, ma'am.

2 **THE JUROR:** Rebecca Greene, Juror Number
3 114. Mac McBryde.

4 **THE COURT:** Mac McBryde. All right. And
5 tell me how you know Mac McBryde.

6 **THE JUROR:** I work in the school system.
7 And if this is the Mac McBryde of McBryde's
8 Office Supply Company, we do business with him.

9 **THE COURT:** Okay. Not sure that it is the
10 same Mac McBryde, but just to cover our bases
11 here, let me ask you if it did turn out to be
12 the same Mac McBryde that you know, if he
13 testified in this case, could you be a fair and
14 impartial juror in the trial of this case?

15 **THE JUROR:** Yes, ma'am.

16 **THE COURT:** Thank you so much. All right.
17 Anybody else believe he or she might be
18 acquainted in any way with any of these
19 potential witnesses?

20 (No response.)

21 No further are standing.

22 Any member -- I'll just ask this. Give me
23 just one moment. I apologize. (Pause.)

24 All right. You've heard about the potential
25 witnesses. You've met the lawyers in the case,

1 you met the defendant in this case. I've read to
2 you just the barest of the allegations against
3 the defendant in this case. Now, I'm going to
4 ask you, does any member of the jury panel
5 believe for any reason whatsoever, whatsoever,
6 that he or she could not be a fair and impartial
7 juror in the trial of this case? And let's talk
8 about what I mean about fair and impartial
9 juror. I mean listen to all of the evidence in
10 this case, not make up your mind about any fact
11 whatsoever until you hear final arguments from
12 the attorney and my charge on the law. Not make
13 up your mind about any fact and have an open
14 mind throughout the trial. Any member of the
15 jury panel believe for any reason whatsoever
16 that he or she could not be a fair and impartial
17 juror in the trial of this case? And if so,
18 please stand.

19 (No response.)

20 And none are standing.

21 Do the attorneys need to approach for a
22 moment?

23 **MR. STEELE:** I do, Your Honor.

24 **THE COURT:** All right.

25 **(WHEREUPON,** a bench conference is held off the

1 record.)

2 **THE COURT:** All right. Ladies and
3 Gentlemen, now we are ready to turn to jury
4 selection in this case. It's going to move
5 fairly quickly. We still select a jury -- this
6 might not surprise you -- still select a jury in
7 South Carolina the way we've done it for many,
8 many, many years.

9 You're -- in just a moment, you're going to
10 be called forward. If your name is called, you
11 come up here and the bailiffs will show you
12 exactly where to stand. Turn and face your
13 fellow jurors. Don't face me. Then you will hear
14 the attorneys say something like, uh, please
15 present the juror and please swear the juror or
16 you may hear please excuse the juror. If you are
17 excused, then the bailiff will tell you to
18 return to your seat.

19 If you are seated in this case as a juror,
20 then we will, uh, -- then we will direct you
21 over to sit in the jury box and you will serve
22 on our jury. The case should go today and
23 tomorrow.

24 I want to tell you a couple of things. When
25 you come up here, make sure you bring all your

1 belongings because you won't be returning to
2 your seat if you are seated. Bring all your
3 belongings. And the next up, I know it's not
4 going to hurt anybody's feelings, but I need to
5 tell you this. If you get struck by one of the
6 attorneys, please don't take it personally. I
7 can tell you it is in no way -- having tried
8 cases myself, this is in no way personal in any
9 way.

10 We're going to now begin with jury
11 selection. As I said, we're going to move pretty
12 quickly. All right.

13 **THE CLERK:** Juror 127, Wayne Hendren.

14 **THE COURT:** I always feel sorry for our
15 first person.

16 **THE CLERK:** What says the State?

17 **MR. MOYER:** Please present Mr. Hendren.

18 **MR. STEELE:** Excuse Mr. Hendren.

19 **THE CLERK:** Thank you.

20 Mr. Hendren, you may be seated back in the
21 jury -- excuse me -- in the gallery.

22 Juror 91, Jason Farr.

23 What says the State?

24 **MR. MOYER:** Please excuse the juror in
25 this case.

1 **THE CLERK:** All right, sir. Please be
2 seated.
3 Juror 236, Clyde Shew. 236.
4 What says the State?
5 **MR. MOYER:** Please excuse the juror in
6 this case.
7 **THE COURT:** All right. Please be seated,
8 sir.
9 Juror 286, Adrienne Workman.
10 What says the State?
11 **MR. MOYER:** Please present Ms. Workman.
12 **THE CLERK:** What says the defendant?
13 **MR. STEELE:** Swear Ms. Workman.
14 **THE CLERK:** Ms. Workman, if you will,
15 please have a seat over here in the jury box.
16 Thank you.
17 Juror 20, Jay Benner.
18 What says the State?
19 **MR. MOYER:** Please present Mr. Benner.
20 **THE CLERK:** What says the defendant?
21 **MR. STEELE:** Excuse Mr. Benner.
22 **THE CLERK:** All right. Mr. Benner, you may
23 have a seat back in the gallery.
24 Juror 191, Jeremy Mockabee.
25 What says the State?

1 **MR. MOYER:** Please present Mr. Mockabee.
2 **THE CLERK:** What says the defendant?
3 **MR. STEELE:** Excuse Mr. Mockabee.
4 **THE CLERK:** All right. Please have a seat,
5 sir.
6 Juror 96, Martha Flynn.
7 **MR. STEELE:** What number, ma'am?
8 **THE CLERK:** 96.
9 What says the State?
10 **MR. MOYER:** Please present Ms. Flynn.
11 **MR. STEELE:** Swear, uh, -- excuse Ms.
12 Flynn.
13 **THE CLERK:** All right. Have a seat, ma'am,
14 please.
15 Juror 249, Cienna Stuhl.
16 **THE COURT:** We just can't pick anybody
17 from the end; can we?
18 **THE CLERK:** What says the State?
19 **MR. MOYER:** Please present Ms. Stuhl.
20 **THE CLERK:** What says the defendant?
21 **MR. STEELE:** Swear Ms. -- is it Stuhl?
22 **THE JUROR:** Stuhl.
23 **MR. STEELE:** Swear Ms. Stuhl.
24 **THE CLERK:** All right. Have a seat please
25 in the jury box.

1 Juror Number 38, Alfred Briggs.

2 What says the State?

3 **MR. MOYER:** Please present Mr. Briggs.

4 **THE CLERK:** What says the defendant?

5 **MR. STEELE:** Swear Mr. Briggs.

6 **THE CLERK:** Mr. Briggs, please have a seat
7 in the jury box.

8 Juror 15, Michael Baloy.

9 What says the State?

10 **MR. MOYER:** Please present Mr. Baloy.

11 **THE CLERK:** What says the defendant?

12 **MR. STEELE:** Excuse Mr. Baloy.

13 **THE CLERK:** All right. Sir, please have a
14 seat.

15 Juror 125, Danielle Hauck.

16 What says the State?

17 **MR. MOYER:** Please present Hauck.

18 **THE CLERK:** What says the defendant?

19 **MR. STEELE:** Swear Ms. Hauck.

20 **THE CLERK:** All right. Ma'am, please have
21 a seat in the jury box.

22 Juror 114, Rebecca Greene.

23 What says the State?

24 **MR. MOYER:** Please present Ms. Greene.

25 **THE CLERK:** What says the defendant?

1 **MR. STEELE:** Excuse Ms. Greene.

2 **THE CLERK:** All right. Ma'am, please be
3 seated.

4 Juror 137, Zachary Howell.

5 What says the State?

6 **MR. MOYER:** Please present Mr. Howell.

7 **THE CLERK:** What says the defendant?

8 **MR. STEELE:** Swear Mr. Howell.

9 **THE CLERK:** All right, sir. Please have a
10 seat in the jury box.

11 Juror 100, Alicia Fretwell.

12 What says the State?

13 **MR. MOYER:** Please present Ms. Fretwell.

14 **THE CLERK:** What says the defendant?

15 **MR. STEELE:** Excuse Ms. Fretwell.

16 **THE CLERK:** All right. Ma'am, you may be
17 seated.

18 Juror 56, Carroll Carson.

19 What says the State?

20 **MR. MOYER:** Please present Mr. Carson.

21 **THE CLERK:** What says the defendant?

22 **MR. STEELE:** Excuse Mr. Carson.

23 **THE CLERK:** All right, sir. You may be
24 seated.

25 Juror 283, Nicholas Wilson.

1 What says the State?

2 **MR. MOYER:** Please present Mr. Wilson.

3 **THE CLERK:** What says the defendant?

4 **MR. STEELE:** What number? 183?

5 **THE CLERK:** 283.

6 **MR. STEELE:** 283.

7 **THE CLERK:** 283.

8 **MR. STEELE:** Swear Mr. Wilson.

9 **THE CLERK:** All right, sir. Please have a
10 seat in the jury box.

11 Juror 262, Jason Van Lieshout.

12 What says the State?

13 **MR. MOYER:** Please excuse the juror in
14 this case.

15 **THE CLERK:** All right. Please be seated,
16 sir.

17 Juror 120, Pamela Harpring.

18 What says the State?

19 **MR. MOYER:** Please present Ms. Harpring.

20 **THE CLERK:** All right.

21 **MR. STEELE:** Excuse Ms. Harpring.

22 **THE CLERK:** All right. Ma'am, please be
23 seated.

24 Juror 199, Shelley Pantaloni.

25 What says the State?

1 **MR. MOYER:** Please present Ms. Pantaloni.

2 **THE CLERK:** What says the defendant?

3 **MR. STEELE:** Swear Ms. Pantaloni.

4 **THE CLERK:** All right. Ma'am, please have
5 a seat in the jury box.

6 Juror 119, Patrick Hamod.

7 What says the State?

8 **MR. MOYER:** Please present Mr. Hamod.

9 **THE CLERK:** What says the defendant?

10 **MR. STEELE:** Swear Mr. Hamod.

11 **THE CLERK:** All right. Sir, please, a seat
12 in the jury box.

13 Juror 111, Leland Goslar.

14 What says the State?

15 **MR. MOYER:** Please present Mr. Goslar.

16 **THE CLERK:** What says the defendant?

17 **MR. STEELE:** Swear Mr. Goslar.

18 **THE CLERK:** Sir, please, a seat in the
19 jury box.

20 Juror 284, Martha Winstead.

21 What says the State?

22 **MR. MOYER:** Please present Ms. Winstead.

23 **THE CLERK:** What says the defendant?

24 **MR. STEELE:** Swear Ms. Wins -- is it
25 Winstead?

1 **THE CLERK:** Winstead.

2 **MR. STEELE:** Swear Ms. Winstead.

3 **THE CLERK:** Please have a seat in the

4 jury box.

5 Juror 76, Robert Dillard.

6 What says the State?

7 **MR. MOYER:** Please present Mr. Dillard.

8 **THE CLERK:** What says the defendant?

9 **MR. STEELE:** Swear Mr. Dillard.

10 **THE CLERK:** Sir, please have a seat in the

11 jury box.

12 Juror 201, Nehal Patel.

13 What says the State?

14 **MR. STEELE:** Excuse Mr. Patel.

15 **THE CLERK:** Thank you.

16 **THE COURT:** That's fine.

17 **THE CLERK:** All right.

18 **MR. STEELE:** I'm sorry.

19 **THE CLERK:** All right. Juror 193 --

20 **THE COURT:** Mr. Steele?

21 **MR. STEELE:** All right. Thank you.

22 **THE CLERK:** Oh okay. Thank you. All right.

23 Juror 193, Mitzi Morlock.

24 What says the State?

25 **MR. MOYER:** Please present Ms. Morlock.

1 **THE CLERK:** What says the defendant?

2 **MR. STEELE:** Swear Ms. Morlock.

3 **THE CLERK:** All right. Ma'am, please have

4 a seat in the jury box.

5 **THE COURT:** Now, one and two on our

6 alternates. We'll do two alternates.

7 **THE CLERK:** Yes, ma'am.

8 Juror 2, Audra Adams.

9 What says the State?

10 **MR. MOYER:** Please present Ms. Adams.

11 **THE CLERK:** What says the defendant?

12 **MR. STEELE:** Swear Ms. Adams.

13 **THE CLERK:** Ms. Adams, please have a seat

14 in the jury box.

15 Juror 275, Candace Wilhoit.

16 What says the State?

17 **MR. MOYER:** Please present Ms. Wilhoit.

18 **THE CLERK:** What says the defendant?

19 **MR. STEELE:** Swear Ms. Wilhoit.

20 **THE CLERK:** Ma'am, please have a seat in

21 the jury box.

22 **THE COURT:** All right. Any objection to

23 the manner in which the jury was drawn from the

24 State?

25 **MR. MOYER:** No objection, Your Honor.

1 **THE COURT:** All right. Anything from the
2 defense?

3 **MR. STEELE:** Not from Mr. Williams, Your
4 Honor.

5 **THE COURT:** All right then. Very well.

6 Ladies and Gentlemen who were not selected
7 to serve on this particular jury, if you would,
8 please return to, uh, your jury assembly room
9 now for further instructions with what to do. I
10 apologize I will not get to probably see you any
11 time later in the week, but I thank you so much
12 for your service.

13 **(WHEREUPON,** the jury panel exits at approximately
14 11:33 a.m.)

15 **THE COURT:** Ladies and Gentlemen, you have
16 been selected to serve as our jury in this case.
17 I'll let them get situated for a second and then
18 we'll talk. I should let you know it's not going
19 to be much longer. I'm going to let you take a
20 break for lunch.

21 All right. Ladies and Gentlemen, I'm just
22 going to go over just a few things with you
23 about the trial of the case and then I'm going
24 to let you go to lunch. What I'm going to say
25 now to you is not intended to be my charge on

1 the law in this case. This is just to tell you a
2 little bit about the procedures we'll follow
3 throughout the trial of the case. You will get
4 my charge on the law after you've heard all the
5 testimony and evidence in this case.

6 The defendant is charged, as you know, with
7 the indictments that I have gone through with
8 you previously. The indictments are simply the
9 document by which someone's brought into court.
10 They are in no way evidence of anyone's guilt in
11 any way. The defendant has pled not guilty to
12 these indictments. The State, therefore, has the
13 burden of proving the elements of the
14 indictment, each element, beyond a reasonable
15 doubt. It's going to be your job, Ladies and
16 Gentlemen, to determine whether or not the State
17 has met that burden. Your purpose as jurors is
18 to find, uh, and determine the facts in this
19 case. You are the sole judge of the facts in
20 this case. If I make a comment about anything
21 regarding the facts in this case, please
22 disregard it. The law does not allow me to have
23 an opinion on the facts in this case and I do
24 not have an opinion of the facts in this case.

25 You are to determine facts from the

1 testimony you are going to hear from the witness
2 stand, any exhibits that are introduced into
3 court as well. I ask that you very diligently
4 perform your duty as juror. Some folks are
5 surprised to know there's really very little way
6 to correct an erroneous determination of the
7 facts by a jury.

8 On the other hand, the same law that makes
9 you the judge of the facts, makes me the judge
10 of the law. I told you at the end that I'm going
11 to give you my charge on the law and I'll be
12 ruling on matters of law throughout the trial in
13 this case. You might have a different idea as to
14 what the law is or you may have an idea as to
15 what you think the law ought to be. However, as
16 jurors, you must take the law as I give it to
17 you, apply it to the facts as you find them and
18 from that, you will come up with your verdicts
19 in this case.

20 Until I advise you to begin your
21 deliberations in this case, you may not discuss
22 this case with anyone. Sometimes that takes
23 people a little bit by surprise because TV is a
24 little different from that or movies are
25 sometimes different. The jurors are back talking

1 about things all the time. That includes that
2 you can not discuss this case with your fellow
3 jurors until it is time for you to begin your
4 deliberation. The reason is, we want you to have
5 an open mind, not make your mind up about any
6 facts in this case until you've heard all the
7 testimony and evidence.

8 You will have this case overnight. In other
9 words, we are fairly certain you will come back
10 tomorrow. So you're going to go home and your
11 family's going to ask you, naturally, if you are
12 on a jury and they will ask you about the case.
13 So as not to elicit any kind of comments or
14 anything like that from your family or friends
15 to persuade you in any way, if you will just
16 tell them that you are on a -- that you were
17 chosen for a jury but you are under oath not to
18 discuss the case with anyone. And then once this
19 case is finally ended and we've received your
20 verdicts in this case, you are free to talk
21 about it with anyone you'd like to.

22 I have to tell you this although I'm
23 embarrassed to say, I don't necessarily fully
24 understand this. You can not discuss this case
25 on social media either. That would be the same

1 as talking to a person about it. Facebook. You
2 can't tweet about it. Listen. I sound
3 ridiculous. I don't exactly know. But you can't
4 be on social media about it or put anything on a
5 blog or anything like that until this case is
6 concluded.

7 All right. Please don't -- I don't know if
8 there would be any news reports on this case,
9 but please try to avoid any news reports on this
10 case or do any independent research on these
11 charges, the lawyers or anyone involved in this
12 case. I just ask you to keep an open mind and
13 base your verdict solely on the testimony and
14 evidence that you hear in this courtroom.

15 From time to time, you may hear the lawyers
16 say something like they need to approach on a
17 matter of law or they need to take up a matter
18 of law outside of your presence. I want you to
19 know we're not hiding the ball from you.
20 Earlier, you heard me say that I can't make any
21 comment on the facts in this case. Sometimes in
22 connection with, uh, ruling on a matter of law,
23 I have to say something about the facts. So as
24 not to influence you in any way, if it's
25 something we can take up quickly, we will do it

1 here at the bench. If it's something that may
2 take a little more time, I'll ask you to go to
3 your jury room. But know if we ever have you in
4 your jury room, then we are in here working.

5 You're going to have to determine the
6 believability of witnesses in this case. You'll
7 do that just like you do in your everyday lives.
8 Believability means the same thing as
9 credibility. You will look at how a witness acts
10 on the witness stand, match it up with what the
11 evidence in the case is, compare it with what
12 other folks in the case have to say and maybe
13 even look at their mannerisms and how they act.
14 Also take into consideration if the witness has
15 any bias in any way or any motive for a
16 particular outcome in the case. Take all those
17 things into consideration. It is for you to
18 determine solely, you, the jury, who you believe
19 in this case. I'll give you some more
20 instructions on that at the end of this trial.

21 I usually look through and, uh, -- my list
22 of jury and pick a foreperson based on someone
23 who I believe can sort of take charge in the
24 jury deliberation room and just lead the
25 discussions. That's all a foreperson does. This

1 is an extremely accomplished jury. But I am
2 going to pick Ms. Morlock.

3 You are sitting in the perfect seat. You
4 don't need to move. You'll stay there through
5 the balance of trial. Everybody else can move
6 around with the exception of our alternates.

7 I'll talk to y'all in just a minute.

8 Everybody else can move around and sit in
9 different seats, although I'm sort of sometimes
10 amused. We all get our own seats and intend to
11 stay in them. But, if you would, stay in that
12 seat for the balance of the trial.

13 Ms. Adams and Ms. Wilhoit -- uh, I hope I'm
14 saying that right -- you're our alternates in
15 this case. Uh, if I had to remove a juror for
16 some reason or if, uh, a juror had an emergency,
17 then you will stay with us through the balance
18 of the trial, listen to the testimony and see
19 the evidence in this case. And if you had to
20 step in, you'll step in just as if you had been
21 one of the 12 jurors all along. And if we get to
22 the end of the case and your services aren't
23 needed before the jury goes back to deliberate,
24 I'll excuse you.

25 I thank you all for your service. One other

1 thing, the attorneys in this case are second to
2 none. I've known all of these attorneys for
3 quite some time and they are outstanding
4 attorneys and some of the best in South
5 Carolina. They would never dream of trying to
6 discuss this case with you or anything like
7 that. But if you see folks around the courthouse
8 and they might be talking about the case or, God
9 forbid, somebody try to approach you and talk to
10 you about the case, identify yourself as a juror
11 immediately. Anyone who tries to talk to you
12 about that, identify yourself as a juror
13 immediately. If they don't quit talking to you
14 immediately, please tell the bailiff and he will
15 let me know and I assure you that I will take
16 care of that situation right away.

17 All right. I appreciate your service so
18 much. We have some matters of law that we need
19 to take up. I'm going to let you take a little
20 longer than normal lunch. If you would, be back
21 in your jury deliberation room at 1:45. I don't
22 want y'all waiting around while we're having to
23 take care of some things. 1:45. I had to do the
24 math in my head for a second here. We will begin
25 promptly thereafter. We're going to try to

1 really move as quickly as we can.

2 I'm going to ask the bailiff now to take
3 you to your jury deliberation room just so you
4 see where it is and then you are free to go to
5 lunch then. Thank you so much. I'll sound like
6 a broken record. Please don't discuss the case
7 with anyone. Thank you.

8 **(WHEREUPON,** the jury exits at approximately
9 11:43 a.m.)

10 **THE COURT:** All right. Any objections to
11 my initial charge to the jury?

12 **MR. MOYER:** None from the State.

13 **MR. STEELE:** None from Mr. Williams.

14 **THE COURT:** All right. We are ready to
15 proceed with your motions. Yes, sir.

16 **MR. MOYER:** May it please the Court. First
17 up, this isn't really a mo -- this isn't a
18 motion. I just wanted to make the court aware.
19 It's something that won't be applicable until
20 sentencing, should we arrive to that point. But
21 the defendant has been served with Notice of
22 Life without Parole. Just wanted to make the
23 Court aware of that.

24 Secondly, I didn't pick up on this until
25 Your Honor was reading the indictments earlier,

1 but there -- there was a mis -- a clerical error
2 on the armed robbery indictment. It has Mr.
3 Cabrera's last name incorrect. It has the
4 defendant's last name. We would move to have
5 that indictment amended to his correct last
6 name.

7 **THE COURT:** And I think that's Indictment
8 Number 2015-GS-23-238. It's in the armed robbery
9 section.

10 **MR. MOYER:** Yes, ma'am.

11 **THE COURT:** It lists the victim of the
12 armed robbery as Juan Ivan Williams.

13 **MR. STEELE:** I noticed, Your Honor, when
14 Your Honor read that. I was going to ask to
15 examine the Court's copy of it.

16 **THE COURT:** Certainly.

17 **MR. STEELE:** I think I know what it says.
18 Out of respect, we move to dismiss that
19 indictment based upon the fact that it names,
20 obviously, the wrong individual. So based upon
21 that, that is the notice we had, Your Honor. I
22 would submit that he's entitled to notice before
23 trial. I would respectfully move to dismiss the
24 armed robbery indictment, whatever that number
25 is.

1 **THE COURT:** All right. I appreciate your
2 position on behalf of your client. Anything from
3 the State on that?

4 **MR. MOYER:** Only that it's clearly a
5 clerical error. All the -- the other indictment,
6 uh, other two indictments listed the name
7 correctly. All the discovery make it clear that
8 this defendant -- I'm sorry -- that Juan Cabrera
9 was the victim in the case. There is no surprise
10 to the defense.

11 **MR. STEELE:** I would submit it's Black
12 Letter Law, Your Honor, that any time there is
13 an error or an ambiguity, it is construed
14 adversely to the scrivener. The Solicitor's
15 office, in this instance, is the scrivener. I
16 would reiterate my motion to dismiss.

17 **THE COURT:** All right. I appreciate that.
18 I am going to, however, allow the amendment of
19 the indictment to read Juan Ivan Williams and
20 certainly the defense's very eloquent objection
21 is noted. I'm going to change that on the
22 indictment itself. I find that, in this case, it
23 is a scrivener's error that appears to be clear
24 from the other indictments, these taken as a
25 whole, list the victim as Juan Ivan Cabrera. And

1 it's clear that the defendant's last name was
2 inadvertently listed on the indictment. However,
3 the first two names are the same, both being a
4 little -- especially the middle name, a little
5 unusual. I find that the indictments, as a
6 whole, put Mr. Williams on notice of the
7 allegations and potential victim in this case.
8 All right. Anything else?

9 **MR. MOYER:** Your Honor, I just want to
10 tell the Court that the defendant did give
11 several statements to law enforcement and also a
12 written statement. He started off by making some
13 comments to witnesses who first came upon him
14 after this incident took place. At this point,
15 we do not anticipate putting the defendant's
16 statements to law enforcement into the record.
17 We do not wish to proceed with the Jackson v.
18 Denno hearing.

19 **THE COURT:** All right.

20 **MR. MOYER:** Should the case take an
21 unexpected turn, and we think it will come in
22 that we would want to introduce that, then we
23 could do a Jackson v. Denno at that time. I
24 don't anticipate that happening. In light of
25 that, we would make a motion that the defense

1 not be allowed to bring up the fact, uh, -- not
2 be allowed to inquire of the officers about his
3 statements. I'm relying on State v. Cary, which
4 is a 2000 South Carolina Supreme Court case
5 which holds that a defendant can not introduce
6 his own statement if the State does not even
7 offer evidence that he gave a statement. So for
8 those reasons, we would make that motion in
9 limine.

10 **THE COURT:** All right. Yes, sir.

11 **MR. STEELE:** My argument would be this,
12 Your Honor, two-fold. In South Carolina, we have
13 open cross-examination. I would submit I am not
14 to be hamstrung in my cross-examination of that
15 witness on all aspects of the case. I would
16 submit that includes any statements that they
17 may have taken from Mr. Williams. Secondly, I
18 don't think law enforcement can go out and do
19 things such as take statements and then come in
20 here and say at the trial, we can't make
21 reference to that. So, Your Honor, I would
22 strongly object to this. I would ask for the
23 same right every person representing a defendant
24 always has, and that's the right to absolutely
25 openly cross-examine all the witnesses on all

1 aspects of the case as long as they are
2 relevant. I would submit statements given could
3 well be relevant.

4 **THE COURT:** Give me the cite on that case,
5 if you don't mind.

6 **MR. MOYER:** It is State versus Gary Terry.
7 It is 339 S.C. 352. There are other cases. In
8 addition, State v. Cheeseboro, which is 346 S.C.
9 526. That's a 2001 case. In both of those cases,
10 defendant gave basically self-serving statements
11 to law enforcement. And so the court ruled in
12 both of those cases that the defendant does not
13 have a right to introduce those statements
14 through officers.

15 In response to what Mr. Steele says, open
16 cross-examination, I've never heard it quite
17 phrased that way, but it does mean that
18 inadmissible testimony is allowed to be inquired
19 into. This would be hearsay on the part of the
20 defendant to go into statements that he made.
21 The only reason it is admissible when the State
22 introduced it is that it the admission of a
23 party opponent. That is not present when the
24 defendant is attempting to introduce the
25 statement.

1 **THE COURT:** All right. Here's what I'm
2 going to do. I'll take a look at -- I'm familiar
3 with Cheeseboro, but I'll take a look at State
4 v. Terry. I think that's what you have said. I
5 wrote it down as Cary to begin with, so I'm
6 sorry. But State v. Terry, I'll take a look at
7 it. But I think the Solicitor's accurately
8 stating the law in this case. However, I will
9 say this, I will take a look at it over the
10 lunch break and give a final ruling with regards
11 to it. But I will say that if, at any point, Mr.
12 Steele, you believe that the State's opened the
13 door or you need to put your objection on the
14 record, at any time, if you will, just let me
15 know before we go into that so we can take it up
16 outside the jury.

17 That reminds me also, while we're talking
18 about it, Juror Number 114, Rebecca Green, and
19 Juror Number 56, Carol Carson, uh, those were,
20 uh, -- the defense had asked for the Court to
21 strike those two jurors for cause. I did
22 question the jurors. It appears that they were
23 not familiar with the particular witness in this
24 case, the one that would actually testify, but
25 rather knew someone of a different name.

1 Nonetheless, they both said that if it did turn
2 out to be the person that they knew, that they
3 could still be a fair and impartial juror in the
4 trial of the case, and that I will note for the
5 record, as well, the defense exercised his
6 peremptory challenges on those two jurors.

7 Kitty Chastain, Juror Number 60, I did
8 grant the defense's motion to strike her for
9 cause. The State had some -- excuse me, the
10 Court had some concern as to how well Ms.
11 Chastain knew one of the witnesses. She seemed
12 to be very familiar and friends with the
13 witnesses' wife. Therefore, I did strike her for
14 cause. All right. I just didn't want to forget
15 that.

16 **MR. MOYER:** Those are the only matters
17 that the State has as far as pretrial.

18 **THE COURT:** Yes, sir.

19 **MR. STEELE:** Your Honor, I have a motion
20 to suppress the gun.

21 **THE COURT:** All right.

22 **MR. STEELE:** And I'm going to call Mr.
23 Williams as my witness on that motion.

24 **THE COURT:** All right. The State ready to
25 proceed with that?

1 **MR. MOYER:** I think we would like -- I
2 think we would be entitled to know the grounds
3 for the suppression.

4 **MR. STEELE:** The grounds would be a, uh,
5 violation of his constitutional right against
6 unreasonable search and seizure. The gun was in
7 his automobile. It was not in plain sight.
8 Therefore, we would submit that he's entitled to
9 have that suppressed.

10 **THE COURT:** All right. All right. Yes,
11 sir.

12 **MR. STEELE:** We call Mr. Williams.
13 Mr. Williams, come on up, sir.

14 **THE CLERK:** Mr. Williams, come to the
15 bench please. Please place your left hand on the
16 Bible and raise your right hand.

17 **STEVEN WILLIAMS**
18 having first been duly sworn, testifies as follows:

19 **THE COURT:** Mr. Williams, I've been
20 informed -- I'll inform you later and we're
21 going to talk about your right to remain silent
22 in this matter later. But I do want to let you
23 know that you are not waiving your right to
24 remain silent by testifying in this pretrial
25 matter. All right?

1 **MR. WILLIAMS:** Yes, ma'am.

2 **THE CLERK:** All right. And will you please
3 state your name for the record.

4 **MR. WILLIAMS:** Steven Levon Williams.

5 **THE CLERK:** Thank you, sir.

6 **DIRECT EXAMINATION**

7 **BY MR. STEELE:**

8 **Q** Mr. Williams, you are Steven Levon
9 Williams?

10 **A** Yes, sir.

11 **Q** And you are charged with these offenses, is
12 that correct?

13 **A** Yes, sir.

14 **Q** And one of them is possession of a weapon,
15 is that correct?

16 **A** Yes, sir.

17 **Q** Did you write me a letter about a month ago
18 telling me to file a motion to suppress?

19 **A** Yes, sir.

20 **Q** Is that it?

21 **A** Yes, sir.

22 **Q** Did I file that motion to suppress?

23 **A** Yes, sir.

24 **Q** Is that it?

25 **A** Yes, sir.

1 **Q** All right. And are you satisfied with what
2 I've done on that then?

3 **A** Yes, sir.

4 **Q** All right. Tell me about this gun. Was a
5 gun found in your automobile?

6 **A** Yes, sir.

7 **Q** Where was it?

8 **A** It was up under the seat.

9 **Q** Was it in plain sight?

10 **A** No, sir.

11 **Q** Were you ever asked to give permission to
12 search your automobile?

13 **A** No, sir.

14 **Q** Did you ever give permission to search your
15 automobile?

16 **A** No, sir.

17 **Q** Was a warrant ever served on you to search
18 your automobile?

19 **A** No, sir.

20 **Q** Do you believe that you were deprived of
21 your constitutional right to avoid unreasonable
22 search and seizure by the searching of your car and
23 the discovery of that weapon?

24 **A** Yes, sir.

25 **Q** Are you asking -- in this letter you wrote

1 me and in this motion that I filed on your behalf,
2 are you asking to suppress that gun in this
3 proceeding against you?

4 **A** Yes, sir.

5 **MR. STEELE:** Okay. That's all I have of
6 Mr. Williams.

7 **THE COURT:** Thank you. Anything from the
8 State?

9 **CROSS-EXAMINATION**

10 **BY MR. MOYER:**

11 **Q** Hey, uh, -- Mr. Williams, just a few
12 questions for you. So your testimony then is that,
13 uh, the pistol was under your seat, is that correct?

14 **A** Yes, sir.

15 **Q** Where was it under your seat?

16 **A** What you mean, where was it under the seat?

17 **Q** Can you describe -- was it just out in the
18 open? Was it in a compartment?

19 **A** It was in the compartment under my seat.

20 **Q** Okay. Can you describe the compartment?

21 **A** If you're familiar with a Mercedes Benz,
22 you know Mercedes got compartments up under the seat.

23 **Q** Okay.

24 **A** That you had to turn a lock to open it up.

25 **Q** Okay.

1 **A** If you are familiar with a Mercedes, it's
2 got a compartment up under both seats.

3 **Q** Okay.

4 **A** Close it -- turn the lock -- close it and
5 lock it.

6 **Q** So your testimony is that the pistol was in
7 that compartment and was not visible?

8 **A** Yes, sir.

9 **Q** Okay.

10 **A** I didn't -- I did not open the compartment.
11 Somebody had to open the compartment.

12 **Q** Okay. Now, you were involved in a car
13 accident, correct?

14 **A** Yes, sir.

15 **Q** Okay. And not to go into all the details of
16 it, but there had been an altercation earlier at the
17 Poinsett Tire, at the tire shop on Poinsett, is that
18 correct?

19 **A** Yes, sir.

20 **Q** Okay. And the person who was involved in
21 whatever happened there followed you in his silver
22 Mustang?

23 **MR. STEELE:** Your Honor, I would object.

24 This is going way beyond the scope of his
25 testimony on the issue of suppression of the

1 gun. I would submit he can't go into the other
2 facts of the case.

3 **MR. MOYER:** Okay. I don't have a problem
4 with that. I just want to establish the fact
5 that law enforcement was called out to the scene
6 of this accident based on -- based on 911 calls
7 and allegations that had taken place shortly
8 thereafter.

9 **THE COURT:** I'm going to allow him to go
10 into it just to set the scene, so to speak.

11 **BY MR. MOYER:**

12 **Q** Again, I'm not going to ask any details
13 about it. This was just -- how far away would you say
14 this accident was, a couple of miles?

15 **A** From the --

16 **Q** From the tire shop.

17 **A** Had to be at least a good four or five
18 miles.

19 **Q** Okay. And the person who is involved in
20 that allegation chased you in his silver Mustang, is
21 that correct?

22 **A** Yes, sir.

23 **Q** And ended up hitting the back of your car?

24 **A** Yes, sir.

25 **Q** And then after that, you ended up having

1 the car accident?

2 **A** Yes, sir.

3 **Q** And you remember firefighters and police
4 and all arrived there on the scene?

5 **A** Yes, sir.

6 **Q** And there was a person in your passenger's
7 seat, correct?

8 **A** Yes, sir.

9 **Q** And he got out and ran?

10 **A** Yes, sir.

11 **Q** Right after the accident?

12 **A** Yes, sir.

13 **Q** You stayed there at the car. And the police
14 were there and the fire pretty quickly after the
15 accident, would you say?

16 **A** The fireman got there first.

17 **Q** Okay. Five minutes, would you say?

18 **A** Right at five or ten minutes.

19 **Q** Yes, sir. Uh, one moment please. (Pause.)

20 You knew the gun was in that compartment
21 under the seat?

22 **MR. STEELE:** Your Honor, I would object to
23 that.

24 **THE COURT:** Overruled.

25 **BY MR. MOYER:**

1 **Q** Did you know the pistol was under the seat
2 in that compartment?

3 **A** Yes, sir.

4 **Q** That was your pistol?

5 **MR. STEELE:** I'd object again, Your Honor.

6 **THE COURT:** Sustained.

7 **BY MR. MOYER:**

8 **Q** But you knew it was there?

9 **A** Yes, sir.

10 **MR. STEELE:** Objection. Repetitive.

11 Already asked and answered.

12 **MR. MOYER:** I have no further questions
13 for this witness.

14 **THE COURT:** All right. Anything else?

15 **MR. STEELE:** No redirect, Your Honor.

16 **THE COURT:** Okay. Sir, you can step down.

17 **MR. STEELE:** I would renew my motion at
18 this time.

19 **THE COURT:** All right. Anything from the
20 State?

21 **MR. MOYER:** Yes, Your Honor. The State
22 would call Joey Smith to the stand.

23 **THE CLERK:** Sir, if you would, please
24 place your left hand on the Bible and raise your
25 right hand.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOEY SMITH

having first been duly sworn, testifies as follows:

THE CLERK: Please be seated, and would
you please state your name for the record.

THE WITNESS: Joey Smith.

DIRECT EXAMINATION

BY MR. MOYER:

Q Sir, where are you employed?

A Parker District Fire Department.

Q How long have you been with, uh, Parker
District Fire Department?

A April, two years.

Q What was your position there?

A Fireman.

Q So you started in April 2014, is that when
you started?

A Yes.

Q Was that just a couple of months then
before this incident happened that we're talking
about today?

A Yes.

Q Let me take you back to June the 6th, 2014.
Were you called out to a motor vehicle accident on
that date?

A Yes.

1 **Q** What was the location where you --

2 **A** Old Buncombe and Morris.

3 **Q** Old Buncombe? How far is that from your
4 fire station?

5 **A** Less than a mile.

6 **Q** How long did it take you to get there?

7 **A** As soon as we got the call, probably 45
8 seconds, less than a minute.

9 **Q** Okay. And what did you find upon arrival
10 there at that location?

11 **A** A black Mercedes hit a telephone pole.

12 **Q** Was there anyone in the Mercedes?

13 **A** Yes.

14 **Q** Is that person here in the courtroom today?

15 **A** Yes.

16 **Q** Could you identify him?

17 **A** Yes. (Indicating.)

18 **Q** The defendant who just testified?

19 **A** Yes.

20 **Q** And where was he in relation to the
21 Mercedes?

22 **A** He was sitting in the driver's seat.

23 **Q** You were there before law enforcement was
24 there?

25 **A** Yes.

1 **Q** Did you have occasion to approach that
2 vehicle?

3 **A** Do what?

4 **Q** Did you have occasion to approach the
5 Mercedes?

6 **A** Yes.

7 **Q** And what was your reason for doing so?

8 **A** Medical. Patient care. He was involved in
9 an accident. Was checking on him to make sure he was
10 okay.

11 **Q** Okay. Did you notice anything when you
12 first approached the vehicle?

13 **A** No.

14 **Q** He was still inside the vehicle?

15 **A** He was still inside the vehicle.

16 **Q** At some point, was he taken out of the
17 vehicle for any reason?

18 **A** Yes.

19 **Q** Did law enforcement and EMS start showing
20 up?

21 **A** Yes.

22 **Q** When that took place, did you have occasion
23 to go back to that Mercedes?

24 **A** Yes.

25 **Q** And at that time, what was your reason for

1 going back?

2 **A** Proper protocol is incident stabilization,
3 put the vehicle in park, cut it off, make sure the
4 brake's up just so the vehicle don't roll. As I done
5 that, the gun was noticably under the seat in plain
6 view.

7 **Q** Okay. So it's your protocol to approach a
8 vehicle under those circumstances?

9 **A** Yes.

10 **Q** And -- Okay. Were you going there with the
11 intention of searching the vehicle in any fashion?

12 **A** No.

13 **Q** Okay. So just to turn it off?

14 **A** Just to make sure it was off.

15 **Q** Did you -- tell us about -- tell us again
16 what you noticed in the vehicle.

17 **A** Pistol, revolver under the seat.

18 **Q** Before noticing that revolver, did you
19 tamper with or open anything or do anything to the
20 vehicle at all?

21 **A** No, sir.

22 **Q** Can you describe a little bit about where
23 the pistol was?

24 **A** It was under the seat, under the driver's
25 seat.

1 **Q** There's been some testimony about the
2 compartment. Do you remember anything about the
3 compartment?

4 **A** Yes, there was a door open.

5 **Q** Did you open that compartment?

6 **A** No.

7 **Q** After you saw that pistol, what did you do?

8 **A** I told my Lieutenant on the scene. He was
9 in command of the automobile accident. I told him.

10 **Q** And then what did he do?

11 **A** He notified the sheriff's office.

12 **Q** Did you touch the pistol or move --

13 **A** Never touched it.

14 **Q** I'm going to hand you what has been marked
15 as State's Exhibit -- State's Exhibit 7, 8, 9, 10,
16 and 11.

17 **MR. MOYER:** And I believe, Your Honor,
18 that -- well, I would just move to have these
19 entered into the record for purposes of this
20 hearing at this time.

21 **THE COURT:** All right.

22 **MR. MOYER:** It's my understanding --

23 **MR. STEELE:** These are for identification
24 only?

25 **MR. MOYER:** No, for --

1 **THE COURT:** Just for purposes of the
2 hearing.

3 **MR. STEELE:** Well, nobody's identified
4 them yet. The witness has not yet identified
5 them.

6 **MR. MOYER:** Okay. I'm happy to do that. I
7 thought we discussed earlier about whether you
8 were going to object.

9 **MR. STEELE:** Well, I'm not going to object
10 if the witness is able to say this is an
11 accurate depiction of what he saw.

12 **BY MR. MOYER:**

13 **Q** All right. Let me show you, to start off,
14 State's Exhibit Number 7. Can you recognize what is
15 shown in that exhibit?

16 **A** Yes.

17 **Q** What is that a picture of?

18 **A** That's the automobile accident.

19 **Q** Is that the Mercedes that you just
20 described approaching?

21 **A** Yes, it is.

22 **Q** Is that a true and accurate representation
23 of the way the Mercedes looked to you on that date?

24 **A** Yes.

25 **Q** Let me show you State's Exhibit Number 9.

1 Do you recognize what is shown in that picture?

2 A Yes.

3 Q What is shown in that picture?

4 A That is the handgun. That's when I
5 approached the vehicle. That's what I saw right
6 there.

7 Q Okay. Is that a true and accurate
8 representation of the way the handgun looked in that
9 Mercedes on June 6th of 2000 and -- uh, 2014?

10 A Yes.

11 Q And finally, let me show you State's
12 Exhibit Number 11. You recognize what is shown in
13 that picture?

14 A Yes.

15 Q What is that a picture of?

16 A The handgun.

17 Q Okay. Was it -- where is the handgun in
18 that photograph?

19 A On top of the seat.

20 Q Is that where it was when you first saw it?

21 A No.

22 Q And it was --

23 A It was under the seat in a compartment.

24 Q As described in that --

25 A As described in number 9.

1 **Q** Is that a true and accurate representation
2 of the way the pistol looked to you on that date,
3 June 6th of 2014?

4 **A** Yes.

5 **MR. MOYER:** I would move to have State's
6 Exhibits numbers 9 -- 7, 9 and 11 entered into
7 the record.

8 **THE COURT:** Any objection?

9 **MR. STEELE:** No objection, Your Honor.

10 **THE COURT:** All right.

11 **(WHEREUPON, State's Exhibit 7, 9 and 11 are**
12 **admitted into the record.)**

13 **MR. MOYER:** One moment please. (Pause.)

14 All right. No further questions for this
15 witness.

16 **THE COURT:** All right.

17 **CROSS-EXAMINATION**

18 **BY MR. STEELE:**

19 **Q** Did I understand you to say that, uh,
20 State's 11 shows it on top of the seat?

21 **A** Yes.

22 **Q** Okay. And your testimony is that you saw it
23 under the seat?

24 **A** Under the seat.

25 **Q** Well, under the seat, by definition, means

1 that there was a seat between you and the gun, right?

2 **A** Yes.

3 **Q** So how could you see it if it was under the
4 seat?

5 **A** When I go in the car to cut the car off and
6 pull the E-brake, as I stuck my head in, as plain as
7 day right there. Compartment's open. Gun's under the
8 seat.

9 **Q** But it was under the seat?

10 **A** Under the seat.

11 **Q** In a compartment?

12 **A** The door was open.

13 **Q** But there was a compartment?

14 **A** There was a compartment.

15 **MR. STEELE:** Okay. That's all I have on
16 cross, Your Honor.

17 **THE COURT:** Anything else from the State?

18 **MR. MOYER:** No further questions for this
19 witness, Your Honor.

20 **THE COURT:** All right. Can I take a look
21 -- do you mind handing me those pictures? Thank
22 you. (Pause.)

23 All right. You can step down.

24 Any other witnesses from the State?

25 **MR. MOYER:** I believe I do have one other

1 witness.

2 **THE COURT:** All right.

3 **MR. MOYER:** The State would call Chris
4 McAlmont.

5 **THE CLERK:** Sir, please place your left
6 hand on the Bible. Raise your right hand.

7 **CHRIS MCALMONT**

8 having first been duly sworn, testifies as follows:

9 **THE CLERK:** Thank you. Please be seated.
10 Please state your name for the record.

11 **THE WITNESS:** Christopher McAlmont.

12 **DIRECT EXAMINATION**

13 **BY MR. MOYER:**

14 **Q** Okay. Where are you employed?

15 **A** The Greenville County Sheriff's Office.

16 **Q** How long have you been with the Sheriff's
17 Office?

18 **A** Since 2005.

19 **Q** What is your position with the Sheriff's
20 Office now?

21 **A** Currently an investigator in the Violent
22 Crimes Unit.

23 **Q** What was your position June the 6th, 2014?

24 **A** A Master Deputy within the Uniform Patrol
25 Division.

1 **Q** All right. Did you respond to Old Buncombe
2 and Morris Street on June the 6th, 2014?

3 **A** I did.

4 **Q** And in relation to this, uh, Mercedes that
5 had, had the accident with the telephone pole?

6 **A** Correct.

7 **Q** Okay. Were you aware at the time you
8 responded to the scene that there had been
9 allegations of a crime having been committed?

10 **A** Yes.

11 **Q** And the crime was what?

12 **A** Armed robbery.

13 **Q** Do you remember the location where the
14 armed robbery was said to have taken place?

15 **A** Somewhere just outside of that Poe Mill on
16 Poinsett Highway, I believe.

17 **Q** Were you aware of the fact that -- were you
18 aware of a vehicle description for the vehicle that
19 was involved in the armed robbery?

20 **A** I believe it was a black Mercedes is what
21 the perpetrators were described as being in.

22 **Q** Did you have a description of any of the
23 people who may have been involved?

24 **A** Yes. Two black males, one of them having
25 on, I think, all black hood and the second one had on

1 a white shirt.

2 Q Okay. When you arrived at the intersection
3 of Old Buncombe and Morris, what did you find?

4 A I found a black Mercedes that run head-on
5 into, I think it was, a street side, as well as a
6 telephone pole. And there was the -- the fire
7 department was also on the scene.

8 Q Okay. Was anybody in or near the black
9 Mercedes?

10 A Yes, the defendant was sitting in the
11 driver's seat.

12 Q The defendant in this case?

13 A Correct.

14 Q All right. And what did you do when you saw
15 the defendant in that position?

16 A He was seated in the driver's seat while
17 his feet, if you could imagine, he was turned 90
18 degrees from the way he would normally sit in it. He
19 was seated in it with his feet on the ground outside.
20 When I initially got out of my car, I called out to
21 him, hey, come over here to me. I got no reaction out
22 of him. So I raised my voice louder and said, hey,
23 get out of the car. At which point, he got out of the
24 car.

25 Q At any point, did you have occasion to go

1 over and look into the car?

2 **A** Yes.

3 **Q** Do you remember why you went to look in the
4 car ?

5 **A** I believe, if I recall correctly, somebody
6 from the fire department said that there was a gun
7 inside the car.

8 **Q** Okay. So tell us what happened when you
9 walked over and -- when you walked over to the black
10 Mercedes?

11 **A** I could see a, uh, -- what appeared to me
12 to be the handle of a gun sticking out from
13 underneath the driver's seat.

14 **Q** Okay.

15 **A** Most of the gun would have been under the
16 seat. But I did see part of it sticking out from
17 under it.

18 **Q** Have you taken a look at the photographs
19 that have been entered into the record?

20 **A** Uh, if they are the same ones that you
21 showed me today, yes, sir.

22 **Q** Okay. Let me just show you State's Exhibit
23 Number -- State's Exhibit 9. Is that an accurate
24 reflection of the way the pistol was when you saw it?

25 **A** Yes.

1 **Q** Did you have to, uh, get inside the vehicle
2 in order to see that pistol?

3 **A** No.

4 **Q** You could see it from standing outside the
5 vehicle?

6 **A** Correct.

7 **Q** Did you open any compartments or tamper
8 with the vehicle at all?

9 **A** No. In fact, it was my opinion, because the
10 wreck looked like it happened at some speed that that
11 compartment door probably came open because of the
12 force of the wreck.

13 **Q** Okay. But in any case, you didn't open it?

14 **A** No, when I first saw it, it was open.

15 **Q** Okay. All right. Let me just show you two
16 more exhibits, State's Exhibits number 8 and 10.
17 Would you take a look at those and see if you can
18 identify, recognize what it's showing in those
19 photographs?

20 **A** Number 8 looks like a picture of the
21 driver's seat of the Mercedes with the compartment
22 door open, as well as Number 10 also. It's just a
23 different angle.

24 **Q** Okay. Now, is the pistol in the compartment
25 at that time?

1 **A** I don't see it in there.

2 **Q** Okay. But other than that, is that the way
3 the compartment looked to you when you saw it and you
4 saw the pistol?

5 **A** Yes.

6 **Q** Okay. That's the way that compartment
7 looked?

8 **A** Yes.

9 **Q** Is that a true and accurate representation
10 of the inside of that Mercedes on June 6th, 2014 and
11 the way the compartment looked?

12 **A** When I saw it, yes, sir, it is.

13 **MR. MOYER:** Your Honor, I move to have
14 these two exhibits entered into the record for
15 purposes of this hearing as well.

16 **THE COURT:** Any objection?

17 **MR. STEELE:** No objection, Your Honor.

18 **THE COURT:** All right then.

19 **(WHEREUPON, State's Exhibits 8 and 10 are**
20 **admitted into the record.)**

21 **BY MR. MOYER:**

22 **Q** Okay. Was the defendant taken into custody
23 and taken to the Law Enforcement Center?

24 **A** Yes, sir.

25 **Q** Was there anyone else there associated with

1 the vehicle?

2 **A** Yes, sir, some other deputies along with
3 the fire department, I guess.

4 **Q** Okay. I guess anybody -- you had been told
5 there were two people in the vehicle. Was the other
6 person there when you arrived?

7 **A** No. Okay. As far as revolving around the
8 car itself ---

9 **Q** Yes.

10 **A** --- when the wreck happened, no, there was
11 only one person, the defendant, that was still there.
12 I spoke to a witness who told me that they saw
13 another person running from the car after the wreck.

14 **Q** Okay. Okay. So the vehicle then was towed
15 for law enforcement purposes?

16 **A** From my knowledge, it was towed, yes, sir.

17 **MR. MOYER:** Okay. I have no further
18 questions of Deputy McAlmont at this time.

19 **THE COURT:** All right. Mr. Steele?

20 **MR. STEELE:** I only have one.

21 **CROSS-EXAMINATION**

22 **BY MR. STEELE:**

23 **Q** Did I understand you to say on direct
24 examination that most of the gun was under the seat
25 and the handle was sticking out?

1 **A** That is what I said.

2 **MR. STEELE:** That's all.

3 **THE COURT:** All right. Anything else for
4 this witness?

5 **MR. MOYER:** No, no further questions.

6 **THE COURT:** All right. Sir, you can step
7 down.

8 Anything else from the State?

9 **MR. MOYER:** No, Your Honor. We have no
10 further witnesses.

11 **THE COURT:** Okay. All right. Anything else
12 from the --

13 **MR. STEELE:** That's all we have, Your
14 Honor.

15 **THE COURT:** All right. Anything you'd like
16 to say with regard to your motion?

17 **MR. STEELE:** Your Honor, please, I would
18 point out that the testimony was unequivocal
19 from Mr. Williams that the gun was hidden and
20 not in plain sight. The witnesses for the State
21 has testified in one instance that it was under
22 the seat, although he did claim to see it. Then
23 the second witness testified that most of the --
24 most of the gun was invisible under the seat. He
25 saw the handle sticking out, I believe, was his

1 testimony. Based upon all that, Your Honor, I
2 would respectfully ask the court to suppress
3 the, uh, -- suppress the gun.

4 **THE COURT:** All right. Yes, sir.

5 **MR. MOYER:** We have a two-fold argument,
6 Your Honor. First off, it was in plain view both
7 by fire who had no reason to even search the
8 vehicle. He saw it immediately and then law
9 enforcement saw it as well. Also, Your Honor,
10 inevitable discovery. This was evidence of a
11 crime. Evidence of an armed robbery. It
12 certainly would be given an inventory search
13 prior to being towed.

14 **THE COURT:** All right. Well, I find based
15 on the testimony and evidence that's been
16 presented during this hearing that the gun was
17 first discovered by a fireman acting pursuant to
18 an established policy to secure the vehicle and
19 make sure it wouldn't roll. It appears from the
20 pictures that if he had been leaning over the
21 seat, he certainly would have seen this gun. It
22 is somewhat visible. It is somewhat visible and
23 in an open compartment that the fireman and
24 officer both testified the compartment was open
25 when they looked.

1 Furthermore, I do find that -- and
2 therefore, deny your motion on the basis of the
3 plain view but also on the basis of inevitable
4 discovery because it most certainly would have
5 been, would have been located during an
6 inventory search of the vehicle when it was
7 towed. So your motion is respectfully denied.
8 I'll allow the jury to at least consider that
9 evidence. Anything else we need to take up
10 before the lunch break?

11 **MR. STEELE:** I have one last motion, Your
12 Honor.

13 **THE COURT:** Yes, sir.

14 **MR. STEELE:** That would be to sequester
15 the witnesses.

16 **THE COURT:** All right. Any objection to
17 that other than the officer -- the responsible
18 officer?

19 **MR. MOYER:** Well, the victim also, Your
20 Honor.

21 **THE COURT:** Oh, I'm sorry. I apologize. I
22 didn't see the victim. All right. All right
23 then. Other than those -- than the responsible
24 officer and the victim in this case, all other
25 witnesses will be sequestered.

1 **MR. MOYER:** Okay.

2 **THE COURT:** All right.

3 **MR. MOYER:** Your Honor, I believe Mr.
4 Steele and I discussed, uh, -- one of our first
5 witnesses that we've given Mr. Steele a formal
6 history for. If he has anything from that he
7 wishes to -- we don't think there's anything
8 that's impeachable.

9 **MR. STEELE:** Well, I looked at that, Your
10 Honor. And based upon the fact, upon
11 reexamination, it looks like to me it's outside
12 the 10-year window, I'll have no objection based
13 upon that.

14 **THE COURT:** All right.

15 **MR. STEELE:** I'll have no impeachment.

16 **THE COURT:** All right. Anything else?

17 **MR. MOYER:** One moment.

18 **MR. STEELE:** Your Honor, there is a show-
19 up lineup that I would submit the State is...
20 Your Honor, we are objecting to the show-up line
21 up. We would ask that a foundation be laid by
22 the State.

23 **THE COURT:** All right. All right.

24 **MR. MOYER:** Okay. The State would call
25 Deputy Husk.

1 **THE CLERK:** Sir, please place your left
2 hand on the Bible and raise your right hand.

3 **MARK HUSK**
4 having first been duly sworn, testifies as follows:

5 **THE CLERK:** Please be seated. Please state
6 your name for the record.

7 **THE WITNESS:** Deputy Mark Husk.

8 **DIRECT EXAMINATION**

9 **BY MR. MOYER:**

10 **Q** Okay. And you are -- you are employed by
11 the Greenville County Sheriff's Office?

12 **A** Yes, sir.

13 **Q** In what capacity?

14 **A** Uniform Patrol Deputy.

15 **Q** How long have you been in law enforcement?

16 **A** I been in law enforcement for 20 years.

17 **Q** How long have you been with the Greenville
18 County Sheriff's Office?

19 **A** Two and a half years.

20 **Q** Let me take you back to June the 6th of
21 2014, were you working on that date?

22 **A** Yes, sir.

23 **Q** Did you have occasion to come into contact
24 with the victim in the case, Juan Cabrera?

25 **A** Yes, sir.

1 **Q** Where were you when this took place?

2 **A** I was located at [REDACTED] A Street on another
3 call when I came in contact with Mr. Cabrera.

4 **Q** Okay. And do you know the time frame for
5 when you came in contact with Mr. Cabrera?

6 **A** Yes. I believe it was around 18:11.

7 **Q** So that's 6:11 in the evening?

8 **A** Uh, yes.

9 **Q** How did you come into contact with Mr.
10 Cabrera?

11 **A** Myself and another deputy were responding
12 to another domestic call on A Street. And prior to
13 leaving that call, Mr. Cabrera was in a silver
14 Mustang that approached us, got out of the car.
15 Seemed very distraught. Had blood coming from his
16 head. Scratches around his neck and was very, very
17 distraught. He stated that he had been robbed at his
18 business.

19 **Q** Okay. And where was that business?

20 **A** That was located on Poinsett Highway. The
21 actual address, I believe, is -- let me see here.
22 (Reviewing.)

23 1301 Poinsett Highway.

24 **Q** Okay.

25 **A** It's called Poinsett Tire.

1 **Q** All right. You were in uniform?

2 **A** Yes, sir.

3 **Q** And you were in a marked Greenville County
4 Sheriff's Office patrol car?

5 **A** Yes, I was in a marked unit, Number E53.

6 **Q** Okay. Now, uh, you said -- what essentially
7 did he tell you just happened to him?

8 **A** Essentially he told me that he was involved
9 in a -- he was robbed in his tire shop. He stated
10 that he was assaulted. Chased the victim in his
11 personal vehicle and was involved in an altercation
12 while attempting to stop the vehicle, where he had
13 ran into the back of the vehicle. When he left the
14 scene, he also -- prior to that, he said they fired
15 at least two shots at him that he knows were from a
16 handgun. He went down the street to a plaza and was
17 yelling for someone to call 911 because he did not
18 have a cell phone. It was at the tire shop.

19 **Q** Okay. And then after that is when he came
20 across you?

21 **A** That is correct.

22 **Q** Did you become aware that other officers,
23 including the deputy who testified earlier, McAlmont,
24 arrived at that location?

25 **A** Not at that time, I did not.

1 **Q** Okay. But at a later time?

2 **A** At a later time, yes.

3 **Q** Did you stand by with Mr. Cabrera?

4 **A** Yes, I stood by with Mr. Cabrera and tried
5 to get some medical attention for him at that time. I
6 did transport him to the --

7 **Q** We'll get to that in just a minute. So you
8 stayed with him there at [REDACTED] A Street?

9 **A** [REDACTED] A Street, yes.

10 **Q** At some point, did you take Mr. Cabrera
11 over to that other location where the accident had
12 taken place?

13 **A** Yes, I did.

14 **Q** What time did you take him to the other --

15 **A** I believe that was around 18:37.

16 **Q** Okay. That's the time you noted in your
17 report?

18 **A** Yes, sir.

19 **Q** Okay. And what was the purpose of taking
20 him over there?

21 **A** The purpose was to identify the suspect
22 from the robbery.

23 **Q** Okay. Did you put Mr. Cabrera in your car?

24 **A** Yes.

25 **Q** Where in your car?

1 **A** I put him in the back of my patrol car.

2 **Q** And you drove him over there?

3 **A** I did drive him to the scene, yes.

4 **Q** And it was just the two of y'all in that
5 vehicle?

6 **A** Yes.

7 **Q** How -- did you tell him why you were going
8 over there?

9 **A** Yes, I said the reason I was there was to
10 do an identification of a suspect that he claimed
11 robbed him.

12 **Q** Okay. Did you put any pressure on him to
13 make him believe he had to identify the person when
14 he got over there?

15 **A** No, I did not.

16 **Q** You didn't tell him that -- you didn't
17 influence his decision at all then about whether he
18 should or should not choose or make that
19 identification?

20 **A** No, sir.

21 **Q** How far away was that accident scene from
22 where you were?

23 **A** I'd say approximately maybe a mile, mile
24 and a half.

25 **Q** Take a minute or two to get there?

1 **A** Yes.

2 **Q** Were you in radio contact with the officers
3 who were at that scene?

4 **A** Yes.

5 **Q** Did you make them aware that you would be
6 coming over there for the identification?

7 **A** Yes, sir.

8 **Q** Y'all were in communication about that
9 process?

10 **A** That's correct.

11 **Q** All right. Now, so tell us what you did
12 when you got over there to that accident scene.

13 **A** I pulled up on Old Buncombe Street. The
14 suspect was sitting on a curb with another deputy. I
15 pulled up probably within, I would say, more than 30
16 yards, if that, away from the subject. Time of day,
17 he was able to make a positive identification as a
18 suspect.

19 **Q** How confident or how sure did he appear to
20 you when he made that identification?

21 **A** Extremely confident.

22 **MR. STEELE:** I'd object, Your Honor. He
23 might could describe evidences of confidence,
24 but he can't just draw the conclusion that he
25 was confident. That would require the ability to

1 read Mr. Cabrera's mind.

2 **THE COURT:** All right. How about just get
3 some testimony on how he appeared during the
4 identification.

5 **THE WITNESS:** He appeared to be confident.

6 **MR. STEELE:** That's the same answer. I
7 would reiterate my opinion.

8 **MR. STEELE:** Overruled.

9 **BY MR. MOYER:**

10 **Q** Okay. Now, uh, you said it was daylight?

11 **A** Yes, sir.

12 **Q** You were about 30 feet away from the
13 suspect?

14 **A** Yes, sir. Approximately.

15 **Q** Was there anything obstructing the view of
16 the suspect?

17 **A** Nothing.

18 **MR. MOYER:** Okay. No further questions
19 from this witness on this matter.

20 **THE COURT:** All right. Yes, sir.

21 **MR. STEELE:** Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 **BY MR. STEELE:**

24 **Q** I believe you said that he was sitting on
25 the curb. Mr. Williams was sitting on the curb, is

1 that correct?

2 **A** Yes, sir.

3 **Q** And there was a deputy sheriff sitting
4 there with him?

5 **A** Yes, sir.

6 **Q** The deputy was probably in uniform, I
7 expect?

8 **A** Correct.

9 **Q** There was nobody else in the immediate
10 vicinity of Mr. Williams, was there?

11 **A** No, sir.

12 **Q** In other words, it wasn't like --

13 **A** How close?

14 **Q** Sir?

15 **A** How close in the vicinity?

16 **Q** Well, there wasn't anybody -- there wasn't
17 a number of people sitting there with him, it doesn't
18 sound like.

19 **A** No, he was directly by himself with the
20 deputy.

21 **Q** With the deputy.

22 **A** There was other emergency personnel in the
23 area.

24 **Q** Basically, your question was in the
25 neighborhood of, sort of similar to, is that him

1 right there? There was nobody else to pick from, was
2 there?

3 **A** Well, there was other people in the area.

4 **Q** But Mr. Williams was the only one seated on
5 the curb with a deputy sheriff seated beside him, is
6 that correct?

7 **A** That's correct.

8 **Q** Therefore, Mr. Cabrera picked him out?

9 **A** He picked him out, yes, sir.

10 **Q** And the other people, I assume, were not in
11 custody, not being detained. They were kind of moving
12 about doing whatever people wanted to do?

13 **A** Correct.

14 **MR. STEELE:** That's all, Your Honor.

15 **THE COURT:** All right.

16 **MR. MOYER:** Nothing further from this
17 witness.

18 **THE COURT:** Sir, you can step down.

19 **THE WITNESS:** Thank you.

20 **MR. MOYER:** The State calls Judson
21 Belding.

22 **THE CLERK:** Sir, please place your left
23 hand on the Bible and raise your right hand.

24 **JUDSON BELDING**

25 having first been duly sworn, testifies as follows:

1 **THE CLERK:** Please be seated. Please state
2 your name for the record.

3 **THE WITNESS:** Judson Belding.

4 **THE CLERK:** Thank you.

5 **BY MR. MOYER:**

6 **Q** Where are you employed?

7 **A** Greenville County Sheriff's Office.

8 **Q** How long have you been in law enforcement?

9 **A** Since January of 2014.

10 **Q** It's all been with the Sheriff's Office?

11 **A** Yes, sir.

12 **Q** Greenville County? All right. Did you
13 respond to, uh, the intersection of Old Buncombe and
14 Morris regarding this incident that we're before the
15 Court, with the black Mercedes that struck the pole?

16 **A** Yes, sir.

17 **Q** Now, what was your reason for going over
18 there?

19 **A** Uh, we shift change at 7 o'clock p.m.,
20 19:00. And I was going to relieve the Charlie
21 deputies that were already on scene.

22 **Q** Okay. When you arrived, did you see the --
23 was the black Mercedes still there and struck into
24 that telephone pole?

25 **A** Yes, sir.

1 **Q** Were there any suspect or suspects in
2 custody at that time?

3 **A** Yes, sir. I was advised that there was one.
4 It was the defendant sitting right there.

5 **Q** Okay. It's the defendant in this case?

6 **A** Yes, sir.

7 **Q** Is that correct? Okay. Were you asked to
8 stand by with him at that location?

9 **A** Yes, sir.

10 **Q** Was he in handcuffs?

11 **A** Yes, sir.

12 **Q** And where was he -- where did you have him
13 during the time he was placed into your custody there
14 at the scene?

15 **A** I would say we were about 30 feet away from
16 the wrecked vehicle down Old Buncombe Road towards
17 Pete Hollis. He was sitting on the curb on the side
18 of the road.

19 **Q** Okay. So the curb right next to the road
20 then?

21 **A** Yes, sir, where it turns into a sidewalk.

22 **Q** Okay. Were you present with him when the
23 show-up identification was done?

24 **A** Yes, sir.

25 **Q** Were you made aware of the fact that a

1 show-up identification was taking place?

2 **A** Yes, sir.

3 **Q** Would you have said anything to the
4 defendant about that?

5 **A** No, sir.

6 **Q** So were you present then when Deputy Husk
7 drove up in his vehicle with the victim, as he
8 testified to a minute ago?

9 **A** I was present with the defendant.

10 **Q** And did you have -- did you do anything
11 with regard to the defendant at the time Deputy Husk
12 came forward, drove up there?

13 **A** Other than assuring that there was a clear
14 view from Deputy Husk's vehicle to the defendant,
15 there's nothing else that I did.

16 **Q** Okay. So you -- uh, you remember if he had
17 him stand up or left him on the ground? Do you recall
18 that at all?

19 **A** I know it's common practice to have them
20 stand up, but I don't recall exactly.

21 **Q** Okay.

22 **A** I know that I would have --

23 **Q** But if you had him stand up, you would have
24 kept him at that same location there on the curb?

25 **A** Yes.

1 **Q** So it's either standing or sitting at that
2 time?

3 **A** Correct.

4 **Q** How far away did Deputy Husk drive up with
5 the victim?

6 **A** I don't recall an exact distance, but I
7 know the lane on Old Buncombe Road where we were, the
8 lanes are very small. There are only four lanes and
9 there's no median.

10 **Q** Okay.

11 **A** So I'd say the furthest that it could
12 possibly be is right about 30 feet.

13 **Q** Okay. Did you have any interaction with
14 Deputy Husk or with the vehicle ---

15 **A** No.

16 **Q** --- when that took place?

17 **A** I mean, other than radio contact.

18 **Q** Okay.

19 **A** But no.

20 **Q** And when Deputy Husk drove up there with
21 the victim in his patrol car, was there any
22 obstruction between the defendant and Deputy Husk's
23 car?

24 **A** No.

25 **Q** There was sunlight out, there was no

1 trouble seeing?

2 **A** Yeah, it was about 6:30 to 7:00 p.m. It was
3 during the summer months where it doesn't get dark
4 until 9:00. It was a sunny day. It was a very clear
5 day. Nice view outside. Nothing to obstruct.

6 **MR. MOYER:** All right. One moment.

7 (Pause.)

8 Okay. Nothing further for this witness.

9 **THE COURT:** All right.

10 **CROSS-EXAMINATION**

11 **BY MR. STEELE:**

12 **Q** Am I correct that the only man in handcuffs
13 was Steven Williams?

14 **A** Yes, sir.

15 **Q** And the only man seated on the ground
16 beside a deputy sheriff was Steven Williams, is that
17 right?

18 **A** He's the only person I know that was
19 sitting down, yes.

20 **Q** And he was the only -- you think the
21 procedure is usually to ask people to stand up, isn't
22 it?

23 **A** To make it more clear of their height,
24 weight and everything during the incident previous.

25 **Q** And I think what you're saying is there's a

1 probability that you could have asked him to stand
2 up?

3 **A** Yes, sir.

4 **Q** And he was the only man there in front of
5 Mr. Cabrera that was asked to stand up, nobody else
6 was asked to stand up, am I correct?

7 **A** That's correct.

8 **Q** Could you hear the conversation from the
9 deputy in the patrol car? Did you hear anything over
10 there?

11 **A** Which deputy are you referring to?

12 **Q** I believe his name was Deputy Husk, am I
13 correct, the deputy that was in the other --

14 **A** I had no contact with him other than the
15 radio.

16 **Q** Did you hear anything from Mr. Cabrera?

17 **A** No.

18 **MR. STEELE:** That's all, Your Honor.

19 **THE COURT:** All right. Anything else for
20 this witness?

21 **MR. MOYER:** No, not this witness.

22 **THE COURT:** Sir, you can step down.

23 **THE WITNESS:** Thank you.

24 **MR. MOYER:** The State would call Juan
25 Cabrera to the stand.

1 **THE COURT:** All right.

2 **THE CLERK:** Sir, if you will, please place
3 your left hand on the Bible. Raise your right
4 hand.

5 **JUAN CABRERA**

6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Thank you. Please be seated.
8 Would you please state your name for the record.

9 **THE WITNESS:** My name is Juan Ivan
10 Cabrera.

11 **DIRECT EXAMINATION**

12 **BY MR. MOYER:**

13 **Q** Mr. Cabrera, how old are you?

14 **A** 24, but in few days, I'm going to be 25.

15 **Q** Okay. Let me ask you to move your chair
16 that way just a little bit so we make sure we can
17 pick you up in the microphone. So you're almost 25.

18 **A** Uh-huh.

19 **Q** Were you 23 years old then back on June
20 6th, 2014?

21 **A** Yes.

22 **Q** All right. Where did you work at that time?

23 **A** I work in a tire shop on Poinsett Highway.

24 **Q** You remember the address of that?

25 **A** Yeah, it's 1301 Poinsett Highway.

1 **Q** Okay. Great. How long had you been working
2 there when this incident happened on June 6th, 2014?

3 **A** Uh, like two years.

4 **Q** Okay. Now, I'm not going to go into all the
5 details at this time about what happened. But did an
6 altercation take place at the Poinsett -- I'm sorry
7 -- at your place of business on June the 6th of 2014?

8 **A** Yes.

9 **Q** Okay. How many people were involved in
10 that?

11 **A** Can -- can you repeat that again?

12 **Q** This incident that happened to you there at
13 Poinsett at your tire shop, how many people -- how
14 many people came up -- came to you?

15 **A** Two black males.

16 **Q** Okay. And you were robbed on that date, is
17 that right?

18 **A** Yes, sir.

19 **Q** Now, I'm not -- as I said, I'm not going to
20 go into all the details of the robbery at this point.
21 I just want to talk to you a little bit about how
22 well you could see these men. Around what time of day
23 was it when this happened?

24 **A** Uh, like around 6 o'clock p.m.

25 **Q** Okay. And were these men armed?

1 **A** Yes.

2 **Q** What kind of weapons did they have?

3 **A** One had a black revolver and the other one
4 have a taser.

5 **Q** Taser?

6 **A** Yes.

7 **Q** Okay. And which one had the pistol?

8 **A** The black male was wearing a black shirt.
9 The other one had the gun.

10 **Q** Okay.

11 **A** He was the driver.

12 **Q** The driver?

13 **A** Yes.

14 **Q** And he had a black shirt on?

15 **A** Uh-huh.

16 **Q** Did he point the pistol at you?

17 **A** Yes, sir.

18 **Q** Did he speak to you?

19 **A** Yeah.

20 **Q** How close -- how close to you did he get?

21 **A** Maybe two or three feet from me.

22 **Q** Okay. And how, uh, -- how long was he there
23 in your presence that this robbery took place? I know
24 you don't know exact figures.

25 **A** Uh-huh.

1 **Q** Can you give us an estimate about how long
2 it took?

3 **A** 10 minutes.

4 **Q** Okay. Now, were you struck or assaulted by
5 the person who had the pistol? Were you assaulted in
6 any way? Were you hit?

7 **A** Can you explain it?

8 **Q** Okay. I'll change the question. Did anybody
9 hit you during this incident?

10 **A** Yes.

11 **Q** And who hit you?

12 **A** The black male who have the gun, the one
13 have the black shirt.

14 **Q** Okay. Where did he hit you?

15 **A** He hit me with the gun in my head.

16 **Q** Hit you in the head with the gun?

17 **A** Uh-huh.

18 **Q** He was close enough to hit you then?

19 **A** Yes.

20 **Q** All right. Now, after they robbed you, what
21 did they do?

22 **A** They left the shop. I decide just chasing
23 them.

24 **Q** Were they in -- how did they leave the
25 shop? Did they walk or did they drive or what?

1 **A** No, they was driving a black Mercedes.

2 **Q** And so you saw them drive away?

3 **A** Yes.

4 **Q** And the one who had the pistol, in the
5 black shirt, did he get in the driver's side or the
6 passenger's side?

7 **A** Uh, he was the driver.

8 **Q** Okay.

9 **A** He was on the driver side.

10 **Q** Okay. So you got in your vehicle after
11 that?

12 **A** Can you repeat that again?

13 **Q** Did you get in your car?

14 **A** Yes, sir.

15 **Q** What kind of car did you have?

16 **A** Silver Ford Mustang.

17 **Q** And did you chase the car?

18 **A** Yes.

19 **Q** And what happened when you got on Old
20 Buncombe Road?

21 **A** I was in the stop sign ready to make a left
22 on Old Buncombe Road, and they make a left first. I
23 was behind them. When he seen me from the mirror, he
24 started, like, driving fast. And I decide just hit
25 his car.

1 **Q** Okay. So you hit the back of his car?

2 **A** Yes.

3 **Q** What happened after you hit the back of his
4 car?

5 **A** He is still driving more fast, and maybe
6 like he tried to make a turn, make a right on Morris
7 Street. That is when he hit the telephone pole.

8 **Q** Okay. What did you do when that car hit the
9 telephone pole?

10 **A** I stayed there for 10 seconds. I decide
11 find somebody and call the police and make the
12 report.

13 **Q** Okay.

14 **A** And I left the scene after 10 seconds.

15 **Q** Okay. What did you see taking place at the
16 accident scene while you waited? Did you see anything
17 at all?

18 **A** I see just a car hit the telephone pole
19 and, uh, that's it.

20 **Q** Okay. Did you go and end up talking to the
21 deputy who testified here a few minutes ago?

22 **A** Yes.

23 **Q** And do you remember him taking you over
24 there, back over there to see if you could choose,
25 pick somebody out?

1 **A** Yes, sir.

2 **Q** All right. Now, when you got back over
3 there where that Mercedes had wrecked, did you see
4 anybody who had committed this robbery?

5 **A** Yes.

6 **Q** Tell me where he was and what he was doing
7 when you saw him.

8 **A** He was sitting on the ground on the
9 sidewalk.

10 **Q** Okay.

11 **A** And, uh, I see more police officers around.
12 People from the fire department too was around.

13 **Q** Okay. Did you have any trouble seeing him
14 when the deputy drove you over there?

15 **A** No, sir.

16 **Q** How sure were you?

17 **A** 100 percent was him.

18 **Q** And do you see that person here in the
19 courtroom?

20 **A** Yes, sir. He's right there.

21 **Q** It's the defendant in this case?

22 **A** Yeah, it's him right there.

23 **Q** When you saw him sitting on the curb, did
24 you tell the deputy that was the person ---

25 **A** Yes, sir.

1 **Q** --- who was involved in this?

2 **A** Yes.

3 **Q** One moment please. (Pause.)

4 Okay. I have no further questions for you at
5 this time. Please answer any questions the defense
6 has.

7 **THE COURT:** All right.

8 **MR. STEELE:** May it please the Court?

9 **THE COURT:** Yes, sir.

10 **CROSS-EXAMINATION**

11 **BY MR. STEELE:**

12 **Q** Mr. Cabrera, am I correct when I say that
13 Mr. Williams was the only person seated there for you
14 to pick out? Am I correct?

15 **A** Yes.

16 **Q** There was not a group of people?

17 **A** No.

18 **Q** And you weren't asked which one of these.
19 Rather, you were asked is that him?

20 **A** I pick him because I'm 100 percent he is
21 the same person who robbed me in the tire shop.

22 **Q** Well, that's not my question.

23 **A** Well, can you explain me that.

24 **Q** Yes, I can.

25 **A** Okay.

1 **Q** The question I'm asking you is this, you
2 were not asked which one of these is the person who
3 robbed you, you were asked is this person here, the
4 one who robbed you? Isn't that the question that was
5 put to you?

6 **A** Okay.

7 **Q** Are you saying yes?

8 **A** Can you explain me in, uh, -- because I can
9 understand like 100 percent, but can you explain me
10 in another way?

11 **Q** I don't know if I can or not.

12 **MR. STEELE:** Your Honor, if this is going
13 to be a witness for the government, it would
14 seem to me that -- I don't know if it's going to
15 work without a translator or not.

16 **THE COURT:** He seems to understand it
17 fairly well. I think he's asked the State to
18 rephrase a question. So he's asking you to put
19 the question in maybe a simpler term.

20 **MR. STEELE:** And I'll try, Your Honor.

21 **BY MR. STEELE:**

22 **Q** You've already said there was only one
23 person there, is that correct?

24 **A** Yes, sir.

25 **Q** And you were not asked to pick out from a

1 group of people, were you? I already asked you that.

2 **A** (No audible response.)

3 **Q** There was not a group of people for you to
4 pick from, a bunch of people, a gathering of people.
5 There was only one person, is that correct?

6 **A** Yes, it was only one person.

7 **MR. STEELE:** Your Honor, that's all I have
8 on examination of this witness on this issue.
9 But while there is no jury here, can I bring up
10 a question that I would anticipate asking him
11 whenever he testifies in the case-in-chief that
12 may or may not be admissible?

13 **THE COURT:** Well, what is the question?

14 **MR. STEELE:** The question is this, is Mr.
15 Cabrera --

16 **THE COURT:** I don't need for you to -- I
17 don't need for you to respond to this question.
18 I'm just --

19 **MR. STEELE:** Here's the question, Your
20 Honor. I would respectfully make a proffer to
21 ask Mr. Cabrera if he is legally in this country
22 and if he has a green card.

23 **THE COURT:** What's the relevance of that
24 question?

25 **MR. STEELE:** Well, I think it might go to

1 his credibility, Your Honor, which is the key
2 issue of the whole case. If he is not here
3 legally, I would submit that is an indication of
4 a lack of credibility. Based upon that, I would
5 want to ask that question.

6 **THE COURT:** The question kind of cuts both
7 ways, doesn't it? I mean, he's got less of a
8 reason to report illegal activity to the police
9 if he's here illegally.

10 **MR. STEELE:** Of course, my position at
11 trial is going to be that he didn't call, he had
12 someone else call. In fact, this man called. But
13 anyway, not to get too deep into the evidence,
14 I'm just asking the Court can I ask that
15 question.

16 **THE COURT:** All right. Anything from the
17 State about that question?

18 **MR. MILLER:** Your Honor, we would object
19 that, first, it's not relevant. It doesn't go
20 one way or the other whether or not any more
21 fact is true or not true that goes to the
22 elements of the crime. Also it would be more
23 prejudicial than probative and would only
24 confuse the jury and as a red herring go down a
25 different road that in no way deals with the

1 allegations against Mr. Williams by making this
2 trial about Mr. Cabrera and not the actions of
3 Mr. Williams and his guilt or innocence based on
4 the facts of the case.

5 **THE COURT:** All right.

6 **MR. STEELE:** But it does impact on the
7 credibility of key witnesses.

8 **THE COURT:** All right. I'll take that --
9 I'm going to take that matter under advisement.
10 It's something that I'll need to rule on once
11 I've heard a little more testimony in this case.
12 If, however, you are wanting to ask him that
13 question, before you do so, we need to take it
14 up at the bench.

15 **MR. STEELE:** Yes, ma'am. I was trying to
16 anticipate that, but I understand the Court's
17 ruling.

18 **THE COURT:** I appreciate it.

19 **MR. STEELE:** And that's all, Your Honor.

20 **THE COURT:** All right. Anything else for
21 this witness?

22 **MR. MOYER:** Not for this witness.

23 **THE COURT:** You can step down. All right.

24 **MR. MOYER:** And we have no further
25 witnesses ---

1 **THE COURT:** All right.

2 **MR. MOYER:** --- on this matter.

3 **THE COURT:** All right. Anything -- the
4 State want to say anything with regard to, uh,
5 the identification?

6 **MR. MOYER:** Your Honor, I've looked at
7 Neil v. Biggers and the other cases that talk
8 about the show-up lineups. It stems from
9 questions of whether under the totality of
10 circumstances, the identification was reliable
11 even though the complicated procedure may have
12 been suggestive. We look at the opportunity of
13 the witness to view the criminal at the time of
14 the crime, his degree of attention, the
15 accuracy, the level of certainty and the amount
16 of time.

17 This all took place within an hour,
18 probably within about 45 minutes. The victim
19 testified he had plenty of time to take a look
20 at the suspect while this incident took place.
21 In fact, it took place over a period of minutes.
22 The defendant was close enough to actually
23 strike him.

24 It was daylight. There were -- when the
25 incident happened. It was still daylight when

1 the identification took place. There were no
2 obstructions. Based on Mr. Steele's line of
3 questioning, I know one of the issues that the
4 defense will have is the fact that he was the
5 only person there in handcuffs, but the issue in
6 the show-up -- the show-up, by it's very nature,
7 is suggestive.

8 **THE COURT:** Uh-huh.

9 **MR. MOYER:** The whole point of a show-up
10 is this happened right after the crime has taken
11 place, so it's fresh in the witness' mind.
12 Officers need to know whether there is a still a
13 suspect on the loose that they need to go and
14 apprehend. It's also in the suspect's favor.
15 Officers need to know if they have the wrong
16 person apprehended at that time or not. So Your
17 Honor, for all those reasons, we would argue
18 this identification procedure was
19 constitutionally valid.

20 **THE COURT:** All right. Yes, sir.

21 **MR. STEELE:** May it please the Court?

22 **THE COURT:** Certainly.

23 **MR. STEELE:** I would suggest to the Court
24 that it's hard to imagine a more suggestive
25 lineup than this one. Here, you have the only

1 man out there who is in handcuffs, the only man
2 out there who is seated on the curb beside a
3 deputy sheriff. They drive up with Mr. Cabrera
4 and in essence, although it's not -- the actual
5 verbatim question is not in evidence, they ask
6 is that him right there. 30 feet away, Your
7 Honor. 30 feet away, I think, was the testimony
8 from one of the law enforcement officers.
9 There's no way in the world that this is not a
10 constitutionally impermissible, improper show-
11 up. Let's not call it a show-up lineup, because
12 there wasn't any lineup. There was nobody there
13 except Mr. Williams. And Mr. Cabrera is asked is
14 this the man right here.

15 I would suggest, Your Honor, that based
16 upon that, there was plenty of opportunity to
17 have done it in a different way. There could
18 have been a conventional lineup, a literal
19 lineup and an actual lineup. In this case, we
20 have nothing but the most suggestive
21 circumstances. If somebody were to bring a man
22 to me in handcuffs and say is this him right
23 here, and there's no other alternative but to
24 pick him, I would submit most people would pick
25 him out. So based upon that, I'm asking Your

1 Honor to suppress this identification.

2 **THE COURT:** All right. Based on Neil v.
3 Biggers and State versus Moore, in considering
4 the factors in this regard, while a show-up
5 identification is, uh, -- can be problematic,
6 there are certain factors to consider. One is
7 the opportunity of the witness to have viewed
8 the criminal at the time of the crime. The
9 victim testified that he viewed the defendant
10 for up to 10 minutes. He identifies the victim
11 for up to 10 minutes -- I mean, the defendant.
12 The witness' degree of attention. It's clear
13 that this was a very stressful situation for the
14 victim and his attention was focused. The level
15 of certainty demonstrated by the witness. I
16 believe his testimony was that he was 100
17 percent certain. And the length of time between
18 the crime and the confrontation. And it was a
19 very short period of time.

20 I also take into account the fact that, uh,
21 the witness was able to see the defendant very
22 clearly, not only during the incident, but also
23 no obstructions from something around 30 feet
24 away. So for those reasons, I am, uh, -- looking
25 at the totality of the circumstances, I am going

1 to find the identification to be admissible. Of
2 course, it would be the jury's call as to
3 whether or not they believed that the
4 identification was valid.

5 All right. Anything else we need take up
6 before we break for lunch?

7 **MR. MOYER:** Not from the State, Your
8 Honor.

9 **MR. STEELE:** No, Your Honor.

10 **THE COURT:** Anything from the defense?

11 **MR. STEELE:** No, ma'am.

12 **THE COURT:** All right. We will be in
13 recess, uh, until, uh, -- let's say we'll be in
14 recess for one hour. That will give the jury
15 time to get back and then we'll start back in
16 one hour. All right. Thank you.

17 **(WHEREUPON, a lunch recess is taken.)**

18 **THE COURT:** All right. When they come
19 back, you know, I didn't swear the jury. So we
20 need to swear the jury.

21 **THE CLERK:** Yes, ma'am.

22 **THE COURT:** All right. Bring the jury in.

23 **(WHEREUPON, the jury enters at approximately**
24 **1:54 p.m.)**

25 **THE COURT:** All right. Ladies and

1 Gentlemen, I hope you each had a good lunch.
2 We're now ready to swear you as jurors. We'll
3 move on to opening statements after that.

4 **THE CLERK:** All right. Please stand and
5 raise your right hand for the oath. The proper
6 response is "I will". You shall well and truly
7 try the case of 2015-GS-23-238, the State versus
8 Steven Levon Williams, indicted for Armed
9 Robbery and Possession of a Weapon during the
10 Commission of a Violent Crime; 239 for Attempted
11 Murder; 240 for Possession of a Firearm by a
12 Person Convicted of a Crime of Violence; 241 for
13 Assault and Battery in the First Degree, and a
14 true verdict render according to the law and the
15 evidence so help you God. I will?

16 (WHEREUPON, each juror responds.)

17 **THE CLERK:** Thank you. Please be seated.

18 **THE COURT:** All right. You ready to
19 proceed?

20 **MR. MOYER:** I am, Your Honor. Thank you.
21 May it please the Court.

22 **THE COURT:** Yes, sir.

23 **MR. MOYER:** Madam Forelady, Ladies and
24 Gentlemen of the jury, good afternoon. As
25 you've heard, my name is Mark Moyer. I'm an

1 Assistant Solicitor here in the 13th Circuit
2 which comprises -- comprise of Greenville and
3 Pickens County. They comprise the 13th Circuit
4 Solicitor's Office. Walker Miller and I will be
5 prosecuting this case representing the State in
6 this criminal matter.

7 What I want to accomplish in my very brief
8 opening remarks to you are three things. I want
9 to talk to you just a little bit about some of
10 the law that's going to be applicable in this
11 case. I then want to give you a brief preview of
12 the evidence that you are going to hear in this
13 case. Then I'm going to tell you, briefly, a
14 summary of what evidence we will be introducing
15 in this case that will establish the factual
16 scenario that you will hear.

17 Now, let's talk just a little bit about the
18 law. Her Honor is going to instruct you fully on
19 the law at the end of this case. I just want to
20 make a few remarks about some of the charges
21 that are before you here today. As you -- a
22 couple of these charges are pretty self-
23 explanatory. You heard about the weapons charge.
24 I don't think I need to talk a whole lot about
25 those. It's about being in possession of a

1 weapon under certain circumstances.

2 The defendant is also charged with
3 Attempted Murder. I think you all have a pretty
4 good idea of what murder is. Murder is killing
5 somebody with malice aforethought. Malice is
6 essentially the doing -- the, uh, doing of an
7 unlawful act without just cause or excuse.

8 Attempted murder, then, would simply be
9 attempting to commit a robbery -- I'm sorry --
10 attempting to commit a murder without actually
11 accomplishing it. A good way to analyze that is
12 to think in the situation that is before you,
13 had the person actually died, would this be a
14 murder case? If so, then you have attempted
15 murder.

16 The defendant is also charged with Assault
17 and Battery first degree. Under South Carolina
18 law, it is unlawful to either injure a person or
19 to attempt to injure a person under
20 circumstances where that person is doing a
21 crime, like a burglary, a robbery or kidnapping.
22 So the extent of injury is not necessarily
23 dispositive of that fact. In fact, the person
24 doesn't have to be injured at all. It could be
25 an attempted injury as long as it takes place

1 during the commission of one of those crimes.

2 The defendant is also charged with Armed
3 Robbery. Now, armed robbery is a robbery where
4 the person who commits that robbery is armed
5 with some sort of deadly weapon. So a robbery is
6 a type of theft, a type of larceny. The specific
7 type of larceny of robbery is taking goods or
8 money from the person or presence of another
9 person through violence, intimidation or force.
10 So if that is done and the person is armed with
11 a deadly weapon, then it is an armed robbery. In
12 fact, the person doesn't have to actually have a
13 deadly weapon. But if the person even has a
14 representation of a deadly weapon, then it's
15 enough for an armed robbery. In other words, a
16 person could have a fake gun. It's not up to a
17 victim to try to determine whether or not that
18 gun is real. If it looks real and the person is
19 acting like it's real, then it's an armed
20 robbery.

21 So let's talk a little bit about what a
22 preview of what you -- what you're going to hear
23 in this case. You're going to hear about an
24 incident that happened on June the 6th of 2014
25 with Juan Cabrera. Juan is seated here in the

1 front row with the blue shirt. Juan worked at a
2 business called Poinsett Tires. It's just a
3 little bit down the road here on Poinsett near
4 Cherrydale. It's a tire shop. Juan worked there
5 alone. Unless he had a customer there with him,
6 he often was completely alone there at the
7 store.

8 Well, on June 6th of 2014, you're going to
9 hear that Juan notices a black Mercedes drive by
10 at least one time and actually stop in front of
11 the garage. It seemed a little bit odd to him.
12 Well, you're going to hear that later on that
13 day, right around 6 o'clock that evening, that
14 black Mercedes comes back. This time, it
15 actually comes to the business. It pulls up into
16 the wire fence that surrounds the business in
17 front of his shop.

18 You're going to hear testimony that two men
19 get out of that vehicle. One out of the driver's
20 side, who's wearing a black shirt, and is a
21 little bit older; and then another man gets out
22 of passenger side of that vehicle in a white
23 shirt. You're going to hear that they come up to
24 Juan. You're going to hear that the man in the
25 black shirt, the driver, has a pistol. You're

1 going to hear that the other man has a stun gun.
2 And you're going to hear that they approach
3 Juan. And I'll use the words that were used,
4 Give us the fucking money. Well, Juan doesn't
5 want to cause any problems. Backs up into the
6 shop. You're going to hear that he takes money
7 out of his pocket. He has about \$150. He takes
8 it out. Instead of handing it to them, he
9 actually throws it into the air so he doesn't
10 have to have actual contact with them.

11 You'll hear, at that time, the man with the
12 stun gun begins assaulting Juan. You'll hear
13 that the other man, the man in the black shirt,
14 the man who had been driving, who had the
15 pistol, collects the money. You're going to hear
16 after he collects the money, you're going to
17 hear that he also goes there and assaults Juan
18 who was still grappling with the man who had the
19 stun gun. You're going to hear that the driver,
20 this man with the pistol, actually pistol-whips
21 Juan on the head, causes gashes to his head.

22 Well, they leave, the two robbers leave.
23 They go back to that black Mercedes and get in
24 the car and basically burn out of that parking
25 lot pretty quickly. Well, you will hear that

1 Juan doesn't want these guys to get away with
2 what had just happened. Juan goes to his car,
3 silver Mustang. He gets in his car and he
4 follows them.

5 The black Mercedes turns down the side road
6 heading toward Old Buncombe. Juan follows them.
7 The speeds get high. The black Mercedes starts
8 buzzing through, uh, a residential neighborhood.
9 You'll hear Juan is following them. Juan
10 actually sees a woman outside in her yard,
11 pulled over really quickly. Yells out, help me,
12 help me, call the police. Keeps going and
13 follows the black Mercedes. The black Mercedes
14 comes to Old Buncombe. He turns onto Old
15 Buncombe.

16 You'll hear that Juan, still following in
17 the silver Mercedes actually has contact with
18 the vehicle, that black Mercedes at this time
19 and rams into it from behind. Hits the car. You
20 will hear at that point, the people, the
21 robbers, one, if not both, actually shoot at
22 Juan. Fire pistols at Juan. The black Mercedes
23 then tries to make a turn onto Martin street at
24 a very high rate of speed. Does not make the
25 turn and slams into a telephone pole. Hard.

1 The passenger, the one in the white shirt
2 who had had the stun gun gets out and runs.
3 You'll hear that the driver, who the evidence
4 will show is this defendant, stays there at the
5 vehicle. Juan pauses briefly and then keeps
6 going. Goes to look for help. He sees one
7 person. Tried to get them to call 911. Keeps
8 driving. He runs into some police officers who
9 were on another call. He stopped. Tells them
10 what happened.

11 At this time, the call has come in from
12 that one witness who Juan had stopped. And then
13 this information gets out there. Law enforcement
14 get involved, go to the scene where the accident
15 had taken place and then arrest this defendant
16 there at the scene. He is then charged with the
17 charges that are before you. That's a brief
18 preview of what the evidence, of what the facts
19 of this case are.

20 Now, what evidence are you going to hear
21 that's going to establish that? You're going to
22 hear from eyewitness testimony. You're going to
23 hear from Juan himself who is going to take the
24 stand and tell you what happened to him that
25 evening, about 6 o'clock on June the 6th, 2014.

1 You're going to hear from Stephanie Bishop. She
2 is the woman who Juan stopped and said something
3 to. She called 911. You will hear her 911 call.
4 You're going to hear from several witnesses at
5 the scene of the accident where the black
6 Mercedes struck the pole. People who heard
7 gunfire, heard the crash, saw the man running
8 away, saw this defendant remaining with the
9 vehicle. You're going to hear from police
10 officers, of course, officers who Juan spoke to
11 after the incident took place when he went up to
12 tell them what had just taken place with him.

13 You're going to hear and you're going to
14 see in photographs injuries that Juan sustained.
15 A gash to his head where he was pistol-whipped.
16 Bruises and abrasions to his back and neck and
17 his forehead and face from the assault. You're
18 going to hear and, again, see weapons. You're
19 going to hear about and you're going to see
20 photographs of and the actual item of a
21 revolver, a pistol that was found under the seat
22 in the black Mercedes where this defendant was
23 seated. You're going to hear it's a revolver,
24 has five different chambers, for lack of a
25 better word, four live rounds and one spent

1 round. You're going to hear and see about a stun
2 gun that was dropped back at Juan's place of
3 business during the altercation and remained
4 there at his shop.

5 You're going to see a video. A business
6 right next to where Juan worked had a video
7 camera that pointed in the direction of Juan's
8 tire shop, the tire shop where Juan worked. And
9 you're going to see that black Mercedes pull in
10 and stop in front of Juan's shop. And you're
11 going to see two men get out, one in a black
12 shirt, one in a white shirt. You're going to see
13 them go out of view when they went into the
14 shop. Then you're going to see those two men,
15 this time, running back to that Mercedes,
16 getting in that car and peeling out of there.
17 You're going to see Juan come running out behind
18 them throwing up his hands as if to call for
19 help and then getting into his Mustang and
20 following after them.

21 You're going to see photographs,
22 photographs from the scene where the black
23 Mercedes had the accident, photographs from
24 Juan's tire shop that showed the disturbance,
25 that shows the stun gun, that shows some money

1 still on the ground from when Juan threw it up
2 in the air and not all of it was actually
3 collected. That's a summary of the evidence that
4 you're going to hear in this case, that you're
5 going to see and hear.

6 In closing, I just want to ask you at this
7 time to pay close attention to all the testimony
8 and all the evidence that's presented throughout
9 this case. I ask you to use your common sense
10 and your good judgement to just weigh that
11 evidence. And then at the end of this case,
12 which I anticipate being sometime tomorrow,
13 perhaps midday, I ask you to do justice. Thank
14 you.

15 **MR. STEELE:** May it please the Court?

16 **THE COURT:** Certainly.

17 **MR. STEELE:** May it please you, Ladies and
18 Gentlemen of the jury. As you know already when
19 I introduced myself, my name is Carlyle Steele,
20 and I represent Steven Williams who is the
21 gentlemen in the green shirt seated with me over
22 there.

23 The judge is going to fully charge you all
24 as to the law at the conclusion of the case. One
25 of the important things that's going to be told

1 to you by the Court, by the Judge at the
2 conclusion of the case is that Mr. Williams, at
3 this point, is presumed innocent. He sits over
4 there at that counsel table right now clothed in
5 a presumption of innocence. That presumption of
6 innocence can only be removed from him by
7 competent evidence that satisfies you, Ladies
8 and Gentlemen, beyond a reasonable doubt of his
9 guilt.

10 So let's talk a little bit about this
11 concept of reasonable doubt. It's easy to make
12 charges. It's easy for officers to write a
13 warrant. It's easy for the Grand Jury to indict,
14 because the Grand Jury meets in secret and only
15 hears one side of the case. So you, Ladies and
16 Gentlemen, you all are the final decider of the
17 facts of this case and the most important fact
18 that you're going to decide is whether or not
19 the State has presented enough evidence that
20 removes every reasonable doubt from every
21 juror's mind. That's what proof of guilt beyond
22 a reasonable doubt means. When you took your
23 oaths, you swore to accept the law as the court
24 gives it to you and that law is going to include
25 that unless or until Mr. Williams is proven

1 guilty beyond a reasonable doubt, you are
2 required under your oaths to come back with a
3 verdict of not guilty.

4 The reason for that, as I've already said
5 is because it's easy to make charges. It's easy
6 to make allegations, but we, in South Carolina,
7 and we, in America, we put such a high prize on
8 freedom from conviction of a criminal offense
9 that between the citizen accused, and that's Mr.
10 Williams over here, and conviction of the crimes
11 that he's charged with, we have a barrier. And
12 that barrier is the presumption of innocence.
13 And that barrier stays in place unless and until
14 every reasonable doubt is removed from every
15 juror's mind. What that means, Ladies and
16 Gentlemen, is that Mr. Williams and I on that
17 side of the courtroom, we don't have to prove
18 anything. All the proof, burden, rests with the
19 government. They are the ones who have to prove
20 his guilt beyond a reasonable doubt.

21 I'm going to talk to you a little bit now
22 about what the evidence will show. Steven
23 Williams has this friend. He's actually the son
24 of a longtime girlfriend of Mr. Williams by the
25 name of Leviticus Young. Leviticus Young is also

1 charged in this offense, but you're not
2 concerned with him today. You're only trying the
3 case against Mr. Williams. Leviticus Young comes
4 and gets Mr. Williams to give him a ride. He has
5 some beef with Mr. Cabrera over at this tire
6 shop. And you will see pictures of this tire
7 shop.

8 And they go over there. And Mr. Young, he
9 goes in and confronts Mr. Cabrera. And they get
10 in an argument which results in a physical
11 altercation. That physical altercation is going
12 on. It finally gets out of hand. And Mr.
13 Williams decides it's time to go. So he gets in
14 his car and leaves. And they do leave. There was
15 never any armed robbery. There was never any
16 attempted murder. There was never any assault by
17 Mr. Williams. There was a mutual assault between
18 Mr. Cabrera and Mr. Young. And he tries to
19 leave. Mr. Cabrera, the evidence will show,
20 instead of making a call to 911, which is what
21 you would expect a person might do if they had
22 just been armed robbed, as the State, as the
23 government contends happened in this case. Mr.
24 Cabrera, instead of doing that, he gets in his
25 automobile and he takes off after them. He's

1 pursuing him. And he crashes into him. He ends
2 up running Mr. Williams off the road. Mr.
3 Williams' automobile goes off the road and
4 crashes into some sort of a pole.

5 I've already told you that the evidence
6 will show that Mr. Cabrera never called 911. Who
7 calls the Highway Patrol to tell them
8 something's going on, that we need a officer?
9 Steven Williams makes the call. Steven Williams
10 calls the Highway Patrol and tells them that
11 he's been run off the road by somebody, that --
12 I would submit, that's the kind of case that you
13 have here. The evidence that will be presented
14 by the government is not believable. The set of
15 circumstances that's been presented to you is
16 not believable. And I would submit there will be
17 lots of reasonable doubt left in lots of jurors'
18 minds when this case is over.

19 Most importantly of all, I'm asking you,
20 Ladies and Gentlemen, to use and implore your
21 common sense. That's all you have to do. If it
22 sounds, after you put your common sense to work
23 on it, it sounds like it's unbelievable, it's
24 implausible, it doesn't sound like it could have
25 happened that way, I would submit to you that's

1 what a reasonable doubt is. The Court is going
2 to define reasonable doubt for you. She will
3 explain to you what that means.

4 But you, Ladies and Gentlemen on this jury,
5 are making one of the most important decisions
6 that's going to ever be made in the life of a
7 fellow human being, Steven Williams. So I ask
8 you to give that kind of attention to this case.
9 At the conclusion of the case, I ask you to give
10 that kind of deliberation to the facts of this
11 case. And when you do that, I believe you're
12 going to conclude there was no attempted murder,
13 there was no armed robbery, there was no assault
14 by Mr. Williams, there was no use of a deadly
15 weapon in an armed robbery or in the commission
16 of a violent crime, and you're going to find Mr.
17 Williams not guilty of these charges. I
18 respectfully ask you to do that. Thank you.

19 **THE COURT:** Is the State ready to proceed?

20 **MR. MOYER:** We are, Your Honor. Rene
21 Beauford.

22 **THE COURT:** And that's -- I'm sorry. Go
23 ahead.

24 **MR. MOYER:** I was going to say, while this
25 witness is coming in, I would move, at this time

1 to have State's Exhibit Numbers 3 through 35,
2 which are a series of photographs and maps
3 entered into evidence.

4 **THE COURT:** Any objection?

5 **MR. STEELE:** I've looked at them and I
6 have no objection.

7 **THE COURT:** All right. Very well then.
8 They are so entered.

9 **(WHEREUPON, State's Exhibits 3 through 35 are**
10 **admitted into the record.)**

11 **THE COURT:** Ladies and Gentlemen, while
12 this witness is coming forward, I just want to
13 say to you, if at any moment, you need a break
14 or anything like that, all you need to do is to
15 signal to me or signal to Mr. Cofield here. We
16 will take a break immediately. And as we are
17 changing up witnesses, uh, as witnesses are
18 going off the witness stand, if anybody wants to
19 stand up and stretch your legs a little bit,
20 feel free to do that too. Okay?

21 **THE CLERK:** Please raise your right hand.

22 **RENE BEAUFORD**

23 having first been duly sworn, testifies as follows:

24 **THE CLERK:** Thank you. Please be seated.

25 Please state your name for the record.

1 **THE WITNESS:** Rhonda Rene Beauford.

2 **DIRECT EXAMINATION**

3 **BY MR. MOYER:**

4 **Q** Where do you -- where are you employed?

5 **A** Greenville County Sheriff's Office.

6 **Q** How long have you worked for the Greenville
7 County Sheriff's Office?

8 **A** 20 years.

9 **Q** Okay. What is your position with the
10 Sheriff's Office now?

11 **A** Uh, I'm a research analyst and training
12 officer with the -- in Communications.

13 **Q** Okay. What is Communications?

14 **A** Excuse me. That is the -- Communications is
15 our dispatch center for 911 and we're -- we intake
16 the calls, intake the radio transmissions and
17 transmit them back out to the proper agency for
18 dispatch.

19 **Q** Okay. How long have you been in this
20 position?

21 **A** The research analyst position, I've been in
22 for approximately 5 years.

23 **Q** What did you do prior to that?

24 **A** I was a supervisor over a shift -- over
25 911.

1 **Q** What are your responsibilities in your
2 current position?

3 **A** What I do now is research any kind of
4 requests that might come in to the Sheriff's Office
5 for recordings of 911 calls, any phone call, any
6 radio transmission, any other kind of information
7 that would come into our dispatch center, whether --
8 the documentation, I research it to go back out,
9 whether it be for criminal cases, civil cases, FOIA,
10 Freedom of Information Act for the general public or
11 complaints.

12 **Q** Okay. Now, I'm going to start off by
13 talking to you about some -- about 911 calls. What is
14 the call center?

15 **A** The 911 call center is actually called a
16 PSAP, Public Safety Answering Point. That is where
17 all the incoming calls for Greenville County come
18 into our dispatch center. We take all incoming calls
19 for the Sheriff's Office whether it be emergency or
20 non-emergency. Then we send them back out to the
21 deputies or to the proper agency, whether it be fire,
22 EMS, uh, Highway Patrol.

23 **Q** Okay. And what are the people who work in
24 the 911 call center? Are they titled?

25 **A** Uh, well, we have two titles, dispatcher or

1 call taker. But basically, they are all dispatchers.

2 Q So it is part of their responsibilities to
3 feed the information that they get to officers and
4 EMS personnel?

5 A Yes.

6 Q Now, are all calls received at the dispatch
7 center recorded?

8 A Yes, they are.

9 Q How are they recorded?

10 A They are recorded automatically, digitally
11 and simultaneously.

12 Q And what does that mean?

13 A What that means is once -- it's a 911 call.
14 Once the person hits the second "1", that phone call
15 automatically starts recording on a regular seven-
16 digit or non-emergency line. That recording starts
17 recording at the point of pickup. We have no option
18 of not recording them. Everything is recorded
19 automatically and simultaneously in the order that
20 they come in.

21 Q Can a recording be stopped during the
22 recording process?

23 A No, it can not.

24 Q Now, do you or the dispatcher receiving the
25 call or anyone else have any control over how the

1 call gets recorded or what part of the call is
2 recording?

3 A No, we do not.

4 Q Do the calls -- do the call records
5 accurately reflect the conversation that take place
6 between the 911 caller and the dispatcher?

7 A Yes, they do.

8 Q How are those recordings then kept?

9 A We have a digital storage center by
10 computer. They are kept on a backup storage center,
11 uh, -- on a hard drive for up to three years.

12 Q And how long are they -- oh, you said up to
13 three years.

14 A Three years, yes.

15 Q And they are kept in the ordinary course of
16 your operations there at the 911 call center?

17 A Yes, they are.

18 Q Now, do your duties include the
19 responsibility for maintaining the records concerning
20 the calls to 911?

21 A They do.

22 Q Do they also include coming to court and
23 bringing copies of the 911 call to court for the
24 purpose of introducing them into court?

25 A Yes, it does.

1 **Q** Okay. Let me take your attention to June
2 the 6th of 2014. Was the recording system working
3 properly on that date?

4 **A** Yes, it was.

5 **Q** Okay. On that date, was a 911 call received
6 from someone named Stephanie Bishop?

7 **A** Yes, it was.

8 **Q** Was that call recorded?

9 **A** Yes, it was. It was recorded. It came in at
10 18:04 and 58 seconds, which would be 6 p.m. at night.

11 **Q** Let me hand you what's been marked as
12 State's Exhibit Number 1. Can you look at that and
13 see if you can recognize it?

14 **A** I do.

15 **Q** And what is it and how do you recognize it?

16 **A** I recognize it by, uh, first of all, my
17 initials are right here where I have reviewed and
18 verified it is the proper call associated with the
19 time of 18:04:58, which is the time that Ms.
20 Stephanie Bishop called in.

21 **Q** And you made that recording?

22 **A** I did.

23 **Q** And is it an exact recording, exact
24 duplicate of that call?

25 **A** Yes, it is.

1 **Q** And you said you had an opportunity to
2 review that then again prior to coming to court here
3 today?

4 **A** I did.

5 **Q** And tell me again, what time was that call
6 made from Stephanie Bishop?

7 **A** It came in at 18:04 and 58 seconds, 6 p.m.
8 We go by military time.

9 **Q** Okay. So that would be 6:04:58 in the
10 evening?

11 **A** Correct.

12 **Q** Okay. That's all my questions about that at
13 this time. I want to ask you about a couple of other
14 times related to this case. So when a call is taking
15 place, does a dispatcher make a record of times that
16 officers do things related to the case?

17 **A** Yes, we do.

18 **Q** Okay. Is there a name for that record?

19 **A** Yes, we have a computer-aid dispatch
20 system. We call it CAD. Our program documents by
21 location, time, time stamp, unit numbers, caller
22 names, telephone numbers, any comments that we take
23 regarding the incident is documented in this report.

24 **Q** Okay. And were those reports that you
25 described, it's called CAD?

1 **A** It is.

2 **Q** Is that kept in the ordinary course of
3 business for the Sheriff's Office?

4 **A** Yes, it is.

5 **Q** And is it regular practice of the Sheriff's
6 Office to make and keep those records?

7 **A** Yes, it is.

8 **Q** And do you have access to that information
9 as the regular normal function of your job?

10 **A** I do.

11 **Q** All right. Now, you already told us about
12 Stephanie Bishop's 911 call at 18:04:58. Let me ask
13 you about a couple of other times. Can you tell us
14 the time that Deputy Husk had an interaction with a
15 man associated with this case?

16 **A** Deputy Husk at 18:10, 6 p.m., 6:10 in the
17 evening.

18 **Q** Okay. And he had interaction with a person
19 on that date?

20 **A** He did. He was on another call. It's
21 documented on the call that he was on that he was
22 approached by a Hispanic male. And he gives a
23 description, in camouflage clothing, and advised him
24 of a situation that was going on that was unrelated
25 to the call that he was on.

1 Q Okay. And uh, what location was he?

2 A He was at -- it's documented actually as
3 [REDACTED] First Avenue, but I believe that's at the
4 intersection of A Street. So, uh, [REDACTED] First Avenue
5 or [REDACTED] A Street was the location they were out at on
6 a domestic situation, as I said, unrelated.

7 Q Okay. And for further description, what is
8 the word, camo? Is that the word?

9 A Camo.

10 Q Could that be Camaro?

11 A It could.

12 Q But it doesn't say clothing. It just says
13 camo?

14 A No, it says Hispanic male in camo.

15 Q Okay. Can you tell us what time Deputy
16 McAlmont arrived on the scene?

17 A Deputy McAlmont arrived on the incident at
18 18:24, 6:24 p.m.

19 Q And can you tell us what time Deputy Husk
20 arrived at the scene of the intersection of Old
21 Buncombe and Morris?

22 A Uh, yes. He left, uh, the other location
23 and arrived at Old Buncombe and Morris at 18:38 p.m.

24 Q Okay. One moment please. (Pause.)

25 Okay. I have no further questions for this

1 witness. Thank you.

2 **MR. STEELE:** May it please the Court.

3 **THE COURT:** Certainly.

4 **CROSS-EXAMINATION**

5 **BY MR. STEELE:**

6 **Q** Ms. Beauford, did I understand you to say
7 that these, uh, CADs, I believe you called them, you
8 put together a whole chronology of all the 911 calls
9 related to a particular incident, is that right?

10 **A** I do.

11 **Q** Did you include in that -- tell me again
12 what CAD stands for.

13 **A** Uh, Computer Aid Dispatch.

14 **Q** Do you have a Computer Aid Dispatch
15 reflecting a call from a gentleman saying that he
16 struck a telephone pole, that he had been run off the
17 road, to the Highway Patrol dispatcher?

18 **A** I do not have a Computer Aid Dispatch to
19 that, uh, standing. That would have been transferred
20 to Highway Patrol due to the accident.

21 **Q** Are you aware, though, that one of those
22 exists?

23 **A** Yes.

24 **Q** In your investigation and in your compiling
25 of things, was that one of them?

1 **A** Yes, it was.

2 **Q** And you actually have an oral recording of
3 that, do you not?

4 **A** I do.

5 **Q** And if we were to play it, would you
6 recognize it?

7 **A** I would.

8 **MR. MOYER:** Without objection.

9 **THE COURT:** All right then.

10 **MR. STEELE:** Well, I don't have my DVD.

11 **THE COURT:** Do you all have it with you?

12 **MR. MOYER:** We do, Your Honor. It will
13 take us just minute.

14 **THE COURT:** Oh, sure.

15 **(WHEREUPON, there is a pause.)**

16 **THE COURT:** Technology is a wonderful
17 thing, but sometimes it doesn't always run on
18 our schedule. So if y'all would just be patient
19 for a moment.

20 **MR. MOYER:** Your Honor, I think we'd have
21 to play it to determine which one it is. So we
22 may need a moment ---

23 **THE COURT:** All right.

24 **MR. MOYER:** --- outside the presence of
25 the jury.

1 **THE COURT:** Uh, Mr. Steele, do you want me
2 to excuse the jury at this time so we can play
3 it, play it and find that little section or
4 would you want to revisit that issue in a few
5 minutes.

6 **MR. STEELE:** Well, whatever's most
7 convenient to the Court as long as that
8 particular 91 -- call to the Highway Patrol
9 Dispatcher can be played for the jury, we can do
10 it procedurally however Your Honor wants to.

11 **THE COURT:** I wanted to make sure you
12 weren't going -- that you didn't need it to be
13 played before you asked her some more questions.

14 **MR. STEELE:** I'm through with the
15 questions of ---

16 **THE COURT:** Oh, okay.

17 **MR. STEELE:** --- this witness.

18 **THE COURT:** Oh, okay.

19 **MR. STEELE:** That would be my last one. I
20 guess I would need to ask her if this is
21 consistent with her investigation. But other
22 than that, that's all I have.

23 **THE COURT:** All right. Thank you. Anything
24 -- well then, in the interest of time, what
25 we'll do is you will hear that recording when we

1 can take a break and just isolate that one
2 recording for you.

3 **MR. STEELE:** And would the -- okay. That's
4 fine, Your Honor. That's a good way to do it.
5 Thank you.

6 **THE COURT:** All right then. Any questions
7 for this witness? Any other questions from the
8 State?

9 **MR. MOYER:** No, Your Honor.

10 **THE COURT:** All right. Ma'am, you can step
11 down.

12 **THE WITNESS:** Thank you.

13 **THE COURT:** Thank you.

14 **MR. MOYER:** The State calls Stephanie
15 Bishop.

16 **THE COURT:** All right. Maybe y'all would
17 feel more comfortable standing up as witnesses
18 are coming in. I'm going to go ahead and stretch
19 early.

20 **THE CLERK:** Ms. Bishop, if you will,
21 please come forward. Pause at the end of the
22 bench. Please place your left on the Bible and
23 raise your right hand.

24 **STEPHANIE BISHOP**

25 having first been duly sworn, testifies as follows:

1 **THE CLERK:** Thank you. Please be seated.
2 And would you please state your name for the
3 record.

4 **THE WITNESS:** Stephanie Bishop.

5 **THE CLERK:** Thank you. Ma'am, pull that
6 microphone towards you.

7 **DIRECT EXAMINATION**

8 **BY MR. MOYER:**

9 **Q** All right. Ms. Bishop, tell the jury how
10 old are you.

11 **A** 43.

12 **Q** Okay. And you have two children, is that
13 right?

14 **A** Three.

15 **Q** You have three children?

16 **A** Uh-huh.

17 **Q** And you've been working at a manufacturing
18 business in Greenville since the birth of your
19 youngest child, is that right?

20 **A** Uh-huh.

21 **Q** And let me ask you to pull the microphone a
22 little bit closer so we can make sure we can all hear
23 you. Okay. And you are a lifetime resident of
24 Greenville County?

25 **A** Yes.

1 Q You graduated from high school?

2 A Uh-huh.

3 Q What high school?

4 A Greenville.

5 Q From Greenville?

6 A Yes.

7 Q Okay. Now, --

8 **THE COURT:** Can you hear her? Can y'all
9 hear her?

10 All right. Go ahead.

11 **BY MR. MOYER:**

12 Q Pull up just a little.

13 **THE COURT:** You've got a soft voice.

14 **THE WITNESS:** I'm sorry.

15 **THE COURT:** No, it's hard. You don't want
16 to yell into the microphone.

17 **THE WITNESS:** Is that better?

18 **BY MR. MOYER:**

19 Q That's better.

20 A Okay.

21 Q Where did you live back in June of 2014?

22 A Fair Street in Greenville.

23 Q You lived on Fair Street?

24 A Uh-huh.

25 Q Who did you live with?

1 **A** My mother.

2 **Q** Okay. And did you make a 911 call on that
3 day?

4 **A** Yes.

5 **Q** What led you to make that call?

6 **A** There were two speeding cars come up our
7 road. A man stopped in a Mustang and asked me to help
8 him by calling 911.

9 **Q** Okay. Let's talk a little bit about those
10 two cars.

11 **A** Okay.

12 **Q** Was one in front of the other one?

13 **A** Yes.

14 **Q** And would you describe the one that was
15 first?

16 **A** It was a black Mercedes.

17 **Q** At the time you made the 911 call, you
18 weren't quite sure?

19 **A** No, I thought it was a Audi.

20 **Q** You thought it was an Audi?

21 **A** Yes.

22 **Q** But you know now it was a Mercedes?

23 **A** Yes.

24 **Q** Have you seen pictures of that car?

25 **A** Yes.

1 **Q** And you sure that's the car you saw?

2 **A** Yes.

3 **Q** Tell us a little about that neighborhood.

4 What's the speed limit like?

5 **A** It's a residential neighborhood. It's
6 generally, you know, maybe 20 miles an hour. Maybe.

7 **Q** Okay. And so this black Mercedes that you
8 saw ---

9 **A** Uh-huh.

10 **Q** --- tell us about how fast it was going.

11 **A** I would say around 45 miles an hour at
12 least.

13 **Q** A lot --

14 **A** It was going entirely too fast through that
15 neighborhood.

16 **Q** Okay.

17 **A** I mean really fast through that
18 neighborhood. Especially in the part where we live,
19 there's a sharp curve there. They could have really
20 lost that very easily right there. There's lots of
21 children.

22 **Q** Okay. Now, what, if anything, did you
23 notice about the occupants of that black Mercedes?

24 **A** I know it was a black male driving. I
25 really couldn't see details. There was a black male

1 hanging outside the car.

2 Q Okay.

3 A He was, you know, a nice sized man.

4 Q Nice sized meaning pretty big guy?

5 A Yeah. He's kind of husky.

6 Q So there was one person driving and you
7 said another person hanging out the window. Which
8 window?

9 A Passenger's.

10 Q Okay. In the front or the back?

11 A Front.

12 Q In the front?

13 A Uh-huh.

14 Q Okay. What did you -- can you give us any
15 more elaboration by what you mean by hanging out?

16 A Well, initially -- well, I mean if you're
17 standing there and somebody comes speeding down
18 through there, you don't really know what to think
19 first of all with somebody hanging out the window.
20 But now, after I saw the other one chasing him, I
21 guess he was turned around to look to see, I guess,
22 if they were either following them or catching up.
23 I'm not sure.

24 Q So was --

25 A He was turned.

1 **Q** He was turned?

2 **A** Looking back. Yes.

3 **Q** Okay. All right. Now, so where you were,
4 how close would you say you were to the road?

5 **A** Hmm...

6 **Q** Farther than I am from you right now?

7 **A** Maybe.

8 **Q** Farther than that back wall?

9 **A** No, not that far.

10 **Q** Somewhere back around where I am now?

11 **A** Probably that far.

12 **Q** About that far from the road?

13 **A** Uh-huh.

14 **Q** Okay. You remember around what time of day
15 this was?

16 **A** Uh-huh. 5:30, 6:00.

17 **Q** Your testimony was that your 911 call came
18 in at 6:05, almost 6:05. Does that sound correct?

19 **A** That's correct. Yes.

20 **Q** Okay. So it's light out?

21 **A** Uh-huh.

22 **Q** Now, tell us about the other car, what kind
23 of car was that?

24 **A** It was a silver Mustang.

25 **Q** And that was behind the Mercedes?

1 **A** Yes.

2 **Q** How -- when you first saw the Mustang, how
3 far behind the Mercedes was it?

4 **A** I would say maybe a car length. A car
5 length and a half maybe.

6 **Q** Pretty close?

7 **A** Yes.

8 **Q** And what did that Mustang do when it got
9 close to you?

10 **A** He slowed down right there at my house and
11 said please help me, call the 911.

12 **Q** You remember how many people were in the
13 car?

14 **A** Just him.

15 **Q** What do you remember about the person in
16 the car?

17 **A** He was just, uh, -- he was Mexican. He was
18 only there for a brief moment. All I could really
19 remember is that he was Mexican. He was panicked.

20 **Q** My next question was how was he acting?

21 **A** He was panicked. He was desperate for help.

22 **Q** What did he say?

23 **MR. STEELE:** Your Honor, I'm going to ask
24 that panicked and desperate for help -- she can
25 describe whatever she saw in the way of events,

1 but I don't think she can draw that kind of
2 conclusion.

3 **THE COURT:** If that's what she's saying
4 the witness appeared to her, I'll allow that
5 testimony.

6 All right. Go ahead.

7 **BY MR. MOYER:**

8 **Q** What did he say?

9 **A** He said, uh, call the police. He said,
10 help, help, call the police.

11 **Q** Did he stay there very long?

12 **A** No. He stayed there long enough to say that
13 and then he was gone.

14 **Q** Did you call the police?

15 **A** Yes, I did.

16 **Q** Did you call right away?

17 **A** Yes.

18 **Q** Did you have, uh, -- did you have a phone
19 on you?

20 **A** Yes.

21 **Q** Now, as far as a couple more questions
22 about the Mercedes. Did you see the people in the
23 Mercedes well enough that you could identify them
24 later?

25 **A** No.

1 **Q** Okay. Could you tell --

2 **A** I could tell you there were two black
3 males.

4 **Q** Okay. All right. Now, did the -- did the
5 Mercedes ever slow down at all when it came by you?

6 **A** Oh, no.

7 **Q** It didn't stop and no one said anything to
8 you from the Mercedes?

9 **A** Oh, no.

10 **Q** Okay. Now, you had a chance to take a look
11 at a map that we prepared for this case?

12 **A** Uh-huh.

13 **Q** And does that map show you an indication of
14 where your house was?

15 **A** Yes.

16 **Q** Does it show that on there?

17 **A** Yes.

18 **Q** Okay. This has already been introduced into
19 the record. This is State's Exhibit Number 34. What
20 I'm going to do in just a minute is I'm going to ask
21 you to come down and point out your residence to the
22 jury. Right in front of the jury so we can make sure
23 they can see it. Let me ask you, if you would, just
24 to step down.

25 **A** (Witness complies.)

1 **Q** And let me ask you stand maybe over to the
2 side here so we don't block the map for the jury.
3 First off, can you point out where Poinsett Highway
4 is.

5 **A** This is Poinsett. (Indicating.)

6 **Q** And you have to speak up so the Court
7 Reporter can hear you.

8 **A** This is Poinsett.

9 **Q** And where is Fair Street?

10 **A** Fair is right here. (Indicating.)

11 **Q** Okay. And can you point out where it was
12 that you were living at that time and where this took
13 place?

14 **A** Right here. (Indicating.)

15 **Q** And you talked about a curve in the road.
16 Would you just show where that curve is.

17 **A** The curve. (Indicating.)

18 **Q** Right there in front of your house?

19 **A** Yes. It doesn't really show on that. That's
20 just the way the road is. But this appears straight,
21 but it's not.

22 **Q** Is the curve right here where Ballenger
23 Street comes in?

24 **A** Yes.

25 **Q** Okay. All right. Would you just show the

1 direction these two vehicles were going when you saw
2 them?

3 **A** Uh, they came from here. (Indicating.)

4 **Q** When you say, from here, for the record,
5 are you talking about from --

6 **A** Poinsett Highway.

7 **Q** From Poinsett Highway.

8 **A** And then they came up Fair past my house.

9 **Q** Okay. And kept going?

10 **A** Uh-huh.

11 **Q** Okay. Thank you. That's all the questions I
12 have about right now. You can have a seat.

13 **A** (Witness complies.)

14 **Q** Now, I'm going to ask you to kind of push
15 your chair off to the side a little bit because we're
16 going to show a picture behind you. I'm going to
17 start off by showing you State's Exhibit Number 3.
18 Can you see that where you are or do you need to step
19 down?

20 **A** I can see it.

21 **Q** All right. Do you recognize what it's
22 showing in that picture?

23 **A** Yes.

24 **Q** What is that?

25 **A** That looks like the Mustang that was

1 chasing the Mercedes.

2 Q That Hispanic guy was in?

3 A Yes.

4 Q Let me show you State's Exhibit Number 5.

5 You tell us if you recognize what is in that picture.

6 A Yes, the Mercedes.

7 Q That's the Mercedes that drove by first?

8 A Uh-huh.

9 Q And then one more angle. State's Exhibit
10 Number 4.

11 A Uh-huh.

12 Q That's the Mercedes?

13 A Yes.

14 Q Okay. Thank you. I'm going to hand you
15 what's been marked as State's Exhibit Number 1. Take
16 a minute to look at what I just handed you. Let me
17 ask you if you recognize what that is.

18 A Yes.

19 Q What is that?

20 A It's a 911 call.

21 Q How are you able to recognize it?

22 A I listened to it and signed it.

23 Q Are your initials on there?

24 A Yes.

25 Q And you say you've listened to that call?

1 **A** Several times.

2 **Q** Is that an accurate recording of the call
3 that you made on June the 6th of 2014?

4 **A** Yes.

5 **Q** There's no, nothing changed or added in any
6 way?

7 **A** No.

8 **MR. MOYER:** Your Honor, at this time, I
9 would move to have State's Exhibit Number 1
10 entered into evidence and published to the jury.

11 **THE COURT:** Any objection?

12 **MR. STEELE:** No, ma'am.

13 **THE COURT:** All right. It is so entered.
14 Feel free to publish it.

15 **(WHEREUPON, State's Exhibit 1 is admitted into**
16 **the record.)**

17 **(WHEREUPON, State's Exhibit 1 is played for the**
18 **jury.)**

19 **MR. MOYER:** Okay. Please answer any
20 questions that the defense has.

21 **CROSS-EXAMINATION**

22 **BY MR. STEELE:**

23 **Q** Ms. Bishop, I don't know if you need to
24 come down here again, but I was going to ask you
25 about Fair Street. It doesn't show a curve, does it,

1 on this map? You made reference to that when you were
2 talking.

3 **A** There's a curve there at Ballenger, but the
4 curve -- where I'm speaking of, it's just a very
5 small little place as you past the house. But right
6 there where my house is, it starts to curve off. And
7 if you're --

8 **Q** You mind coming down here one more time?

9 **A** (Witness complies.)

10 **Q** So what you are telling me is you're not
11 talking about this curve here at Ballenger. You're
12 talking about one back up here somewhere?

13 **A** No, as you come down here. Probably right
14 there where that little dot is. (Indicating.)

15 **Q** Right there? (Indicating.)

16 **A** Yes.

17 **Q** Right where my pen is?

18 **A** Uh-huh.

19 **Q** But that is showing as absolutely straight
20 on that map, isn't it?

21 **A** It looks straight.

22 **Q** It could hardly be straighter, really. So
23 is that map wrong? What are you telling us?

24 **A** One dot makes a difference.

25 **Q** Yeah. But anyway, it does show it is

1 straight. You say there's a pretty good curve there
2 that you were worried about somebody losing control
3 in that curve. Is that what you're saying?

4 **A** I'm saying if you are driving at a high
5 rate of speed, you could --

6 **Q** But there is no curve on the map, is there?

7 **A** There is a dot that looks somewhat
8 different. The curve is not like the curve on
9 Ballenger. And if you know that road, you can drive
10 that road.

11 **Q** I'm just asking you to identify it. This
12 shows it is perfectly straight?

13 **A** Uh-huh.

14 **Q** Yes, ma'am. That's all.

15 Thank you, Your Honor.

16 **THE COURT:** All right. Anything else for
17 this witness?

18 **MR. MOYER:** No, Your Honor.

19 **THE COURT:** All right. Ma'am, you can step
20 down.

21 Everybody okay?

22 **MR. MILLER:** Robert Cullum.

23 **THE CLERK:** Mr. Cullum, if you will,
24 please come forward. If you will, pause at the
25 end of the bench there. Please place your left

1 hand on the Bible and raise your right hand.

2 **ROBERT CULLUM**

3 having first been duly sworn, testifies as follows:

4 **THE CLERK:** Thank you. Please be seated. And
5 sir, would you please state your name for the
6 record.

7 **THE WITNESS:** Robert Cullum.

8 **DIRECT EXAMINATION**

9 **BY MR. MILLER:**

10 **Q** Can you hear me, Mr. Cullum?

11 **A** Yes, sir.

12 **Q** Okay. Where are you from?

13 **A** Greenville.

14 **Q** From Greenville?

15 **A** Yes.

16 **Q** Where do you live?

17 **A** [REDACTED] Morris Street.

18 **Q** How long have you lived there?

19 **A** 10 years.

20 **Q** And you lived there on June 6th, 2014?

21 **A** Correct.

22 **Q** Do you remember that day?

23 **A** Yes, sir. I do.

24 **Q** What were you doing?

25 **A** Grilling in my back yard.

1 **Q** Were you there by yourself?

2 **A** No, I had my mom, my dad, my wife and my
3 son.

4 **Q** What were you grilling?

5 **A** BBQ chicken.

6 **Q** Okay. What's kind of the -- let's see. Let
7 me show you this map so you can get a point of
8 reference here to where your house is. If it's okay,
9 would you step down real quick --

10 -- with Your Honor?

11 **THE COURT:** Certainly.

12 **BY MR. MILLER:**

13 **Q** Can you find where Morris is -- where your
14 house is on Morris Street?

15 **A** Right in that vicinity. (Indicating.)

16 **Q** Okay. Right where the laser pointer is?

17 **A** Yeah.

18 **Q** Okay. Right at the intersection?

19 **A** Yes, sir.

20 **Q** You can take a seat.

21 **A** (Witness complies.)

22 **Q** Where is your grill located?

23 **A** On the back deck.

24 **Q** Back deck? What kind of view do you have?

25 **A** Full view of what used to be Childress

1 Automotive, but they closed down. But you can see Old
2 Buncombe Road all the way to the shop across the
3 street from my house.

4 Q Do you remember any type of incident from
5 June the 6th, 2014?

6 A Yes, sir.

7 Q Around what time did that happen?

8 A I had the chicken on the grill so I would
9 have to say sometime after about 5:20 to 5:30.
10 Somewhere around in there.

11 Q Is that as best as you remember it?

12 A Yes, sir.

13 Q What do you remember happened?

14 A I was on the back porch grilling and I
15 heard a backfire or just a loud pop. I didn't really
16 know what it was. It was from a distance. I would say
17 maybe two or three seconds later, I heard another
18 pop. Two seconds later after that, I heard another
19 pop. So that tells me right there it was gunshots.
20 Then I just looked up that way to Old Buncombe Road
21 where the noises come from. I happen to see two
22 vehicles on Old Buncombe Road traveling at high
23 speeds. One was a black Mercedes and one was a silver
24 and blue Mustang.

25 Q Okay. I'm going to show you... do you

1 recognize that car?

2 **A** Yes, sir. I do. That is the black Mercedes.

3 **Q** All right.

4 **A** That would be the silver Mustang.

5 **Q** One more. Is that the same Mercedes?

6 **A** That would be the same Mercedes. Then like
7 I said, there were two cars going down the road real
8 fast. I started looking out that way, like I said.
9 When I went through the shop passing Old Buncombe
10 Road, I didn't see them anymore because the shop was
11 right there. I lost my view at that point. Then I got
12 my view back with them again. That's when I saw the
13 Mercedes just go right into the pole in a head-on
14 collision. So that freaked me out. At that point, I
15 dialed.

16 **Q** One second.

17 **A** Sure.

18 **Q** From when you saw the Mercedes go into a
19 pole, ---

20 **A** Yes, sir.

21 **Q** --- did it look like the Mercedes was
22 turning on its own? Was it turning on its own?

23 **A** I would say that the Mercedes probably lost
24 control of the vehicle is what I would imagine.

25 **Q** Okay.

1 **A** At that high speed. I couldn't say that he
2 was making that turn or wasn't trying to make that
3 turn. That, I couldn't tell you. I just could say
4 that he lost control of the vehicle and hit the pole
5 and took out the sign.

6 **Q** Could you say as to why he lost control of
7 the vehicle?

8 **A** No.

9 **Q** Okay. So after you saw the crash, what did
10 you do next?

11 **A** I grabbed my phone that was on my side. I
12 went running through my house dialing 911.

13 **Q** All right. You went outside your house?

14 **A** Yes, I went through my -- like I said, I
15 was on the back porch grilling so I ran through the
16 house. Instead of going all the way around, I just
17 went right through the house.

18 **Q** Where did you go?

19 **A** Out to my front yard.

20 **Q** Okay. Did you just stand there?

21 **A** Maybe for a second or two. Yes, I just
22 stood there for a second or two.

23 **Q** What did you see when you went outside?

24 **A** The vidual -- an individual getting out of
25 the Mercedes and running down my road.

1 **Q** Can you describe that individual?

2 **A** Uh, I would say a little bit of a heavy
3 African American.

4 **Q** Male or female?

5 **A** Male.

6 **Q** And what was the black male doing?

7 **A** He was just running -- like I said, he was
8 running down my road going down towards Bailey.

9 **Q** Okay. You said he was running down your
10 road. If you will, step down again real quick.

11 **A** (Witness complies.)

12 **Q** If you could point out for the jury which
13 way he was running.

14 **A** He was running right down through here
15 towards Bailey. (Indicating.)

16 **Q** He was running towards Bailey?

17 **A** Yeah, he was running towards Bailey, which
18 is going that way. Past my house going this way.

19 **Q** So away from Old Buncombe?

20 **A** Yes, sir.

21 **Q** Okay. How fast was he running?

22 **A** Pretty fast. I couldn't keep up with him.

23 **Q** All right.

24 **A** I tried to chase him. I told him to stop. I
25 didn't know if he was hurt or nothing. I didn't know

1 what was going on. My adrenaline was going. I started
2 chasing him and told him to stop. He wouldn't stop.
3 He just kept going. I turned around and head back up
4 to the -- I turned around and head right up to the
5 guy with the Mercedes to make sure he was okay.

6 Q So you go up there to make sure he's okay?

7 A Yes, sir.

8 Q Where was he?

9 A He was in the driver's seat.

10 Q Okay. Do you see that person in the
11 courtroom today?

12 A Yes, sir. I do.

13 Q Where?

14 A He's the gentleman sitting right there,
15 sir. (Indicating.)

16 Q Wearing the green shirt sitting at
17 counsel's table?

18 A Yes, sir. Yes, sir.

19 Q Okay. When you got up there, can you
20 describe what was going on?

21 A Yeah, I got up to him. I asked him
22 questions. Are you okay? He wasn't really responsive.

23 Q Did you tell him anything?

24 A I told him I called the paramedics. I told
25 them I called him up and told him -- I told him help

1 was on the way, that I called 911 and got the
2 paramedics, ambulance, all that to him. I wasn't sure
3 if he was hurt or not. I didn't see any blood, but
4 that didn't mean that his insides weren't hurt.

5 Q Okay. Was he breathing?

6 A He was breathing awful heavy.

7 Q Okay.

8 A And he was really sweating really bad, so I
9 didn't know if he was having a heart attack or what.

10 Q Okay.

11 A I started asking him questions but he
12 wasn't really responsive. He wasn't responsive at
13 all.

14 Q Okay. You told him help was on the way at
15 what time?

16 A I told him a couple of times just to
17 reassure him that they were coming. It did seem like
18 it took a little while for them to get there. Of
19 course, in an accident, five seconds could seem like
20 five hours.

21 Q Answer any questions defense counsel may
22 have.

23 THE COURT: Yes, sir.

24 MR. STEELE: May it please the Court?

25 THE COURT: Certainly.

CROSS-EXAMINATION

BY MR. STEELE:

Q Mr. Cullum, I got some questions, just a couple of questions for you.

A Yes, sir.

Q How many shots did you hear?

A Just two.

Q There's no doubt in the world, though, that you heard two shots, is it?

A No, I heard two shots.

Q You are firmly convinced of that?

A Yes, sir. I am.

Q Okay. And when you got over there to the man in the car, you asked him if he was hurt?

A Yes, sir.

Q He didn't make any effort to leave or anything, did he?

A No, sir. He didn't.

Q I know the other fellow ran off.

A Yes, sir.

Q But Mr. -- the man you identified just now, he made no effort to run, am I correct?

A No, sir. He didn't.

MR. STEELE: That's all, Your Honor.

THE COURT: All right. Anything else for

1 this witness?

2 **MR. MILLER:** Nothing further, Your Honor.

3 **THE COURT:** All right. Sir, you can step
4 down.

5 **THE WITNESS:** Thank you, Your Honor.

6 **MR. MILLER:** Karen Brown.

7 **THE CLERK:** Ms. Brown, if you would,
8 please come forward.

9 **MR. MILLER:** Your Honor, at this time,
10 we'd like to excuse Mr. Cullum from subpoena.

11 **THE COURT:** Any objection to that?

12 **MR. STEELE:** Your Honor, I've got one more
13 question for him. Can we call him back up here?

14 **THE COURT:** Certainly.

15 **MR. MILLER:** Yeah, come on back, Mr.
16 Cullum.

17 **THE COURT:** Mr. Cullum, do you mind
18 retaking the stand for just a moment?

19 **THE WITNESS:** Yes, ma'am.

20 **THE COURT:** And I'll just remind you
21 you're under oath.

22 **THE WITNESS:** Yes, ma'am.

23 **THE COURT:** All right.

24 **MR. STEELE:** May it please the Court.

25 **THE COURT:** Certainly.

1 **BY MR. STEELE:**

2 **Q** Mr. Cullum, you gave a statement out there,
3 didn't you?

4 **A** Yes, sir. I did.

5 **Q** Did you say it was three shots then?

6 **A** I said I heard one. In the very beginning,
7 I said I heard one, but I don't know if that was a
8 shot or a backfire because it was so far in the
9 distance I can't even -- I can't -- I don't know. My
10 adrenaline was pumping really fast.

11 **Q** I know and I understand that and I'm not
12 trying to argue.

13 **A** But I did hear two.

14 **Q** Let me just read you, or you can read with
15 me, on 6/6/14, I was on my back porch grilling when I
16 heard one gunshot and then two that quickly followed
17 after that.

18 **A** Right. That is true.

19 **Q** So it could have been three?

20 **A** It could have been three. I can't sit there
21 and say it was three because I don't know. It could
22 have been a backfire.

23 **Q** There's no doubt in the world it was more
24 than one shot?

25 **A** That's right.

1 **Q** That's all.

2 **THE COURT:** Any other questions for this
3 witness?

4 **MR. MILLER:** No, Your Honor.

5 **THE COURT:** Okay.

6 **MR. STEELE:** He can be excused.

7 **THE COURT:** Okay. You can leave. For real,
8 this time.

9 **THE WITNESS:** Thank you.

10 **THE CLERK:** Okay. Now, Ms. Brown, if you
11 will, please come forward. If you will, pause at
12 the end of the bench. Please place your left
13 hand on the Bible and raise your hand. Raise
14 your right hand please.

15 **KAREN BROWN**

16 having first been duly sworn, testifies as follows:

17 **THE CLERK:** Thank you. Please be seated.

18 Would you please state your name for the record.

19 **THE WITNESS:** My name is Karen Gail Brown.

20 **THE CLERK:** Thank you.

21 **DIRECT EXAMINATION**

22 **BY MR. MILLER:**

23 **Q** Can you hear me, Ms. Brown?

24 **A** Yes, sir.

25 **Q** Where are you from, Ms. Brown?

1 **A** I live at [REDACTED] Morris Street, Greenville,
2 South Carolina.

3 **Q** How long have you been there?

4 **A** 10 years.

5 **Q** 10 years. Did you live there in June of
6 2014?

7 **A** Yes, sir.

8 **Q** Were you there on June 6th of 2014?

9 **A** Yes, sir.

10 **Q** What were you doing that day?

11 **A** Between 6:15 and 6:30, I was making potato
12 salad in my kitchen.

13 **Q** Is that as best you can remember what time
14 it was?

15 **A** Yes, sir.

16 **Q** What were you making potato salad for?

17 **A** Uh, we were having a BBQ grill on the back
18 of the deck in the back yard.

19 **Q** Who all was there?

20 **A** My son, Robert Cullum, my daughter-in-law,
21 Erica Lee Cullum, my grandson, William Lee Cullum, my
22 husband, Joseph Andrew Brown and myself.

23 **Q** All right. You remember an incident that
24 happened that day?

25 **A** Yes, sir. I do.

1 **Q** Okay. Around when did that incident happen?

2 **A** The best of my knowledge, it had to happen
3 between 6:25 and 6:30, the best I could come up with.

4 **Q** That's the best you remember?

5 **A** Yes.

6 **Q** And this was two years ago?

7 **A** Yes.

8 **Q** What's the incident you remember occurring?

9 **A** Well, I was in the kitchen and I heard a
10 gunshot. I freaked out. I was in my kitchen. So I put
11 down the potato salad. My son's already out the door.
12 I go to the front porch and I stop and I see a car
13 hit the pole.

14 **Q** Real quick, your son is...

15 **A** Robert William Cullum.

16 **Q** Okay. So you went out front to your front
17 porch?

18 **A** Yes.

19 **Q** What did you see?

20 **A** I saw a car that hit the pole. It was
21 black. That's all I know. I saw a gentleman running
22 down the road with a white t-shirt with blood all
23 over it. I told my husband that somebody's hurt. I
24 came back in because my grandson was getting ready to
25 go outside. I had to bring him back.

1 **Q** You said you saw a man running down the
2 road?

3 **A** Yes.

4 **Q** What race was this man?

5 **A** He was black.

6 **Q** Did he have anything in his hands?

7 **A** Yes, he had a gun.

8 **Q** He had a gun?

9 **A** Yes.

10 **Q** Okay. You recognize that car?

11 **A** Yes, I do.

12 **Q** Is that the car you saw on June 6th, 2014?

13 **A** Yes, sir. It is.

14 **Q** Please answer any questions defense counsel
15 may have.

16 **THE COURT:** Yes, sir.

17 **CROSS-EXAMINATION**

18 **BY MR. STEELE:**

19 **Q** Did you hear any gunshots, Ms. Brown?

20 **A** Yes, I did. I heard one.

21 **Q** You heard one gunshot?

22 **A** Yes, sir. I did. I was in my kitchen and I
23 was cooking dinner. My kitchen is here and you come
24 out this doorway. Right through the living room and
25 right to the front porch.

1 **MR. STEELE:** That's all, Your Honor.

2 **THE COURT:** All right. Any other questions

3 for this witness?

4 **MR. MILLER:** Nothing further, Your Honor.

5 **THE COURT:** All right. Ma'am, you can step

6 down.

7 **MR. MILLER:** Can Ms. Brown be excused from

8 subpoena?

9 **THE COURT:** Any objection?

10 **MR. STEELE:** No, ma'am.

11 **THE COURT:** All right. Thank you for being

12 here.

13 **THE WITNESS:** You're welcome, ma'am.

14 **MR. MILLER:** Your Honor, may Stephanie

15 Bishop also be excused from subpoena?

16 **THE COURT:** Any objection to that?

17 **MR. STEELE:** No, ma'am.

18 **THE COURT:** All right.

19 **MR. STEELE:** Subject to playing that 911.

20 **THE COURT:** Oh, correct. I had forgotten

21 about that.

22 **MR. MILLER:** No, that was a different

23 witness, Your Honor.

24 **MR. STEELE:** Oh, I'm sorry.

25 **THE COURT:** Oh, okay.

1 **MR. STEELE:** Yeah, that was Ms. Beauford.
2 I'm sorry.

3 **THE COURT:** But we will. We definitely
4 will play that.

5 **MR. MOYER:** The State calls Joey Smith.

6 **THE COURT:** While he's coming in, will the
7 attorneys approach please?

8 **(WHEREUPON,** a bench conference is held off the
9 record.)

10 **THE CLERK:** Mr. Smith, please come
11 forward. Sir, if you will, please pause at the
12 end of the bench. Place your left hand on the
13 Bible. Raise your right hand.

14 **JOEY SMITH**
15 having first been duly sworn, testifies as follows:

16 **THE CLERK:** Thank you. Please be seated.
17 Please state your name for the record.

18 **THE WITNESS:** Joey Smith.

19 **THE CLERK:** Okay.

20 **DIRECT EXAMINATION**

21 **BY MR. MOYER:**

22 **Q** Where are you employed, sir?

23 **A** Parker District Fire Department.

24 **Q** How long have you been working as a
25 fireman?

1 **A** April will be two years -- April was two
2 years. Excuse me.

3 **Q** Okay. That's how long you been with the
4 Parker Fire Department?

5 **A** Yes.

6 **Q** Did you do any work in that field prior to
7 starting with Parker?

8 **A** Yes, I was a volunteer in Dacusville.

9 **Q** Okay. How long did you do that?

10 **A** About two years before I got hired.

11 **Q** I didn't mean to cut you. About two years,
12 you said?

13 **A** Yes, sir.

14 **Q** And now you are full time. All right. What
15 is your position there?

16 **A** I am a fireman.

17 **Q** What are the duties of a fireman?

18 **A** Cleaning. Pretty much anything, as a young
19 guy.

20 **Q** As a young guy?

21 **A** Yeah.

22 **Q** You are what they call a tailboard fireman?

23 **A** Yeah. Tailboard fireman, because I ride
24 backwards. I'm the -- I'm the one that's going to do
25 all the hard work. I'm the young guy.

1 **Q** Okay. Well, let me take you back to June of
2 2014. You would have just been doing this for a
3 couple of months at that time, right?

4 **A** Yes.

5 **Q** Started in April. All right. Did you get a
6 call somewhere around 6 o'clock, 6:15 on that
7 particular day?

8 **A** Uh, yes, for a car wreck.

9 **Q** For a car wreck?

10 **A** Yes.

11 **Q** And what sort of, uh, -- what other
12 descriptions or information was given to you before
13 responding to that call?

14 **A** We got called to a car wreck. It was a
15 vehicle versus a telephone pole.

16 **Q** Vehicle versus a telephone pole?

17 **A** Yes.

18 **Q** Okay. Were you told what kind of vehicle it
19 was?

20 **A** No.

21 **Q** And you didn't find that out until you
22 arrived?

23 **A** Until we got there.

24 **Q** And when you got there, what kind of
25 vehicle was it?

1 **A** A black Mercedes.

2 **Q** And what was the location?

3 **A** Old Buncombe and Morris.

4 **Q** So tell us a little bit about your
5 proximity to that location. How close is your fire
6 department to there?

7 **A** Less than a mile from where the wreck
8 happened.

9 **Q** In fact, can you see it on one of the maps
10 that we have in this case? Did you have a chance to
11 look at that?

12 **A** Yeah, I think it was.

13 **Q** What road is your fire department on?

14 **A** Cedar Lane.

15 **Q** Let's take a look at State's Exhibit Number
16 33. I'm going to ask you just to step down here so we
17 can show the jury.

18 **A** (Witness complies.)

19 **Q** This is State's Exhibit Number 33. Is that
20 the map that shows your fire department?

21 **A** Yes.

22 **Q** So be sure you're being careful not to
23 block the view of the jury. Would you show where your
24 fire department is?

25 **A** Yeah, that's station one right there.

1 **Q** Where is the location -- show us the route
2 you traveled and where you ended up.

3 **A** Went to the right out of the station, left
4 on Old Buncombe and Morris.

5 **Q** That's where that car accident was?

6 **A** Yes.

7 **Q** Okay. Thank you. You can have a seat again.
8 Would you have left right away?

9 **A** Yes.

10 **Q** Did you, uh, have your sirens and lights
11 activated?

12 **A** Yes, we did have lights and sirens.

13 **Q** When would they had been activated?

14 **A** As soon as we pulled out of the front room.

15 **Q** How long would you guess it took you to get
16 there?

17 **A** We got the call probably less than a
18 minute. By the time the call was probably called in,
19 went to Greenville County, in less than three
20 minutes, we was on the scene.

21 **Q** And what kind of truck were y'all in?

22 **A** Fire truck, big engine.

23 **Q** What did you see when you got there?

24 **A** Black Mercedes had hit a telephone pole.

25 **Q** You had a chance to look at some of the

1 photographs that we've used in this case?

2 **A** Yes.

3 **Q** Okay. Let me show you. You might need to
4 lean back. I'm going to show it behind you there.
5 You're looking right now at State's Exhibit Number 5.
6 Do you recognize what that is?

7 **A** Yes.

8 **Q** What is that?

9 **A** That's the black Mercedes on the telephone
10 pole.

11 **Q** So by the time this picture was taken, had
12 y'all left the scene?

13 **A** Yes, I'd say so.

14 **Q** State's Exhibit Number 4. Is that that
15 Mercedes?

16 **A** Yes, sir.

17 **Q** State's Exhibit Number 6. Is that that
18 Mercedes that you saw?

19 **A** Yes.

20 **Q** So were y'all there before the police
21 arrived?

22 **A** Yes, we were.

23 **Q** All right. When you arrived, was it more
24 than just that Mercedes there? Were there other
25 people?

1 **A** Vehicle-wise, that was the only vehicle
2 that was wrecked and was there. There were a few
3 witnesses trying to tell us what they heard, what
4 they saw.

5 **Q** Without going into the details of what they
6 actually said, did they give you any concern when you
7 were giving information about what was seen and
8 heard?

9 **A** A little bit. Not as much at first. We were
10 worried about patient care.

11 **Q** All right. So what did you -- did you see
12 any person associated with the Mercedes?

13 **A** There was one, one subject in the vehicle.

14 **Q** Is that the person here in the courtroom
15 today?

16 **A** Yes, sir.

17 **Q** Would you point him out?

18 **A** (Indicating.)

19 **Q** The defendant in this case?

20 **A** Yes, sir.

21 **Q** All right. Where was he in the car?

22 **A** He was in the driver's seat, turned where
23 his feet were on the ground.

24 **Q** Did you approach him?

25 **A** Yes.

1 **Q** And what was your reason for approaching
2 him?

3 **A** Patient care, making sure he was okay, any
4 injuries.

5 **Q** And what do you remember about how -- about
6 his appearance?

7 **A** Breathing real hard, real sweaty. That's
8 about it.

9 **Q** What do you mean like -- by -- like how
10 sweaty? Can you give us an idea of how sweaty he was?

11 **A** Like he had been running a lot.

12 **Q** So very sweaty?

13 **A** Very sweaty, yeah. Breathing real hard, not
14 normal breathing.

15 **Q** Okay. Now, the police officers then showed
16 up?

17 **A** Yes.

18 **Q** Okay. You remember the defendant being --
19 taken out of that car?

20 **A** Yes.

21 **Q** When he was taken out of that car, did you
22 have any more contact with the vehicle?

23 **A** Yes. That's when we went to our next
24 protocol, which was stabilize the vehicle.

25 **Q** Okay. What does that mean?

1 **A** As in put it in park, make sure the engine
2 is off, pull the E-brake so it's not going to roll
3 away and hit one of us or anybody else.

4 **Q** Is that normal protocol?

5 **A** Normal protocol, yes, sir.

6 **Q** Is it a safety measure or something?

7 **A** Yes.

8 **Q** Now, when you went over there to stabilize
9 this vehicle, what, if anything, did you notice at
10 that time?

11 **A** That's when I noticed the handgun, the
12 revolver under the driver's seat.

13 **Q** Did you notice it the first time when --

14 **A** No, you couldn't -- the way he was sitting,
15 you couldn't -- you couldn't see it.

16 **Q** Okay. But when you went back, that's when
17 you saw it?

18 **A** Yes.

19 **Q** Did you have to get in the car to see it?

20 **A** As soon as I stuck my head in, I noticed it
21 under the seat.

22 **Q** Okay. What do you remember about the way
23 the gun looked? Like, what kind of gun?

24 **A** A little small revolver, black, wood
25 handle.

1 **Q** Okay. Could you, uh, -- was it clearly
2 visible?

3 **A** Yes.

4 **Q** Did you have to open any compartments?

5 **A** No. Didn't touch nothing. Stuck my head in
6 and it was under the driver's seat.

7 **Q** Okay. What did you do when you saw that?

8 **A** I notified my officer which was in command
9 and told him there was a gun under the seat. That's
10 when he told the sheriff's office.

11 **Q** All right. We're going to take a look at a
12 couple of more exhibits now behind you. If you would,
13 pull away and you need to pull the microphone over
14 with you also.

15 **A** Okay.

16 **Q** Let's start off with State's Exhibit Number
17 7. You recognize what is shown in that photograph?

18 **A** Yes.

19 **Q** What is that?

20 **A** That's the vehicle accident, inside of the
21 car.

22 **Q** Okay. Is that the way the inside of the --
23 were those, uh, air bags, were they deployed when you
24 saw it?

25 **A** Yes.

1 Q Was that hat on the seat when you
2 approached the vehicle?

3 A When we approached it, he was sitting
4 there. So that was after the sheriff's office had
5 gotten there.

6 Q So that hat was -- initially, he was
7 wearing that hat when you first approached him?

8 A Yes.

9 Q At some point, it came off.

10 A Yes.

11 Q Let me show you State's Exhibit Number 9.
12 First off, what am I pointing to right now?

13 A That's the driver's seat.

14 Q That's the driver's seat right there?

15 A Yes.

16 Q And what about what I'm pointing to now?

17 A That's the door on the compartment under
18 the seat.

19 Q Okay. Now, what do you see right here?

20 A That's the gun.

21 Q That's the --

22 A The revolver.

23 Q Is that how it was when you saw it?

24 A Yes.

25 Q You didn't touch it or move it?

1 **A** No, sir.

2 **Q** And State's Exhibit Number 11. Tell us what
3 that is.

4 **A** That's the pistol that was under the seat.

5 **Q** That's not where it was when you saw it,
6 right?

7 **A** No, it's not.

8 **Q** It could have been brought out?

9 **A** Yes.

10 **Q** All right. (Pause.)

11 Could you please answer any questions the
12 defense has.

13 **THE COURT:** Yes, sir.

14 **MR. STEELE:** May it please the Court.

15 **CROSS-EXAMINATION**

16 **BY MR. STEELE:**

17 **Q** You don't know if that gun had been fired
18 that day, do you?

19 **A** No, sir.

20 **Q** You'd have no way of knowing?

21 **A** No, sir.

22 **Q** Nor do you know if it had ever been fired,
23 for that matter?

24 **A** No, sir.

25 **Q** And you don't know how many chambers were

1 empty? All five -- I mean all six or one or --

2 **A** No, sir.

3 **Q** You have no knowledge of that?

4 **A** No, sir.

5 **Q** And you are a fireman, not a law
6 enforcement officer, I'm aware of that. But are you
7 aware of any tests that were done on Steven William
8 or anybody else to determine if he had fired a
9 weapon?

10 **A** No, sir.

11 **Q** You don't know about any, do you?

12 **A** No, sir.

13 **MR. STEELE:** That's all, Your Honor.

14 **THE COURT:** Anything else for this
15 witness?

16 **MR. MOYER:** Nothing further.

17 **THE COURT:** Sir, you can step down.

18 All right. We've come to a good point for a
19 break. Ladies and Gentlemen, I ask you to please
20 step to your jury deliberation room. We'll take
21 about a 10-minute break. Please don't discuss
22 the case with anyone. Thank you.

23 Everybody else, just stay seated while the
24 jury exits.

25 **(WHEREUPON,** the jury exits at approximately

1 3:17 p.m.)

2 **THE COURT:** All right. So over the break,
3 how long is that -- how long is that recording
4 to listen to?

5 **MR. MOYER:** Not a long recording, Your
6 Honor. Just a matter of figuring out which one.

7 **THE COURT:** Getting to a point.

8 **MR. MILLER:** I think it's also part of the
9 recording of somebody else and then switches
10 over. So we have to wind it up to just that
11 part.

12 **THE COURT:** Okay.

13 **MR. STEELE:** Part of --

14 **THE COURT:** How long do you --

15 **MR. STEELE:** Excuse me, Your Honor.

16 **THE COURT:** Oh, sure.

17 **MR. STEELE:** I was just going to say the
18 part where Mr. Williams is talking is very
19 identifiable, I would submit.

20 **THE COURT:** Okay. Y'all think it's going
21 to take very long? Okay. Well, you can work on
22 that over the break. Then, that's all we need to
23 take up at this time. All right.

24 **MR. STEELE:** Thank you, Your Honor.

25 **(WHEREUPON, a short recess is taken.)**

1 **THE COURT:** All right. Do y'all have that
2 portion?

3 **MR. STEELE:** Yes, ma'am.

4 **THE COURT:** Okay. All right. Very good.
5 Will y'all approach for one quick second.

6 **(WHEREUPON,** a bench conference is held off the
7 record.)

8 **(WHEREUPON,** Defendant's Exhibit 1 is marked for
9 identification purposes.)

10 **THE COURT:** All right. Y'all ready to
11 bring the jury back in?

12 **MR. STEELE:** Ready for Mr. Williams.

13 **THE COURT:** All right. Y'all ready from
14 the State?

15 **MR. MOYER:** We are, Your Honor.

16 **THE COURT:** All right.

17 **(WHEREUPON,** the jury enters at approximately
18 3:41 p.m.)

19 **THE COURT:** Thank y'all for being patient
20 with us. We needed to take up a quick matter
21 while you were on break.

22 I think at this point, Mr. Steele, we're
23 ready to listen to the 911 tape, is that right?

24 **MR. STEELE:** Yes, ma'am.

25 **THE COURT:** All right.

1 **MR. STEELE:** We're ready to play it. Your
2 Honor, if it please, Your Honor will recall that
3 one of my cross-examination questions of Ms.
4 Beauford, the 911 lady, was that we play Mr.
5 Williams' call to the 911 dispatcher.

6 **THE COURT:** Yes.

7 **MR. STEELE:** And we're ready to play that.

8 **THE COURT:** Thank you. All right.

9 **(WHEREUPON, Defendant's Exhibit 1 is played for**
10 the jury.)

11 **MR. STEELE:** Could the jury hear that, Your
12 Honor?

13 **THE COURT:** Could everybody hear that? All
14 right.

15 **MR. STEELE:** That's it, Your Honor.

16 **THE COURT:** All right. Thank you. And
17 thank you, Mr. Steele, for allowing us to take
18 that out of order.

19 **MR. STEELE:** Yes, Your Honor.

20 **THE COURT:** I appreciate it very much.

21 **MR. MOYER:** Just for the record, Your
22 Honor, that was Defense Exhibit Number 1 that
23 was in without objection.

24 **THE COURT:** All right. Thank you.

25 **(WHEREUPON, Defendant's Exhibit 1 is admitted**

1 into the record.)

2 **MR. MOYER:** The State would call Chris
3 McAlmont.

4 **THE CLERK:** Sir, if you would, please
5 pause at the end of the bench. Place your left
6 hand on the Bible and raise your right hand.

7 **CHRIS MCALMONT**

8 having first been duly sworn, testifies as follows:

9 **THE CLERK:** Thank you. Please be seated.
10 And please state your name for the record.

11 **THE WITNESS:** Christopher McAlmont.

12 **DIRECT EXAMINATION**

13 **BY MR. MOYER:**

14 **Q** Where are you employed?

15 **A** At the Greenville County Sheriff's Office.

16 **Q** How long have you been in law enforcement?

17 **A** I got hired in 2005. I've worked for the
18 Sheriff's Office in Greenville ever since.

19 **Q** So you started off with the Sheriff's
20 Office and you're still there?

21 **A** Correct.

22 **Q** What position are you now? Where do you
23 work in the Sheriff's Office?

24 **A** My current position is I'm assigned as an
25 investigator to the violent crimes unit.

1 **Q** How long have you been doing that?

2 **A** I did two cross-training stints that lasted
3 about a year. I've permanently been assigned to the
4 unit since September.

5 **Q** Where did you -- what did you do prior to
6 that?

7 **A** The only other division I've worked in is
8 the Uniform Patrol Division.

9 **Q** Is that where you were working in June of
10 2014?

11 **A** In Uniform Patrol, yes, sir.

12 **Q** Okay. Will you tell us what the role of a
13 uniform patrol officer is and what sort of duties?

14 **A** Sure. Generally speaking, uniform patrol is
15 going to respond to emergency, as well as non-
16 emergency calls for service, 911, other 911 emergency
17 calls, suspicious people milling around the street
18 and stuff like that. In addition to that, if the call
19 volume allows, it might be a little low, we're tasked
20 to patrolling high-crime areas or other areas, maybe
21 citizens complaining about people speeding in the
22 neighborhood or something like that would fall under
23 those type complaints.

24 **Q** Okay. Now, were you working on June the
25 6th, 2014?

1 **A** I was.

2 **Q** You remember where, what area you were
3 working in?

4 **A** My assigned, what we call beat, that day
5 would be the Berea area.

6 **Q** Okay. Is that the area generally where this
7 -- where you ended up getting called out to?

8 **A** This incident happened slightly more
9 towards downtown, but it would be the neighboring
10 beat to mine, which we would commonly answer calls in
11 if that area was busy.

12 **Q** Okay. Now, while you were working that
13 evening, did word come out on dispatch or the radio
14 or such about a possible crime having occurred in
15 that area?

16 **A** Yes, I heard deputies call out on the radio
17 that they had been approached by somebody who said
18 that he had been the victim of an armed robbery.

19 **Q** Okay. Now, did that lead you -- what did
20 you do at that time?

21 **A** There was a description that was given out
22 of the perpetrator being in a black Mercedes. Since
23 that was my neighboring beat, the units that were
24 working that area, I felt, were probably busy talking
25 with the victim in the case. So I went to the general

1 area, the last known location of the suspects and
2 started to patrol and look for that car.

3 Q Okay. Did you end up getting called to a
4 specific location while you were doing that?

5 A While I was doing that, dispatch gave out
6 information over the radio that there had been a
7 wreck involving a black Mercedes at Old Buncombe Road
8 and Morris Street.

9 Q That's in Greenville County?

10 A It is.

11 Q Okay. Now, so when you got that or when you
12 heard that, were you dispatched to that area or did
13 you go there?

14 A I can't remember if dispatch actually sent
15 me there or once I heard it if I just went. I did
16 respond to that scene.

17 Q Okay. In any case, you did respond there.
18 Were you the first law enforcement officer to arrive?

19 A At Old Buncombe and Morris, I was.

20 Q Okay. Were -- what do you recall about that
21 location, going on the scene at that time?

22 A When I pulled up, I remember the fire
23 department being there. There was a black Mercedes
24 that was wrecked head-on into a street sign and
25 telephone pole. The defendant was sitting in the

1 driver's seat of that car.

2 Q Can you describe -- you are talking about
3 the defendant Steven Williams?

4 A Correct.

5 Q The defendant in this case? Can you tell us
6 what you recall about how he was seated in the car.

7 A He was seated in the driver's seat 90
8 degrees to the left of how you would be sitting to
9 drive. He was sitting with his feet sitting on the
10 ground outside.

11 Q Okay. You remember what, if anything, he
12 may have been doing at that time?

13 A I believe he was talking on a cell phone.

14 Q Now, okay. How was he dressed?

15 A He had on either black shorts or pants. I
16 can't recall. I know they were black. And then a
17 black shirt.

18 Q Were you parked close to his vehicle?

19 A When I first arrived, I was probably on
20 estimate somewhere between 10 and 20 yards, maybe,
21 when I initially parked.

22 Q Okay. And you were in a marked car?

23 A I was.

24 Q You were in uniform?

25 A Yes.

1 **Q** Okay. So you -- were you in view of where
2 the defendant was?

3 **A** I could see him so I could only assume that
4 he could see me.

5 **Q** Was any acknowledgment given by the
6 defendant when you pulled up initially?

7 **A** Not before I said something to him.

8 **Q** So tell us about that. What did you do when
9 you --

10 **A** When I first pulled up, I got out of my
11 car, and knowing what I was suspecting of him being
12 in this armed robbery, I got out of my car and as I
13 started to approach him, I called out, come over here
14 towards me. And I got no response from him at all.
15 Not even a glance in my direction or anything. So at
16 this point, once again, based on -- at this point, I
17 know that there's been an armed robbery. There's guns
18 involved. I drew my gun out of the holster and
19 actually yelled to him, hey, get out of the car.

20 **Q** Okay. I'm sorry. I didn't mean to cut you
21 off.

22 **A** Well, at that point, he looks over and sees
23 me and gets out of the car.

24 **Q** You said you drew your pistol. What did you
25 do with your pistol once you drew it?

1 **A** I held it in what we would call the low
2 ready position, which would be I'm looking -- don't
3 have the gun necessarily aimed at anything. Just
4 pointed down at the ground below what my target may
5 have to be and looking over top of the gun so I can
6 see everything that's going on.

7 **Q** So it wasn't pointed directly at him, but
8 it was in that direction?

9 **A** Correct.

10 **Q** And it was out?

11 **A** Yes.

12 **Q** And visible?

13 **A** Yes.

14 **Q** Okay. So when you called out again, did you
15 call out louder than you did initially?

16 **A** The first one was more of I didn't want --
17 I didn't know if he knew that I knew what he was
18 suspected of being involved in. So my initial call
19 out to him was like, hey, come here. Hopefully, he'd
20 think I was there to investigate the wreck or
21 whatever. He didn't respond back. I drew the gun and
22 yelled at him. At that point, I guess my sneak
23 approach of trying to keep everything diffused, at
24 that point, I figured that he would know why I was
25 there.

1 **Q** And what did he do when you did that?

2 **A** He complied. He got out of the car. Took a
3 couple of steps away from the car like I asked him to
4 do. Another deputy moved in and handcuffed him
5 without incident.

6 **Q** Okay. Did you tell him why he was being
7 detained at that time?

8 **A** I told him -- yes. I told him that he was
9 being detained because there had been an armed
10 robbery and we thought he might be involved in it.

11 **Q** Okay. Now, what did you -- he was put in
12 handcuffs? What did y'all do with him?

13 **A** At that point, if I'm not mistaken, I put
14 him in the back seat of my police car.

15 **Q** Okay. Was he turned over to other deputies
16 then, who arrived later?

17 **A** Later on. Not immediately. Later on, he
18 was.

19 **Q** Okay. Now, do you see anything at some
20 point while this is going on in the defendant's car
21 that ends up being seized?

22 **A** Yes. I was alerted by the fire department
23 that there was a gun in the car.

24 **Q** Okay. And was that after the defendant was
25 out of the car?

1 **A** Yes.

2 **Q** When you, uh, -- when you were alerted
3 about that, what did you do?

4 **A** I approached the car. I think the
5 firefighter that was there might have walked over to
6 the car with me. When I looked into the car, I could
7 see this gun kind of sticking out from underneath the
8 driver's seat.

9 **Q** Could you see it from standing outside the
10 vehicle?

11 **A** Yes.

12 **Q** Was the door open?

13 **A** I believe -- I think the door was still
14 open. I think it was.

15 **Q** It was open when you arrived, right?

16 **A** Yes. It was open when I arrived. I can't
17 say 100 percent whether he opened -- if he closed it
18 when he got out. I think the door was left open
19 though.

20 **Q** Okay. But did you have to get inside in the
21 car to see the pistol?

22 **A** Oh, no.

23 **Q** You could see it from standing outside?

24 **A** Yes.

25 **Q** Did you open any compartments or manipulate

1 or do anything to the car at all in order to see it?

2 **A** No.

3 **Q** It was in plain sight?

4 **A** Yes.

5 **Q** Uh, okay. Let me show you several
6 photographs. Can you describe how the pistol was
7 positioned under the seat and the circumstances about
8 that?

9 **A** I remember a -- this was a Mercedes. And I
10 guess they must keep some sort of compartment or
11 something underneath the seats, a storage compartment
12 or something. It had a door, to me, that looked like
13 there was a hinge on it. I don't know if it was broke
14 or if that's the way it was supposed to -- I don't
15 know if it was a drawer or a door. But the front of
16 this compartment was laying down, like the bottom
17 part has hinges on it. That compartment was open.

18 **Q** Okay. If you would, lean off to the side a
19 little bit. We'll show you some photographs behind
20 you. Start off with State's Exhibit Number 7. Can you
21 tell the jury what it is that you're seeing in that
22 photograph?

23 **A** That looks like the inside of the Mercedes
24 that was wrecked.

25 **Q** I'm going to hand you a laser pointer. That

1 top button there. Can you point out the location
2 where the pistol was seen?

3 **A** So this right here is the opening to that
4 drawer or compartment, whatever it was. That little
5 plastic piece there is what's laying open. The gun
6 would have been just basically at the bottom of that
7 little drawer there, leaned up against the bottom of
8 it.

9 **Q** Show you State's Exhibit Number 9. Can you
10 -- I don't know if you can see that well enough from
11 that vantage point. If you need to step down, you
12 can.

13 **A** Yeah, my eyes can't focus.

14 **Q** Okay.

15 **A** (Steps down from witness stand.)

16 **Q** Okay. Are you able to tell now what that is
17 showing in that picture?

18 **A** Yeah. The gun right there.

19 **Q** Okay. Where is, like, the barrel of the
20 gun? Actually, let me ask you to step over here. Can
21 you just point out again.

22 **A** This is the drawer. (Indicating.) And this
23 is the gun here. (Indicating.)

24 **Q** Where is the seat just so we can get a --

25 **A** The seat would be -- this is like the top

1 of the seat where you would sit right here.

2 (Indicating.) And then on back, and then the back
3 rest would be back that way.

4 Q What kind -- how would you describe the
5 gun?

6 A Uh, small revolver, I'd guess.

7 Q Okay. So it is a revolver?

8 A Yes.

9 Q That's the kind of gun that has a cylinder?

10 A Correct.

11 Q Is that correct? Can you point out the
12 cylinder?

13 A Sure. It's difficult to see, but this area
14 right here. (Indicating.)

15 Q Okay.

16 A It's a little more visible now. There's
17 like an indentation there. All that area right there
18 would be the cylinder.

19 Q And where is that -- where would the handle
20 be?

21 A The handle is right here. (Indicating.)

22 Q Okay. Now, was that pistol then taken out
23 of that compartment photographed?

24 A Eventually, it was.

25 Q Let me show you State's Exhibit 11. That's

1 a picture of the pistol when it was pulled out?

2 A Yes, sir.

3 Q Okay. All right. While you are there, let
4 me show you several other photographs. Start off with
5 State's Exhibit Number 4. Is that the way the
6 Mercedes looked when you arrived on the scene?

7 A That's the way I recall it looking.

8 Q State's Exhibit 5?

9 A Same thing, another angle.

10 Q And then State's Exhibit 6?

11 A Once again, same thing, just another angle.

12 Q You see that the driver's door is open --
13 open there?

14 A Yes, sir.

15 Q And that's -- is that the position the
16 vehicle was in when you approached it then?

17 A That would be the position that when I
18 first pulled up, he would have been seated in that
19 seat with his feet on the ground right here.

20 Q Okay. Okay. I think that's all the
21 photographs for now. You can have a seat.

22 A Thank you. (Returns to witness stand.)

23 Q Just in case I didn't make it clear, which
24 seat was that pistol under?

25 A That's the driver's seat.

1 **Q** That is the driver's seat?

2 **A** Yes, sir.

3 **Q** So was it under where the defendant had
4 been seated when you first saw him?

5 **A** Directly under.

6 **Q** Okay. All right. Uh...

7 **(WHEREUPON, State's Exhibit 36 is marked for**
8 **identification purposes.)**

9 **BY MR. MOYER:**

10 **Q** Deputy McAlmont, I'm going to hand you
11 what's marked as State's Exhibit Number 36 which
12 isn't in evidence yet, but it's marked for
13 identification. I want you to take a look inside --
14 the contents inside that box and see if you can
15 recognize what is in that box.

16 **A** Yes, sir. I recognize it.

17 **Q** What is that?

18 **A** That is the revolver and the ammunition
19 that would have been with it.

20 **Q** Okay. That we had just shown in the
21 photographs?

22 **A** Correct.

23 **Q** Thank you.

24 **THE COURT:** Ladies and Gentlemen, I just
25 want to take just a moment just to let you all

1 know that this is an unloaded weapon here in the
2 courtroom here today. I just don't want anybody
3 to have any concerns. I know some folks might. I
4 want you to know that it is unloaded and made
5 safe for today's hearing. All right.

6 **BY MR. MOYER:**

7 **Q** Now, Deputy McAlmont, did you end up taking
8 that yourself to put in the Property and Evidence
9 Room?

10 **A** No, sir.

11 **Q** Okay. And what was the reason for that?

12 **A** It was close to the end of my shift and the
13 oncoming shift responded to relieve me so I would
14 have to be held over too long.

15 **Q** Okay. So it was turned over to the other
16 deputies who came and relieved you?

17 **A** Correct.

18 **Q** That would be Belding?

19 **A** Yes, sir.

20 **Q** One moment please. (Pause.)

21 Okay. Please answer any questions the
22 defense may have.

23 **THE COURT:** Yes, sir.

24 **MR. STEELE:** May it please the Court?

25 **THE COURT:** Yes, sir.

CROSS-EXAMINATION

BY MR. STEELE:

Q Mr. McAlmont, tell me, if you will, sir, you say that, uh, Mr. Williams was not initially responsive when you told him to get out of the car?

A That's correct.

Q You would agree with me that he had just run into a pole, wouldn't you?

A That's what I was under the impression of, yes, sir.

Q You know a person might be a little unresponsive based upon a serious accident that they had just been involved in?

A I could see that.

Q Yes, sir. Thank you. The other thing, uh, that weapon that you took out, State's Exhibit 36, for purposes of identification, are you personally the one that removed it?

A No, sir. I'm not.

Q Were you there when it was removed?

A Yes, I was.

Q But you know this is it, don't you?

A I do.

Q Have you looked -- have you looked at it in detail either then or now?

1 **A** I looked at -- the serial --
2 identification, at this point, was primarily based on
3 the serial number that's on that gun compared to
4 what's documented in the police reports.

5 **Q** So you were able to determine, uh, how many
6 shots were in this cylinder?

7 **A** If I could examine it again, I could tell
8 you exactly.

9 **Q** My question, I'll just be more specific. Is
10 this is a five-shot revolver?

11 **A** Yes, sir.

12 **Q** And you've already testified, I believe,
13 that these were the bullets that -- they are coming
14 out of the bag. But these are the bullets that were
15 removed?

16 **A** Those are the bullets that would have been
17 with it.

18 **Q** They were actually in the weapon, weren't
19 they?

20 **A** I can't -- I'm not 100 percent sure if all
21 of them would have been in it or if there would have
22 been some that were loose. I don't recall.

23 **Q** Did you remove them, the ones that were in
24 it?

25 **A** No, sir. Not that I remember.

1 Q Okay. Look at these bullets, if you will.
2 First of all, tell me how many there are.

3 A Five.

4 Q And look at them a little further and tell
5 me, of those five, how many have been fired.

6 A One.

7 Q So it's a five-shot revolver --

8 A Hang on one second.

9 Q Yes, sir.

10 A There's one that's been shot, one that was
11 attempted to be shot but failed to go off.

12 Q Okay.

13 A And then three that appear to be in new
14 condition.

15 Q Yes, sir. So in other words, one of them
16 has been actually fired. The other, I guess --

17 A It's called a misfired.

18 Q So there wouldn't have been any noise
19 resulting from that one?

20 A More likely not. I don't see how it could
21 have been.

22 Q There would have --

23 A Maybe a click of the hammer or something
24 like that.

25 Q There would have been noise resulting from

1 the one obviously that was fired.

2 **A** Yes.

3 **Q** When you got out of your automobile and
4 approached Mr. Williams, I think you said on direct
5 examination that you had some suspicion that he was
6 involved in the armed robbery that you had been
7 called in about, is that correct?

8 **A** Yes, sir.

9 **Q** So you knew that he might be a suspect?

10 **A** Correct.

11 **Q** That's all I have for this witness.

12 **THE COURT:** All right. Anything else for
13 this witness?

14 **MR. MOYER:** Uh, Your Honor, based on the
15 testimony that he did -- that he -- I would
16 move, at this time, that State's Exhibit 36
17 enter into -- entered into evidence.

18 **MR. STEELE:** Without objection.

19 **THE COURT:** All right then. It's so
20 entered.

21 **(WHEREUPON, State's Exhibit 36 is admitted into**
22 **the record.)**

23 **REDIRECT EXAMINATION**

24 **BY MR. MOYER:**

25 **Q** Just to be clear then, are they called

1 chambers, the different rounds in the cylinder?

2 **A** The chamber, the cylinder, that would be
3 one way to describe it, yes.

4 **Q** And there are five?

5 **A** Correct. There would be enough room in that
6 gun to hold five separate bullets.

7 **Q** Okay. And one of those was spent, one of
8 those was fired?

9 **A** Yes, sir.

10 **Q** All right.

11 **A** One of them was fired and the bullet is
12 missing. One of them was attempted to be fired but it
13 failed to ignite, so the bullet never came out. And
14 there was three that appeared to me to be
15 undisturbed, old, but new condition.

16 **Q** And based, uh, -- what you based that on,
17 can you see, like, a mark in the firing pin?

18 **A** There's what's called a primer in the
19 center of the back part of the bullet. And when the
20 hammer of the gun, when the trigger is pulled, the
21 hammer comes down and hits the primer. That primer is
22 what ignites the gunpowder inside the cartridge
23 itself. You can tell the particular one in there, on
24 the one that's been fired, there's a strike mark on
25 the back and the bullet's gone. On the one that they

1 tried to fire, there's a strike mark on the primer.
2 The bullet is still there, which indicates some sort
3 of malfunction within the bullet itself, more likely
4 than not. And then the other three, there's no
5 indentation or mark on the primer at all.

6 **Q** Okay. Nothing further.

7 **MR. STEELE:** Recross?

8 **THE COURT:** Certainly.

9 **RECROSS EXAMINATION**

10 **BY MR. STEELE:**

11 **Q** And I think you said this already, and I
12 apologize for belaboring the point. But down under
13 where the firing pin struck it and did not fire, we
14 don't know of any way there would have been any noise
15 or anything?

16 **A** Other than a mere click of the gun trying
17 to fire, I don't think there would have been any bang
18 or boom or anything like that.

19 **Q** Thank you, sir.

20 **THE COURT:** Anything else?

21 **MR. MOYER:** Nothing else, no.

22 **THE COURT:** All right. Sir, you can step
23 down.

24 **THE WITNESS:** Thank you.

25 **THE COURT:** Thank you.

1 **MR. MOYER:** The State would call Deputy
2 Husk.

3 **THE CLERK:** Sir, if you would, please come
4 forward. There you go.

5 **MARK HUSK**
6 having first been duly sworn, testifies as follows:

7 **THE CLERK:** Thank you. Please be seated.
8 Please state your name for the record.

9 **THE WITNESS:** Deputy Mark Husk.

10 **THE CLERK:** Thank you.

11 **DIRECT EXAMINATION**

12 **BY MR. MOYER:**

13 **Q** Where are you employed?

14 **A** Greenville County Sheriff's Office.

15 **Q** How long you been in law enforcement?

16 **A** Been in law enforcement for like 20 years
17 now.

18 **Q** How long you been with the Greenville
19 County Sheriff's Office?

20 **A** A little over two and a half years.

21 **Q** Where did you work before then?

22 **A** I worked in Ohio with the police agency.

23 **Q** Okay. What is your position with the
24 Sheriff's Office?

25 **A** Uniform patrol deputy.

1 **Q** Were you working June the 6th of 2014?

2 **A** Yes, sir.

3 **Q** Did you have occasion on that date to come
4 into contact with the victim in this case, Juan
5 Cabrera?

6 **A** Yes, sir.

7 **Q** Where were you and what were you doing when
8 that happened?

9 **A** When I came in contact with the victim, I
10 was on a prior domestic call on [REDACTED] A Street. When I
11 left that call, I came in contact with the victim
12 coming down the street in a silver Mustang who had
13 stopped in front of me and exited the vehicle.

14 **Q** Okay. And so had y'all flagged him down or
15 did they come to alert him or did he --

16 **A** He flagged me down.

17 **Q** And were you in marked uniform?

18 **A** Yes, I was in a marked patrol car.

19 **Q** Marked car and in uniform?

20 **A** And in uniform, yes.

21 **Q** Were you outside of the vehicle?

22 **A** Not at that time, when I was coming down
23 the street, I was driving the vehicle and he had
24 stopped me.

25 **Q** Okay. Now, we've heard testimony that you

1 encountered Mr. Cabrera right around 6:11 p.m.

2 **A** That would be correct.

3 **Q** Is that correct?

4 **A** Yes, sir.

5 **Q** Now, tell us what Mr. Cabrera did when he
6 encountered you all.

7 **A** When I came in contact with Mr. Cabrera, he
8 seemed very upset and very excited. He had blood
9 coming from the top of his head coming down his neck.
10 He had multiple abrasions around his neck, scratches.
11 He said that he was in his tire shop and that he had
12 been robbed.

13 **MR. STEELE:** Your Honor, I would object to
14 the hearsay.

15 **MR. MOYER:** This would be an -- both an
16 excited utterance and present sense impression.
17 The testimony is this was very shortly after the
18 accident had taken place, a minute or two after
19 that. It was just a few minutes before the
20 actual robbery took place.

21 **THE COURT:** I'm going to allow some just
22 very brief testimony about that. All right.

23 **BY MR. MOYER:**

24 **Q** So without going into all the details,
25 could you tell us what it was that he had told you

1 had taken place?

2 **A** That he had been robbed.

3 **Q** Did he tell you where?

4 **A** Tire shop on Poinsett Highway, and that he
5 had chased the suspects with his car and he got into
6 an altercation. Struck the car. The car had wrecked.
7 He went to a plaza down the street on Old Buncombe
8 trying to yell for someone to call 911 because his
9 car or his cell phone is back at the tire shop.

10 **MR. STEELE:** I would renew my objection,
11 Your Honor.

12 **THE COURT:** We're getting a little far
13 afield.

14 **BY MR. MOYER:**

15 **Q** Okay. How was he -- you described his
16 appearance. How was he acting?

17 **A** Very scared. Very upset. Sweating. He told
18 me he had been in an altercation.

19 **Q** All right. Now, when you got all the -- when
20 you got this information, did you all call out that
21 information on the radio to dispatch?

22 **A** That's correct. At that time, I notified
23 dispatch of the incident.

24 **Q** Did you become aware that officers, including
25 McAlmont, arrived at that accident location?

1 **A** Yes, I did.

2 **Q** Where the Mercedes ended up having the
3 accident.

4 **A** Yes, sir.

5 **Q** Did you take Mr. Cabrera to that location?

6 **A** Yes, I was advised at that point to transport
7 Mr. Cabrera to the accident scene.

8 **Q** What was the reason for taking him back to the
9 accident scene?

10 **A** To identify the suspect.

11 **Q** And we've had testimony that this took place at
12 6:38 p.m., does that sound correct?

13 **A** Yes, sir.

14 **Q** During that interim, from when he showed up
15 about 6:10 to where you took him at 6:38, did he remain
16 there with you?

17 **A** Yes, he was with me the whole time.

18 **Q** That was at the other location at A Street?

19 **A** Yes, sir.

20 **Q** Now, how far away was that other location from
21 where you were?

22 **A** At least about maybe a mile and a half, tops.
23 It was very close. Within a minute's drive.

24 **Q** Did you take him over there in your patrol car?

25 **A** Yes.

1 **Q** Where did you -- where did you place him in
2 your patrol car?

3 **A** I placed him in the back passenger side seat.

4 **Q** And what, if any, instructions did you give him
5 before taking him over there?

6 **A** I did not give him any instructions. We were
7 just going to go to the incident scene to see if he could
8 identify the suspect.

9 **Q** So he knew he was going over there for the
10 purposes of seeing if he could make an identification?

11 **A** That's correct.

12 **Q** Did you kind of influence his decision in any
13 way as to whether or not he made identification?

14 **A** No, sir.

15 **Q** Were you in regular contact with the deputies
16 who were at the accident location ---

17 **A** Yes.

18 **Q** --- coordinating his identification? So you
19 said it was just a mile or so.

20 **A** Yes.

21 **Q** How long would it have taken you to get over
22 there?

23 **A** A minute, maybe two minutes, tops, with
24 traffic.

25 **Q** What did you do when you got over there?

1 **A** When I approached the accident scene, I made
2 sure I brought the patrol vehicle on the same side of the
3 road as the accident. Then I brought the car up to an
4 area, a totally clear view to the suspect.

5 **Q** How close would you say you were able to bring
6 Mr. Cabrera?

7 **A** Approximately 30 feet.

8 **Q** I'm sorry?

9 **A** Approximately 30 feet.

10 **Q** Approximately 30 feet. And it was light out?

11 **A** Yes. Light out. Summertime. It was before
12 7 o'clock, still bright out. Clear day.

13 **Q** No obstructions between where y'all were and
14 where the suspect was?

15 **A** No obstruction whatsoever.

16 **Q** And what was Mr. Cabrera's response when you
17 pulled over there towards where the suspect was?

18 **A** When I pulled over here, the suspect, right
19 away, he had pointed out to me and said that's him.

20 **Q** Did he show -- did he have any hesitancy?

21 **A** No hesitance whatsoever.

22 **Q** What level of certainty did he exhibit?

23 **A** 100 percent certainty.

24 **MR. STEELE:** Your Honor, I'm going to object
25 to that. That's some kind of conclusion that I don't

1 understand and I don't know if you can determine
2 that kind of certainty. He can tell what the
3 gentleman did, what Mr. Cabrera said, what he
4 pointed to. But he can't just draw the conclusion
5 that he was certain.

6 **THE COURT:** All right. Sir, you can just
7 elaborate on that.

8 **THE WITNESS:** Yes, the victim told me that
9 he was certain that that was the subject involved.

10 **BY MR. MOYER:**

11 **Q** Now, after that took place, where, uh, --
12 where did you go? What did you do?

13 **A** At that point, after he was identified, the
14 suspect was identified, I transported Mr. Cabrera to
15 the incident location where the robbery took place.

16 **Q** And where was that?

17 **A** That was 1301 Poinsett Highway.

18 **Q** What kind of --

19 **A** Poinsett Tires.

20 **Q** And what was the reason for taking him over
21 there?

22 **A** To get back to the crime scene, get a
23 statement from Mr. Cabrera. The supervisor was there.
24 Forensics was called in. I believe CID was also
25 called in to process the scene.

1 **Q** Okay. Is that -- did you take a statement?

2 **A** Yes, I took a statement from Mr. Cabrera as
3 to the incident.

4 **Q** Now, at that time when you took the
5 statement from Mr. Cabrera, did you know that a
6 pistol had been found in the Mercedes?

7 **A** That, I did not know at that time.

8 **Q** Okay. So you didn't tell Mr. Cabrera
9 anything about a pistol being found?

10 **A** No, sir.

11 **Q** Did you tell him -- you wouldn't have told
12 him what kind of pistol?

13 **A** I had no idea a pistol had been found.

14 **Q** Did Mr. Cabrera make mention of a pistol
15 having been used in this incident?

16 **A** Yes, he did.

17 **Q** Did he make mention of what kind of pistol
18 had been used?

19 **A** I believe in his statement, uh, -- he
20 didn't say what kind of weapon it was.

21 **Q** Let me ask you. If you have a chance to
22 look at his statement, would that refresh your
23 memory?

24 **A** Yes.

25 **Q** Do you have a statement in front of you?

1 **A** Yes, I have one in front of me.

2 **Q** Just take a minute and look over that
3 statement.

4 **A** Okay. He did say that the victim pulled out
5 a black revolver.

6 **Q** The victim?

7 **A** The suspect pulled out a black revolver
8 from his waistband.

9 **Q** Okay. Now, all those locations you just
10 described where you first encountered Mr. Cabrera and
11 where the accident was and where Poinsett Tire was,
12 are all those locations in Greenville County?

13 **A** Yes, sir.

14 **Q** Okay. I have no further questions for you
15 at this time.

16 **THE COURT:** Okay. Mr. Steele.

17 **MR. STEELE:** May it please the Court?

18 **THE COURT:** Yes, sir.

19 **CROSS-EXAMINATION**

20 **BY MR. STEELE:**

21 **Q** Did he say one of the individuals had a
22 stun gun?

23 **A** Yes, he did.

24 **Q** And, uh, so the one person had a regular
25 firing revolver and the other person had a stun gun?

1 **A** That is correct.

2 **Q** And did he say that he was shot with the
3 stun gun?

4 **A** Yes.

5 **Q** Did he describe the stun gun for you?

6 **A** He did not describe the stun gun.

7 **Q** Now, that statement that you're reading and
8 you said was given by Mr. Cabrera ---

9 **A** Yes, sir.

10 **Q** --- you wrote it?

11 **A** That's correct.

12 **Q** You say that Forensics and CID were brought
13 in?

14 **A** Yes, they were all brought in.

15 **Q** Do you have any idea of whether a gunshot
16 residue test was done on Steven Williams or not?

17 **A** I can not answer that.

18 **Q** You have any idea whether any kind of DNA
19 was collected?

20 **A** I do not work for Forensics. I do not know.

21 **Q** You have no knowledge of any of that?

22 **A** I have no knowledge of that.

23 **Q** As far as you know, no gunshot residue test
24 was done. You didn't do one and one wasn't done in
25 your presence. We'll put it that way.

1 **A** That is correct.

2 **MR. STEELE:** That's all, Your Honor.

3 **THE COURT:** All right. Anything else for
4 this witness?

5 **REDIRECT EXAMINATION**

6 **BY MR. MOYER:**

7 **Q** The statement, you said you actually wrote
8 it out in front of Mr. --

9 **A** Yes, our policy is to write the statement
10 for the victim and go over it with the victim again.
11 The victim has to sign off on it initially that the
12 statement was taken for them.

13 **Q** Okay. How do you take a statement from a
14 witness or a victim?

15 **A** Basically, what we do is from start to
16 finish what took place. Obviously, try to get them
17 to calm down a little bit so that they can articulate
18 better detail-wise. Once that's achieved, we write
19 the statement down for them, go over and make sure we
20 didn't miss anything.

21 **Q** And you base that on what the witness or
22 victim just told you?

23 **A** That's correct.

24 **Q** As far as what you write?

25 **A** Yes.

1 **Q** Okay. And then after you write it, did you
2 review it with Mr. Cabrera?

3 **A** Yes.

4 **Q** Did he sign it?

5 **A** Yes.

6 **Q** Okay. Thank you.

7 **THE COURT:** Mr. Steele?

8 **MR. STEELE:** Nothing further, Your Honor.

9 **THE COURT:** All right, sir. You can step
10 down.

11 **THE WITNESS:** Thank you.

12 **THE COURT:** Thank you.

13 All right. Your next witness.

14 **MR. MILLER:** Judson Belding.

15 **THE CLERK:** Mr. Belding, please come
16 forward. If you will, please place your left
17 hand on the Bible and raise your right hand.

18 **JUDSON BELDING**

19 having first been duly sworn, testifies as follows:

20 **THE CLERK:** Thank you. Please be seated.

21 Would you please state your name for the record.

22 **THE WITNESS:** Judson Belding.

23 **DIRECT EXAMINATION**

24 **BY MR. MOYER:**

25 **Q** Can you hear me, Deputy Belding?

1 **A** Yes, sir.

2 **Q** Where are you employed?

3 **A** Greenville County Sheriff's Office.

4 **Q** What's your job description and job duties
5 at the sheriff's office?

6 **A** I'm a Deputy II in Uniform Patrol. I've
7 been there about two and a half years.

8 **Q** What do you do on Uniform Patrol?

9 **A** We respond to calls for service.

10 **Q** You said you been there about two and a
11 half years. When did you start?

12 **A** January 2014.

13 **Q** Okay. When you start out -- what were you
14 doing in January of 2014?

15 **A** Yes, sir. I started the Academy.

16 **Q** When did you complete the Academy?

17 **A** May of 2014.

18 **Q** May of 2014. Were you working on June 6th,
19 2014?

20 **A** Yes.

21 **Q** About a month or so out of the Academy?

22 **A** Yes.

23 **Q** Did you have a supervising officer with you
24 while you were working?

25 **A** I did, a field training officer.

1 **Q** Okay. Who was your main field training
2 officer?

3 **A** Master Deputy Emily.

4 **Q** Was he with you June 6th, 2014?

5 **A** He was.

6 **Q** Can you kind of tell the jury a little bit
7 about what your role is, what the training officer,
8 what all you do in an investigation?

9 **A** Okay. Essentially, you are paired up with a
10 field training officer and it's standard. It lasts
11 about 12 weeks or so. They are kind of there to show
12 you hands-on how things are done, tell you what to
13 do, let you do it and just make sure you're doing it
14 correctly throughout the process. And then towards
15 the end of that, you reach a time to where you get to
16 prove to them that you know how to do it without them
17 helping you at all. Once you complete that, then
18 you're allowed to be on your own.

19 **Q** Were you working on June 6th, 2014?

20 **A** I was.

21 **Q** What shift were you on?

22 **A** I was on Delta shift. That would have been
23 nighttime, which would start at 7 p.m. and run
24 through 7 a.m. the following morning into June 7th.

25 **Q** Did you respond to the incident on Old

1 Buncombe and Morris street?

2 **A** I did. I responded to relieve the Charlie
3 units who were the day shift for June 6th, 2014.

4 **Q** What was the scene like when you responded?

5 **A** When I arrived, there were EMS, the fire
6 truck or fire department, several deputies. There was
7 a black Mercedes that -- the front of it was wrecked
8 into a telephone pole. And there was one subject with
9 the car.

10 **Q** Is this the Mercedes?

11 **A** Yes, it is.

12 **Q** Okay. So there was a subject with the car?

13 **A** Yes, there was one subject with the vehicle
14 that was in handcuffs when I arrived.

15 **Q** You see that subject in here today?

16 **A** Yes, sir. He's wearing a green shirt
17 sitting next to the defense counsel.

18 **Q** The defendant?

19 **A** Uh-huh.

20 **Q** What was your role when you responded to
21 the scene?

22 **A** My primary role was to take the place of a
23 Charlie unit or a deputy on the day shift so that
24 they could be relieved and go home. So the job that I
25 was assigned was to take control of keeping an eye on

1 the prisoner at the time, who is the defendant today.

2 Q How did you do that?

3 A While everything else was going on -- I
4 mean, you can imagine there was a bunch of moving
5 parts here. I did -- the defendant was seated on a
6 curb on the edge of Old Buncombe Road where it turns
7 into a sidewalk. The lane closest to him was shut
8 down with emergency vehicles. He was seated on the
9 curb in handcuffs being supervised by a deputy
10 already there. And I replaced that deputy to keep an
11 eye on the subject.

12 Q You made aware at any time an
13 identification was about to take place?

14 A I was.

15 Q Okay. How does that happen?

16 A Okay. There -- I was told over the radio
17 that another deputy, I believe two deputies were out
18 with the victim from an armed robbery incident that
19 occurred on Poinsett Highway, and that the individual
20 that I was out with, who is the defendant, was the
21 suspect from that incident. The deputies that were
22 out with the victim told me that they were going to
23 drive the victim by to confirm the identity of the
24 subject in order to verify that he was indeed the one
25 who committed the crime.

1 **Q** Were you standing by the defendant when
2 this happened?

3 **A** I was.

4 **Q** Okay. Was it clear?

5 **A** Yes, it was -- it was just before 7 o'clock
6 p.m. This was last -- two Junes ago, so it doesn't
7 get dark until about 9 o'clock p.m. It was a sunny
8 day. I don't remember any clouds. There was a gap
9 between the two cars where we were. I'd say about 10
10 feet. There was nothing to obstruct the view of the
11 victim to identify the subject.

12 **Q** Clear line of sight?

13 **A** Yes, sir.

14 **Q** Besides watching over the defendant, did
15 you have any other job responsibilities out there?

16 **A** Uh, I took custody of the property and
17 evidence.

18 **Q** Okay. What evidence did you take custody
19 of?

20 **A** I took custody of a black -- I don't
21 remember the make. But it was a .38 caliber revolver.
22 It had one spent casing and four unspent casings.
23 Then there was a silver knife.

24 **Q** This is State's Exhibit 11. Is this the
25 revolver?

1 **A** It is. That's the knife above it.

2 **Q** All right. Deputy Belding, I'm handing to
3 you State's Exhibit 36. Do you recognize this?

4 **A** Yes. That's the revolver and the rounds and
5 the empty casing.

6 **Q** You said you took custody of it. How did
7 you take custody of these items?

8 **A** I don't remember which deputy handed them
9 to me. But they were in a brown paper bag and they
10 were given to me at the scene to take custody of. I
11 secured them in the trunk of my vehicle. The items
12 were not removed from my vehicle until placed into
13 Property and Evidence.

14 **Q** Let's just briefly talk about that. How do
15 you place items into Property and Evidence?

16 **A** Okay. So the items are in my possession,
17 secured in the trunk of my police car. So at Property
18 and Evidence, I would remove the bag that has the
19 items in it. I walked them in. There's a counter that
20 has forms. They're a Property and Evidence Form. I
21 would complete the -- I would give them an item
22 number, a description and then put the date, time,
23 location where it was seized from, subject name. I
24 would put -- these items, I'd put into this box. Then
25 the knife would have been placed in a separate

1 container. They were secured into a -- there's a wall
2 of lockers to where when you put the items in the
3 lockers, there's a button you push on it. Once you
4 push it, it remains locked until Property and
5 Evidence personnel arrive the next day to secure the
6 items.

7 Q Did you do that after you left the scene?

8 A Correct.

9 Q Did you continue your supervision of the
10 defendant when you left the scene?

11 A I did until he was placed into detention.

12 Q You took him to the detention center for
13 booking?

14 A Uh-huh. I did.

15 Q When -- briefly explain. When someone is
16 booked, how are they checked in, so to speak?

17 A Okay. So I would bring the defendant to
18 the detention center. There's a series of doors.
19 There's a form called a pre-detention checklist,
20 which goes through their information, any serious
21 medical issues, if they'd been assaulted prior to
22 being booked, if they'd been seen in the emergency
23 room. Stuff like that. I would go through that.
24 There's another form that has the list of their
25 charges with their information that goes straight to

1 the judge. Then the charging documents, which would
2 be the warrants, which is what we're here today for.
3 He is released to detention staff where he would be
4 searched. Anything on his person would be documented.
5 And they keep all of his property until he is
6 released from detention.

7 Q Okay. All right. Now, Deputy Belding, are
8 you familiar at all with the area where this incident
9 occurred?

10 A I am.

11 Q How familiar?

12 A It's my assigned beat area. Pretty
13 familiar.

14 Q Okay. Were you ever made aware of where the
15 actual robbery took place?

16 A I know it was 1301 Poinsett Highway. It's a
17 tire shop. I know that to be a blue metal building --
18 -

19 Q Okay.

20 A --- on Poinsett Highway.

21 Q If you would step down real quick, I just
22 want to kind of get to know a little bit about your
23 knowledge of this area.

24 A Okay.

25 Q So you worked pretty much all of this area?

1 **A** Yes.

2 **Q** You patrol it. What about areas outside of
3 this map?

4 **A** Yes, this is -- this is pretty close to the
5 center of my assigned beat area.

6 **Q** Okay. Were you ever made aware of where the
7 defendant lives?

8 **A** Uh, yes.

9 **Q** Well, not made aware. Did you ever learn
10 where he lives?

11 **A** Yes. The defendant told me that his address
12 was 48th Street in Judson.

13 **Q** Where would that kind of be in relation?

14 **A** It would be --

15 **Q** North, south, east, west?

16 **A** It would be about...(Indicating.)

17 **Q** Be about there?

18 **A** Yeah.

19 **Q** Okay. What would you say would be the
20 quickest way to get from 1301 to 48th Street?

21 **A** Uh, during that time of day, traffic is
22 going to be really bad coming in and out of the city.
23 You have to take back roads to make it quick. You go,
24 as far as where the map shows you, you go Fair
25 Street. Drive Fair Street down. Continue on Kerns.

1 **Q** Here's a laser pointer. Top button.

2 **A** All right. So you leave here, go to Fair
3 Street. Continue on to Kerns. Take a right. There's a
4 stop sign there. This is Old Buncombe. Old Buncombe
5 comes down. Take Old Buncombe down. You end up
6 hitting Cedar Lane Road, which turns into Pete Hollis
7 Boulevard, because the city is pretty close down
8 here. Take a right. Cut through Woodside. Get on
9 Smythe Street. Take Woodside Avenue, which would put
10 you out in the Brandon Mill Community. Once you get
11 through Brandon Mill, Judson.

12 **Q** Okay. Please answer any questions the
13 defense counsel may have.

14 **THE COURT:** Mr. Steele.

15 **MR. STEELE:** May it please the Court.

16 **THE COURT:** Yes, sir.

17 **CROSS-EXAMINATION**

18 **BY MR. STEELE:**

19 **Q** Mr. Belding, going back to the map, you
20 don't have to actually come down.

21 **A** Okay.

22 **Q** I'll just ask you. But Poinsett Highway is
23 a multi-lane highway, isn't it?

24 **A** Yes, sir. It has one median large enough
25 for a vehicle and then two lanes of travel, north and

1 south.

2 Q And, uh, you agree with some of the other
3 witnesses that this happened about 6 p.m.?

4 A To my understanding. I mean, I start shift
5 at 7:00. So I just came to relieve.

6 Q But at any rate, at 6 p.m., traffic
7 wouldn't have been so backed up on Poinsett Highway
8 that a person couldn't just drive down Poinsett
9 Highway, a multilane road and go wherever they wanted
10 to back over toward town, isn't that right?

11 A If you are willing to wait in traffic, you
12 can go wherever you need to.

13 Q Yes, sir.

14 A Yes.

15 Q Now, you took possession of this, uh, --
16 government's exhibit 36, did you not?

17 A Does the exhibit include everything in
18 here?

19 Q Yes, sir. It does.

20 A Then yes.

21 Q And, uh, you've already testified this is a
22 five-shot revolver, is that right?

23 A Yes.

24 Q And there are actually five shell casings
25 here, is that right?

1 **A** There is one empty shell casing and four
2 that still have bullets.

3 **Q** Which would indicate that, uh, one was
4 fired and four were unfired. Would you agree with
5 that?

6 **A** Correct.

7 **Q** When you saw Mr. Williams, did he have bags
8 on his hands?

9 **A** I don't recall.

10 **Q** In your capacity as a Greenville County
11 deputy sheriff, when there is an allegation of a
12 person having discharged a weapon for some reason, do
13 y'all sometimes bag their hands?

14 **A** It will be done if they are going to do the
15 GSR testing.

16 **Q** And explain to me and the jury, if you
17 will, sir, what the GSR test is.

18 **A** All I really know is it's a way to remove
19 gunpowder residue from someone's hand within a
20 certain amount of hours after shooting the handgun.

21 **Q** So for hours after a shooting, a GSR test
22 can determine if that individual has fired a weapon,
23 can't it?

24 **A** Supposed to, yeah.

25 **Q** In order to do that, you usually bag the

1 person to be tested's hands, correct?

2 **A** I would say yes, more times than not.

3 **Q** Do you actually have bags in your
4 possession for that?

5 **A** Like --

6 **Q** I don't mean right now. I mean out there on
7 the road.

8 **A** I keep bags in my car for property and
9 evidence purposes, yes.

10 **Q** And those bags that you have in your car
11 for property and evidence purposes, they could be
12 used to bag a person's hand to preserve the gunshot
13 residue for the GSR test?

14 **A** If need be.

15 **Q** But nobody -- you didn't see any bags on
16 Mr. Williams' hands, did you?

17 **A** Not that I recall.

18 **Q** And I realize you weren't in charge of the
19 entire investigation, but as far as you know, nobody
20 conducted a GSR test on Mr. Williams, is that true?

21 **A** Not to my knowledge.

22 **MR. STEELE:** If Your Honor please, that
23 concludes my examination of Mr. Belding.

24 **THE COURT:** All right. Thank you.

25 Any redirect?

1 **MR. MILLER:** No, Your Honor.

2 **THE COURT:** All right, sir. You can step
3 down.

4 **THE WITNESS:** Thank you.

5 **THE COURT:** Thank you.

6 **THE WITNESS:** Do I need to do anything
7 with this --

8 **THE COURT:** You can just leave that right
9 there.

10 **THE WITNESS:** Okay.

11 **THE COURT:** The State's next witness, how
12 long do you think it will be? That witness would
13 be?

14 **MR. MOYER:** We have two short witnesses. I
15 would think that --

16 **THE COURT:** Define short.

17 **MR. MOYER:** Well, --

18 **THE COURT:** Sometimes short at 2 o'clock
19 is not as short as 20 til 5:00.

20 **MR. MOYER:** Maybe total about 30 minutes
21 for the two.

22 **THE COURT:** What witnesses are they?

23 **MR. MOYER:** The -- can we approach, Your
24 Honor.

25 **THE COURT:** Certainly.

1 Just a moment, Ladies and Gentlemen.

2 (WHEREUPON, a bench conference is held off the
3 record.)

4 THE COURT: Is everybody okay? Normally,
5 I try to break about 5 o'clock. If we went until
6 about 5:10, if there's anybody that's got any
7 concerns, needs to pick up children or anything
8 like that, let me know. I've very sensitive to
9 that.

10 (No audible response.)

11 All right. We may be getting a little
12 farther in the case than anybody had
13 anticipated. So that's good.

14 THE CLERK: Sir, if you would, please come
15 forward. If you would, pause at the end of the
16 bench. Please place your left hand on the Bible
17 and raise your right hand. Raise your right
18 hand.

19 CLARENCE MCBRIDE

20 having first been duly sworn, testifies as follows:

21 THE CLERK: Thank you. Please be seated.
22 And, sir, would you please state your name for
23 the record.

24 THE WITNESS: Clarence A. McBride.

25 THE CLERK: Thank you, sir.

DIRECT EXAMINATION

BY MR. MILLER:

Q Can you hear me, Mr. McBride?

A Yes.

Q If you could, just briefly tell the jury where you're from.

A I'm originally from Greenville.

Q Okay. Where do you work?

A Well, I work for my son's landscape business.

Q Where is the landscape business located?

A It was located at 1301 Poinsett Highway. But we had to move into a bigger shop. We maintain a mulch yard over at 1501 Poinsett.

Q You say you still have a building located over at 1301?

A Yes, it's a small office trailer, yes.

Q Was that there on June 6th of 2014?

A Yes.

Q Okay. How often do you work there?

A Now, since we have the larger shop, I'm not over there as much.

Q Is that right next to the Poinsett Tire Shop?

A It is.

1 **Q** Did you ever meet a Juan, Mr. Juan Cabrera?

2 **A** Yes.

3 **Q** How did you meet him?

4 **A** I was spending time over at the mulch store
5 and the offices. Just got to know him by working next
6 door to him.

7 **Q** Okay. What's the -- is there a relationship
8 between the tire shop and mulch business?

9 **A** Yes, the tire shop owner rents that spot
10 from the mulch store.

11 **Q** Okay. So the tire shop rents from the mulch
12 store?

13 **A** Correct.

14 **Q** You ever have any problems with them paying
15 rent on time or anything?

16 **A** No.

17 **Q** Okay. How often do you see Juan at the tire
18 shop?

19 **A** I probably see him maybe two times, three
20 times a month possibly. We'd communicate via phone,
21 text.

22 **Q** Do you know how often Juan works?

23 **A** I think Juan works six days a week, Monday
24 thru Saturday.

25 **Q** And just to give the jury an idea, I'll

1 show you a map. You had a chance to review this map
2 before?

3 **A** Yes, sir.

4 **Q** If you don't mind just stepping down with
5 Your Honor's permission.

6 **THE COURT:** Certainly.

7 **BY MR. MILLER:**

8 **Q** This is State's Exhibit 35. Push the top
9 button. If you could, just point out to the jury to
10 just kind of give them the lay of the land.

11 **A** This would be the Poinsett Tire, part of
12 the property. This would be the mulch, mulch yard.
13 This would be the office trailer. (Indicating.)

14 **THE COURT:** Mr. McBride, could I ask you
15 just to step back a little bit. I think some
16 jurors are having a hard time seeing the
17 diagram. Can you do it from there?

18 **THE WITNESS:** Sure, I think so.

19 **THE COURT:** Thank you.

20 **THE WITNESS:** This is the office trailer
21 that I'm speaking of. This is actually an older
22 picture or image because that's the first dump
23 truck that the mulch yard had. Now, we have the
24 white one.

25 **BY MR. MILLER:**

1 **Q** Do y'all have a security system?

2 **A** We do.

3 **Q** Did y'all have one on June 6th of 2014?

4 **A** We do. We did.

5 **Q** What kind of security system was it?

6 **A** It's a Lorax LVH100, 800. It's a four-
7 camera system DVR on a 28- to 30-day loop. I can't
8 remember which it is. We also had SimpiSafe for an
9 alarm system with Greenville County.

10 **Q** You said you had a four-camera system.
11 Where were the cameras located?

12 **A** Two of the cameras were located right here
13 on the corner. One view went this direction. The
14 second view came across this way. The other two were
15 located back in this area somewhere because there's a
16 garage that actually goes under the tire shop where
17 we store the equipment and watched back that
18 direction. The other one watched the gate in this
19 direction.

20 **Q** Was it working properly on June 6th, 2014?

21 **A** Yes, sir.

22 **Q** Thank you, Mr. McBride.

23 **A** (Returns to witness stand.)

24 **Q** Mr. McBride, I'm handing you a disk. Do you
25 recognize this disk?

1 **A** Yes, this is a copy that the detective for
2 Greenville County pulled off our DVD system or camera
3 system.

4 **Q** How are you familiar with it?

5 **A** I was there the day that he put it on the
6 thumb drive.

7 **Q** Have you reviewed it?

8 **A** Have I reviewed this?

9 **Q** Yes, sir.

10 **A** Yes.

11 **Q** Is it a true and accurate representation?

12 **A** Most definitely.

13 **Q** Was this from June 6th, 2014?

14 **A** Yes.

15 **Q** Okay. How do you know it's a true and
16 accurate representation?

17 **A** Because I was there when the detective
18 pulled it off of -- or saved it from the DVR over to
19 the thumb drive to carry it in to analyze it.

20 **Q** And did you initial it, signifying that?

21 **A** I did.

22 **Q** Thank you, Mr. McBride. You were there when
23 this was pulled off?

24 **A** Yes.

25 **Q** And it caught everything the camera was

1 showing?

2 **A** Yes.

3 **Q** Okay.

4 **MR. MILLER:** Your Honor, at this time, the
5 State would move to introduce State's Exhibit 2
6 into evidence.

7 **THE COURT:** Any objection?

8 **MR. STEELE:** No, ma'am.

9 **THE COURT:** All right. So admitted.

10 **(WHEREUPON, State's Exhibit 2 is admitted into**
11 **the record.)**

12 **MR. MILLER:** Mr. McBride, if you will,
13 answer any questions the defense counsel may
14 have.

15 **MR. STEELE:** I have no questions of this
16 witness.

17 **THE COURT:** All right. Then you step down,
18 sir.

19 **MR. MILLER:** May he be relieved from
20 subpoena, Your Honor?

21 **THE COURT:** Any objection?

22 **MR. STEELE:** None.

23 **THE COURT:** Thank you for being here.

24 **MR. MOYER:** If it please the Court, we
25 could break now for the night here. That officer

1 said he's able to come back tomorrow.

2 **THE COURT:** Okay. If it's fine with him,
3 we're at a good stopping place then.

4 Ladies and Gentlemen, we will begin
5 tomorrow morning at 9:30. If you will, be back
6 in your jury deliberation room at 9:30, we'll
7 start shortly thereafter. I hope you have a good
8 evening. Again, please don't discuss the case
9 with anyone. Thank you so much.

10 **(WHEREUPON,** the jury exits at approximately
11 4:51 p.m.)

12 **THE COURT:** All right. Mr. Williams, you
13 have an outstanding attorney. I know he's been
14 talking with you throughout this whole process
15 about whether or not you intend to testify in
16 the trial of this case.

17 **MR. WILLIAMS:** Yes, sir.

18 **THE COURT:** I know that he's probably told
19 you something along the lines of, this is your
20 chance to tell your side of the story, but by
21 the same token, you have an absolute right to
22 remain silent about it. I will, in fact,
23 instruct the jury that they can not consider
24 that in any way.

25 **THE WITNESS:** Yes, ma'am.

1 **THE COURT:** The only reason I'm telling
2 you this now is because it -- we're going a
3 little quicker in this case than I thought we
4 would. I want to be sure that when the time
5 comes when I have some questions for you about
6 testifying tomorrow that you, uh, had time to
7 think about it and talk about it and talk to
8 your attorney about it. I just didn't want to
9 catch you by surprise. I'll have some questions
10 about that decision and whether it is, in fact,
11 your decision.

12 So that he's got all the information, what
13 are the convictions, if any, that the State
14 would intend to use for impeachment purposes?

15 **MR. MOYER:** Convictions from 2014 for
16 Armed Robbery, Burglary first degree and
17 Possession of a Weapon during the Commission of
18 a Violent Crime and Assault and Battery with
19 Intent to Kill.

20 **THE COURT:** All right. I just want you to
21 know that and be able to -- that factor into
22 your decision-making process this evening when
23 you start thinking about whether or not you
24 intend to testify. All right.

25 **MR. WILLIAMS:** Yes, ma'am. You know, I

1 ain't got no choice but to testify, because all
2 the stuff going around and around, you know what
3 I'm saying, about the car chase and cut-off and
4 all that, but nobody ask what went on inside the
5 shop with me and Mr. Cabrera, you know what I'm
6 saying. We were inside the shop. You know what
7 I'm saying? I ain't got no choice but to defend
8 myself.

9 **THE COURT:** Okay. Okay. Well, and that's
10 perfectly fine. I want you -- I want you to know
11 that you do have the right to remain silent and
12 the jury can not consider that in any way. But
13 we'll talk about that more tomorrow. I really
14 was just wanting you to begin process -- if you
15 had not already been thinking about this
16 decision and thinking about whether or not you
17 want to take the stand knowing that the State
18 would likely be able to ask you about these past
19 convictions.

20 **MR. STEELE:** What she's telling you is, if
21 you don't testify, the likelihood is the jury
22 won't know about these convictions. If you do
23 testify, the likelihood is they will know about
24 these convictions. While the court is going to
25 tell the jury not to consider them for anything

1 other than impeachment purposes, as a practical
2 matter, most trial lawyers feel that the jury
3 knowing about that is a bad thing.

4 **THE COURT:** I think he's giving you very
5 -- he's saying it far more eloquently than I
6 did, and I think he's giving you some good
7 advice and you're going to want to listen to
8 your attorney because you've got an outstanding
9 attorney. You're going to want to listen to what
10 he says. But ultimately, it has to be your
11 decision. But we'll be back to talk about it a
12 little bit more.

13 All right. Anything we need to take up
14 before we break?

15 **MR. MILLER:** Nothing from the State, Your
16 Honor.

17 **MR. STEELE:** Nothing from Mr. Williams,
18 Your Honor.

19 **THE COURT:** Oh, yeah. Are there any
20 particular charges that either side is asking
21 for in addition to the standard charges? I'll
22 give you a copy of my charge in written form.

23 **MR. STEELE:** Needless to say, we would
24 want the standard charges as to reasonable
25 doubt.

1 **THE COURT:** Certainly.

2 **MR. STEELE:** If he does decide not to
3 testify, we want the charge about his right not
4 to incriminate himself.

5 **THE COURT:** Absolutely. Absolutely. I will
6 do so. As I said, I will give you that charge
7 probably, at least a preliminary charge, first
8 thing in the morning. We've been talking about
9 it and working on it a little bit.

10 What about from the State?

11 **MR. MILLER:** It will depend a little bit
12 on the evidence. Going off of Mr. Carlyle's
13 opening, it appears that the State would be
14 requesting a hand of one is the hand of all
15 charge.

16 **THE COURT:** All right. I anticipated you
17 would ask for it -- at least ask for it. I will
18 look at it and listen to the, you know, the
19 testimony tomorrow and just see whether or not I
20 will include that. But if the -- if the
21 testimony supports it, then I will. Anything
22 else?

23 **MR. STEELE:** Nothing from Mr. Williams,
24 Your Honor.

25 **THE COURT:** All right. Anything else from

1 the State?

2 **MR. MILLER:** No, Your Honor.

3 **THE COURT:** All right. Very good. Thank
4 y'all so much, and I'll see you tomorrow
5 morning.

6 **(WHEREUPON,** the Court recesses at approximately
7 4:56 p.m.)

P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 12th day of May, 2016 at approximately 9:34 a.m.)

THE COURT: All right. Yes, sir.

MR. STEELE: May it please the Court?

THE COURT: Yes, sir.

MR. STEELE: As to the indictment charging Mr. Williams with Felon in Possession of a Weapon, he would like to change his plea from not guilty to guilty to that charge, to that one charge, Your Honor.

THE COURT: All right. What's the State's position on that?

(WHEREUPON, there is a pause.)

MR. MILLER: Your Honor, the State's position would be that even with a guilty plea, we would not be constricted in bringing this up later in the case, that we would be able to impeach with this guilty plea and be able to argue to the jury that he was in possession of that weapon and that he pled guilty of this crime. The weapon that he was in possession of was that gun for this crime and that we would not be limited in our use of argument.

THE COURT: That would be my concern about

1 it, Mr. Steele, is that he now be pleading
2 guilty to at least one, at least some elements
3 that are part and parcel of other indictments.

4 **MR. STEELE:** But one of the elements, Your
5 Honor, and the one I'm trying to forestall from
6 being presented to the jury is his prior record
7 of conviction of crimes requiring him not to
8 possess a weapon.

9 **THE COURT:** Right.

10 **MR. STEELE:** That would not be an element
11 of anything left. I'm asking the Court to take
12 his plea for that reason. I understand Your
13 Honor's ruling and I understand the position of
14 the State, but I would submit that that at least
15 forestalls the possibility of the jury hearing
16 about his prior record and thereby I don't have
17 to explain to the court why we are concerned
18 about it and why we are trying to avoid that.

19 But I would want, uh, -- I think they can
20 bring up that a weapon was involved because it's
21 an element of another offense that he is not
22 pleading guilty to. But I don't think they can
23 bring up his prior record.

24 **THE COURT:** I think what they -- I think
25 what they're getting at is that, uh, that they

1 want to say he's already -- they would want to
2 say he's already pled guilty and admitted that
3 he possessed that weapon on that day. And
4 therefore, they are saying they would not have
5 to prove that because he pled guilty to that
6 portion. Is he -- is he willing to -- I mean, is
7 he willing to do that?

8 **MR. STEELE:** Let me have a moment with
9 him, Your Honor.

10 **THE COURT:** Sure.

11 **MR. MILLER:** Also, Your Honor, in regards
12 to the prior record, we would still take the
13 position that for impeachment purposes --

14 **THE COURT:** Oh, right. Right. I think he
15 was just trying to --

16 **MR. STEELE:** But not if he doesn't testify.

17 **THE COURT:** But not if he doesn't testify.

18 (WHEREUPON, there is a pause.)

19 **MR. STEELE:** If Your Honor please, we'll
20 go ahead then with the trial.

21 **THE COURT:** All right. All right. So --

22 **MR. STEELE:** I would want the record to
23 reflect that we attempted to tender that plea
24 and Your Honor's ruling on the position of the
25 State.

1 **THE COURT:** Well, let me just say I didn't
2 make a ruling as to it. I was just explaining
3 what their argument, what it appeared to be,
4 their argument. If -- like I said, if he does
5 want to enter a plea, it sort of does put him in
6 a bit of a legal quagmire in that he'd be
7 admitting at least one element that would be
8 part of another indictment.

9 Yes, sir.

10 **MR. MOYER:** Yeah, I believe our position
11 would be that he would be admitting possession
12 of a pistol that would keep us from introducing
13 it into the record during our case-in-chief. It
14 would just not affect whether or not -- it
15 wouldn't have any bearing on whether he
16 testifies or not.

17 **THE COURT:** Well --

18 **MR. STEELE:** Well, my --

19 **THE COURT:** I'm sorry. Go ahead.

20 **MR. STEELE:** I was going to say this, Your
21 Honor. My position is I'm trying at all costs to
22 avoid his record. Your Honor knows what it is
23 and Your Honor knows how probably prejudicial it
24 is. So my position is this, if he pleads guilty
25 to the gun charge, that is, the felon in

1 possession of a weapon charge, that means that
2 the State is relieved of the responsibility of
3 proving his prior record.

4 **THE COURT:** Exactly.

5 **MR. STEELE:** And if he doesn't testify,
6 that, of course, eliminates the possibility of
7 impeachment about his prior record.

8 **THE COURT:** Exactly.

9 **MR. STEELE:** So my position would be, if
10 we do those two things, which I'm considering on
11 this side of the courtroom for good strategy
12 reasons, the jury would not then know about his
13 criminal record.

14 **THE COURT:** Absolutely. And I don't think
15 -- I think the State then -- I think the State's
16 position then would be not that they could bring
17 up his record, because you are right, that would
18 totally take care of it, but that they would not
19 have to then prove the element that he possessed
20 a weapon. He's also, you know, of course,
21 charged with possession of a weapon during the
22 commission of a violent crime.

23 **MR. STEELE:** That's true. But of course,
24 we contend that it's reasonable doubt about the
25 commission of a violent crime.

1 **THE COURT:** Right. So if he's fine with
2 admitting that he possessed that weapon on that
3 day, knowing that that fact alone, not the part
4 about that he's been convicted of a violent
5 crime, but that portion that he was in
6 possession of a weapon, if he's fine admitting
7 that for purposes of this trial, then I'm happy
8 to take his plea and I don't think the State
9 could then go into his prior record unless he --
10 unless he takes the stand.

11 **MR. STEELE:** Let me have another moment,
12 Your Honor.

13 **THE COURT:** Sure.

14 **MR. MILLER:** But Your Honor, by pleading
15 guilty to that, he would also be admitting that
16 he does have a violent crime conviction. On
17 close, would I be able to then state that he has
18 a violent crime conviction? Because that is
19 part of an element of that crime, that he
20 possessed the weapon with a person who is
21 convicted of a violent crime.

22 **THE COURT:** Well, he would already have
23 pled to that and that charge would be gone.
24 There would be no reason to argue it.

25 **MR. STEELE:** Would you just tell them that

1 it's not up -- being submitted to them for their
2 consideration or something like that?

3 **MR. MILLER:** Would I then be able also to
4 bring up, though, that he did by -- that he pled
5 to this, but by pleading to this, he has
6 admitted that he had the possession of that gun
7 on June 6th --

8 **THE COURT:** Yeah, that's what we -- that's
9 what we -- Mr. Steele and I were just discussing
10 and he was talking to his client about it.

11 And if you need a moment to do that, that's
12 fine.

13 (WHEREUPON, there is a pause.)

14 **MR. STEELE:** We're going to go ahead, Your
15 Honor.

16 **THE COURT:** All right.

17 **MR. STEELE:** You want us up there?

18 **THE COURT:** Uh, that would be fine. So
19 let's just be clear about this. I -- going
20 forward, I just want to be -- so everybody is on
21 the same page. Going forward, unless you take
22 the stand, the fact that you've been convicted
23 of a violent crime -- unless you take the stand
24 or something else unforeseen happens, the jury
25 would not know about your record. Okay. So in

1 other words, the State would not be trying to
2 prove that you had been convicted of a violent
3 crime. Okay. So it wouldn't come up. But we need
4 to figure out a way to fashion -- and it
5 probably would just -- probably be by
6 stipulation that he was in possession of that
7 weapon on that day. So in other words, if you
8 plead guilty to it here, then I think they are
9 entitled to the stipulation. But I'm not going
10 to let you mention that he's pled guilty to
11 possession of a firearm by a person convicted of
12 a crime of violence. That would sort of negate
13 the whole purpose of this.

14 **MR. MOYER:** How about this, Your Honor?

15 **THE COURT:** Does that make sense?

16 **MR. STEELE:** I agree with what the Court
17 just said.

18 **THE COURT:** Okay.

19 **MR. MOYER:** If we -- if we'd be allowed to
20 say during closing, you've heard that one of the
21 charges was a gun-related charge of possession
22 of a weapon, the defendant has pled guilty to
23 that particular charge of possession of a weapon
24 and has, uh, -- maybe even leave it at that.
25 Just leave it at possession of a weapon as

1 opposed to going into any further details about
2 being convicted.

3 **THE COURT:** My concern is that in that,
4 that might be confusing to the jury because they
5 may then because the other charge is Possession
6 of a Weapon During the Commission of a Violent
7 Crime, they may consider that to be -- there's
8 talk about double jeopardy and stuff. We're
9 taking the element out that's different. My -- I
10 think the best way to handle this is via
11 stipulation. He pleads to say that he's
12 stipulated and admitted that he was in
13 possession of a weapon, of that weapon on that
14 date and that be the end of the stipulation.
15 Then you don't have to prove that element that
16 he was in possession of the weapon.

17 Question comes in about the armed robbery.
18 Because being armed with a deadly weapon is an
19 element of that as well. So I just want to
20 inform them that one element, being in
21 possession of that weapon, would be admitted for
22 purposes of all these charges.

23 **MR. STEELE:** Of course, a reasonable
24 inference from the evidence so far, depending on
25 how things go from here on, is that that weapon

1 stayed under the seat the whole time. That is
2 one inference that can be drawn.

3 **THE COURT:** Okay. I think they are talking
4 for -- we'll let them talk for a minute.

5 **MR. MOYER:** I'm sorry, Your Honor.

6 **THE COURT:** You're fine. I'm saying I
7 think we all -- maybe Mr. Steele needs to talk
8 to his client a little bit more. I don't know.
9 (WHEREUPON, there is a pause.)

10 **THE COURT:** See, Mr. Williams, we just
11 think it through 50 million ways, don't we?

12 **MR. WILLIAMS:** Yes, ma'am.

13 **MR. STEELE:** Thank you for being nice to
14 Mr. Williams.

15 **THE COURT:** He's been nice. I have no
16 reason not to be nice.

17 **MR. STEELE:** Yes, ma'am.

18 **THE COURT:** Will the attorneys approach
19 for just one moment? I just wanted to bring up
20 one other thing.

21 (WHEREUPON, a bench conference is held off the
22 record.)

23 **MR. MOYER:** I think our only other matter
24 regarding this is that we would ask that
25 sentencing be deferred until after the end.

1 **THE COURT:** I'm sure that's what y'all --

2 **MR. STEELE:** That's what we expected.

3 **THE COURT:** Okay.

4 **MR. STEELE:** And to be clear, Your Honor,
5 the government would be able to mention in their
6 closing argument that he has pled guilty to
7 possession of a weapon by a convicted felon.
8 They will not be able -- they will not be.

9 **THE COURT:** This is -- I don't want them
10 to bring that up.

11 **MR. STEELE:** Okay.

12 **THE COURT:** What I'm going to do instead
13 is allow them in their case-in-chief to read a
14 stipulation, make it at the end, that Mr.
15 Williams has admitted and, uh, -- that he has
16 admitted and it's stipulated that he possessed a
17 weapon, the particular weapon on that day.

18 **MR. STEELE:** Just read it at the end of
19 their case?

20 **THE COURT:** Or at whatever point they feel
21 they want to read it during their case-in-chief.
22 So it's not an element they have to prove. And
23 then they are able to bring it up in their
24 closing.

25 **MR. STEELE:** Yes, ma'am.

1 **THE COURT:** And if the State wants to
2 propose a stipulation at some point, we can do
3 that too. I'll let y'all word it and read it or
4 do it however you want to do it.

5 **MR. MOYER:** Maybe after the plea is
6 finished, Mr. Steele and us can get together and
7 just come up with quick language on that.

8 **THE COURT:** Sounds good.

9 **MR. MOYER:** Thank you.

10 **THE COURT:** All right.

11 **THE CLERK:** May I?

12 **THE COURT:** Yes.

13 **THE CLERK:** Your Honor, in the case of
14 2015-GS-23-0240, the State versus Steven Levon
15 Williams, indicted for Possession of a Firearm
16 by a Person Convicted of a Crime of Violence, he
17 is pleading to the same and this is true billed.

18 **MR. STEELE:** Your Honor, one last thing.

19 **THE COURT:** Certainly.

20 **(WHEREUPON, Mr. Steele consults with**
21 **Mr. Williams.)**

22 **MR. STEELE:** We're ready, Your Honor.

23 **THE COURT:** Okay.

24 **THE CLERK:** Mr. Williams, would you please
25 raise your right hand?

1 **(WHEREUPON, the defendant is first duly sworn.)**

2 **THE COURT:** Mr. Williams, you are here
3 today to plead to Possession of a Firearm by a
4 Person Convicted of a Violent Crime. That
5 carries up to five years. Is that your
6 understanding?

7 **MR. WILLIAMS:** Yes, ma'am.

8 **THE COURT:** Have you discussed this charge
9 with your lawyer?

10 **MR. WILLIAMS:** Yes, ma'am.

11 **THE COURT:** Are you happy with what your
12 lawyer's done for you in this regard?

13 **MR. WILLIAMS:** Yes, ma'am.

14 **THE COURT:** Are you under the influence of
15 drugs or alcohol here today?

16 **MR. WILLIAMS:** No, ma'am.

17 **THE COURT:** Has anybody forced you to
18 plead guilty?

19 **MR. WILLIAMS:** No, ma'am.

20 **THE COURT:** Has anybody promised you
21 anything to get you to plead guilty?

22 **MR. WILLIAMS:** No, ma'am.

23 **THE COURT:** I will put on the record that
24 there has been an agreement and a ruling from
25 the court that the State will not bring up this

1 conviction, but rather, they will just simply
2 stipulate that you possessed a weapon, something
3 to that effect, but not bring up that you were
4 convicted of a violent crime, unless, of course,
5 you were to choose to take the stand.

6 **MR. WILLIAMS:** Yes, ma'am.

7 **THE COURT:** Is that your understanding of
8 all the negotiations in this case?

9 **MR. WILLIAMS:** Yes, ma'am.

10 **THE COURT:** When you plead guilty, you
11 give up your right to remain silent about a
12 charge. Do you know that?

13 **MR. WILLIAMS:** Yes, ma'am.

14 **THE COURT:** You also give up your right to
15 a jury trial on this charge. In fact, we were
16 midway through a jury trial on this charge. At
17 that trial, of course, your attorney has been
18 very ably cross-examine -- examining witnesses.
19 He could have called witnesses on your behalf.
20 And the State would have to prove this charge
21 beyond a reasonable doubt. But when you plead
22 guilty, you give up your right to a trial on
23 this charge. You know that?

24 **MR. WILLIAMS:** Yes, ma'am.

25 **THE COURT:** And how do you plead to this

1 charge, guilty or not guilty?

2 **MR. WILLIAMS:** Guilty.

3 **THE COURT:** All right. You have 10 days
4 from today's date to appeal this plea if you so
5 choose, but you must do so in writing to this
6 court. The indictment in this case says that you
7 did, in Greenville County, on or about the 6th
8 day of June, 2014, possess a firearm and/or
9 ammunition within the State, the defendant
10 having been convicted of a crime of violence, to
11 wit: burglary and armed robbery, in violation of
12 the Code of Laws of South Carolina. And I
13 believe the weapon has been admitted. What
14 Exhibit is that?

15 **MR. STEELE:** 36, I believe.

16 **THE COURT:** 36?

17 **COURT REPORTER:** Yes, ma'am.

18 **THE COURT:** That weapon has been admitted
19 as State's Exhibit Number 36.

20 **MR. WILLIAMS:** Yes, ma'am.

21 **THE COURT:** Is that what you're pleading
22 to?

23 **MR. WILLIAMS:** Yes, ma'am.

24 **THE COURT:** All right. Well, I will accept
25 your plea as being freely and voluntarily made

1 with the advice of extremely competent counsel,
2 with whom you say you are well satisfied. And
3 the plea has a substantial factual basis based
4 on what I've heard throughout the trial of this
5 case, but also from the indictment. So I'll
6 accept your plea and I will defer your sentence
7 pending the outcome of this trial. All right.

8 **MR. WILLIAMS:** Yes, ma'am.

9 **THE COURT:** All right.

10 **MR. WILLIAMS:** But I would like to say
11 something.

12 **THE COURT:** Yes, sir.

13 **MR. WILLIAMS:** I would like to say
14 something. I would like the Judge to take into
15 consideration I have already did two years in
16 the County on these charges. I been in the
17 County since June of 2014.

18 **THE COURT:** Well, first of all, we'll talk
19 about sentencing on this charge and if you were
20 to be convicted of any other charge, we'll just
21 talk about them all at the same time. But I will
22 tell you I most certainly and absolutely will
23 give you credit for every day you've served over
24 at the Law Enforcement Center.

25 **MR. WILLIAMS:** Yes, ma'am. Thank you,

1 ma'am.

2 **THE COURT:** Absolutely. All right.

3 **MR. STEELE:** We're okay with the
4 stipulation proposed by the government.

5 **THE COURT:** All right. Very well.

6 **MR. MILLER:** The stipulation reads, Your
7 Honor, the defendant, Steven Levon Williams, has
8 stipulated and admitted that he was in
9 possession of the revolver in evidence in this
10 case on June 6th, 2014.

11 **THE COURT:** All right. Very well. All
12 right. Y'all ready to bring the jury back in?

13 **MR. MOYER:** We're ready, Your Honor.

14 **MR. STEELE:** Ready, Your Honor.

15 **THE COURT:** All right. Very well.

16 **MR. MILLER:** Your Honor?

17 **THE COURT:** Yes, sir.

18 **MR. MILLER:** Briefly, would you like to
19 make the stipulation a Court's Exhibit?

20 **THE COURT:** All right. All right. Very
21 well. That might be a good idea. Do you want us
22 to type it up?

23 **MR. MILLER:** Probably. My handwriting
24 isn't as good.

25 **THE COURT:** Okay. I'll let y'all see it

1 before we mark it just to make sure it's exactly
2 what...

3 **MR. MILLER:** And any clarification on that
4 chicken scratch.

5 **THE COURT:** Okay. No, I think I can read
6 -- I think I can read it pretty well.

7 **MR. MILLER:** When we are ready to read it,
8 we'll just grab it from the bench.

9 **THE COURT:** That will be fine. If you want
10 to read it, we're just going to type this up
11 just to make it a little bit better. But when
12 you are ready to read it, we'll just give you
13 this piece of paper back and you can read it.

14 **MR. MILLER:** Thank you, Judge.

15 **THE COURT:** Okay.

16 **(WHEREUPON,** the jury enters at approximately
17 9:57 a.m.)

18 **THE COURT:** Good morning, Ladies and
19 Gentlemen. I felt terrible leaving you in that
20 jury deliberation room. I've been in there
21 before. It's kind of warm and a little stuffy,
22 and I apologize. But I want to tell you that we
23 have been in here working. I told you these are
24 outstanding attorneys. They have been in here
25 working to streamline this case. I hope that

1 the time that you spent back there waiting on us
2 will make this process maybe go a little
3 quicker. All right.

4 The State ready to call your next witness?

5 **MR. MOYER:** We're ready, Your Honor.

6 **MR. STEELE:** Ready for Mr. Williams.

7 **THE COURT:** All right. Thank you.

8 Yes, sir.

9 **MR. MOYER:** The State calls Dar Shaw.

10 **THE CLERK:** Sir, if you will, please place
11 your left hand on the Bible and raise your right
12 hand.

13 **DAR SHAW**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Thank you. Please be seated.

16 Please state your name for the record.

17 **THE WITNESS:** Darwin Shaw, S-H-A-W.

18 **THE CLERK:** Okay.

19 **DIRECT EXAMINATION**

20 **BY MR. MOYER:**

21 **Q** Where are you employed?

22 **A** The Department of Public Safety Forensic
23 Division.

24 **Q** Okay. How long have you been in law
25 enforcement?

1 **A** July will be 39 years.

2 **Q** How long have been with the forensics
3 division here in Greenville?

4 **A** 17 and a half years.

5 **Q** Tell us where you worked prior to that.

6 **A** I was with the police department in
7 Nebraska. Worked seven years as a road officer and 14
8 years as a detective.

9 **Q** Okay. What do you do as a forensics
10 officer?

11 **A** We respond to crime scenes, requests by
12 agencies. We do everything from photographic
13 documentation, processing for fingerprints,
14 collecting evidence and then submitting reports for
15 court purposes.

16 **Q** Okay. Were you called out for this case?

17 **A** I was.

18 **Q** How many locations did you respond to?

19 **A** Three.

20 **Q** All right. And what were those different
21 locations?

22 **A** The first location was on First Avenue in
23 Poe Mill where I met with a deputy. He was parked
24 behind a Ford Mustang.

25 **Q** Okay. I'll go into what you did at each one

1 later. But what was the second location?

2 **A** The second location was the incident
3 location on Poinsett Highway where the incident took
4 place.

5 **Q** Okay. And the third location?

6 **A** Was at Buncombe and Moore Street where a
7 vehicle was found up against a pole.

8 **Q** Okay. And you went to those locations in
9 that order?

10 **A** I did.

11 **Q** Are all -- all three of locations are in
12 Greenville County?

13 **A** They are.

14 **Q** What time were you called out on this call?

15 **A** I got the call about 6:30 in the evening
16 and got there about 10 minutes to 7:00.

17 **Q** That's when you arrived at that first
18 location on First Avenue?

19 **A** That's correct.

20 **Q** At what time did you finish up at that
21 location on Old Buncombe?

22 **A** About 10 minutes to 8:00.

23 **Q** Let's start off then with that first
24 location you described. Was an officer at that
25 location at that time?

1 **A** Yes, sir. A deputy was there.

2 **Q** Was there any evidence there for you to
3 observe?

4 **A** There was a vehicle. There was also an
5 area of suspected blood on the driver's door, on the
6 outside of the driver's door.

7 **Q** Was the victim there?

8 **A** No, sir. He was not.

9 **Q** Did you photograph the vehicle?

10 **A** I did.

11 **Q** Were you also made aware from the officer
12 that the vehicle had or may have had contact with
13 another vehicle?

14 **A** Yes, I was informed of that.

15 **Q** Did you look for anything, uh, on the
16 vehicle to confirm that?

17 **A** Yes, I did. I looked at the front bumper
18 and also photographed the bumper of the vehicle.

19 **Q** Okay. Let's look at some of the photographs
20 you took on that particular occasion. I want to hand
21 you a laser pointer. We're going to show the pictures
22 behind you. Hopefully, you will be able to see them
23 from that vantage point. If not, let us know and
24 we'll ask you to step down. I'm going to start off
25 with State's Exhibit Number 3. Is that the Mustang

1 that you observed and took a photograph of at 1212
2 First Avenue?

3 **A** Yes, sir, it is.

4 **Q** You mentioned you also made particular
5 notice of an area on a door handle. Are you able to
6 point that out?

7 **A** Underneath the door handle on the door was
8 -- that looked like blood in that area.

9 **Q** Let me show you State's Exhibit Number 12.
10 Is that a closer up picture of that area?

11 **A** It is and it's actually where I took the
12 swab from.

13 **Q** And State's Exhibit Number 13.

14 **A** That is just a close-up photograph showing
15 the area. It trails down and continues on behind the
16 door handle.

17 **Q** And finally, State's Exhibit Number 14.

18 **A** This is a photograph of the passenger side
19 of the front bumper. This is where the tag would
20 normally go. There was like a scuff mark about four
21 to six inches wide here. But it didn't damage the
22 bumper. It was just a scuff mark on that bumper
23 cover. No transfer that I could find.

24 **Q** Okay. So the next location, you said, was
25 1301 Poinsett?

1 **A** Yes, sir.

2 **Q** And that was what location?

3 **A** That was the incident location where it was
4 reported to me that the robbery took place.

5 **Q** Okay. Were there any deputies at that
6 location when you arrived?

7 **A** Yes, sir.

8 **Q** And were you -- when you arrived, were you
9 shown the building of which the incident was said to
10 have taken place?

11 **A** I was.

12 **Q** Did you photograph it?

13 **A** I did.

14 **Q** Inside and out?

15 **A** Yes, sir.

16 **Q** Did you move anything or make any changes
17 at all to that scene before you took the photographs?

18 **A** No, sir.

19 **Q** Did you collect any evidence before you
20 took the photographs?

21 **A** No, sir.

22 **Q** Now, did you end up collecting any
23 potential evidence from that building?

24 **A** I did.

25 **Q** And what was that?

1 **A** A stun gun.

2 **Q** Okay. Now, what is a stun gun?

3 **A** A stun gun is an instrument where
4 electronic probes come out. Probes come out. When you
5 push the button, static electricity -- it puts out so
6 many volts. Some are 50,000. Some are 100,000. But
7 it's an instrument that you push up against the body,
8 press the button, the two probes will arc across and
9 will shock the individual.

10 **Q** Okay. Is that the same thing as a taser?

11 **A** No, sir.

12 **Q** What's the difference between a taser and a
13 stun gun?

14 **A** Tasers have two functions. One is
15 considered a dry stun, which could, in fact, be
16 basically the same principle. The other is a taser
17 has prongs that when you pull the trigger, it shoots
18 the prongs out and attaches to the subject and then
19 they get shocked from that point.

20 **Q** So stun gun is pretty much the same thing
21 unless it doesn't have something that shoots out?

22 **A** Correct. It has to make contact with
23 something before it will arc.

24 **Q** Okay. Now, stun guns, can they be bought on
25 the market without any legal control?

1 **A** Yes, sir.

2 **Q** Let me hand you State's Exhibit Number 37.
3 As you, if you would, take a look at that and see if
4 you can recognize it.

5 **A** It's a package that, uh, was sealed with
6 evidence tape. It has my initials on the back. The
7 barcode indicates the item as DS-2. When I mark
8 evidence, I use my initials and then whatever piece
9 of evidence is collected would be sequential with
10 that number. It's identified as Azan stun gun with
11 serial number AZ998EK.

12 **Q** Did you record the serial number of the
13 stun gun when you collected it there at Poinsett
14 Tire?

15 **A** I did.

16 **Q** Are you able to say that that was the exact
17 stun gun you collected from that location?

18 **A** May I look at my report?

19 **Q** Yes, please.

20 **A** (Reviewing.)

21 Yes, sir. That's the same serial number.

22 **MR. MOYER:** Your Honor, at this time, I
23 would move to have State's Exhibit Number 37
24 entered into evidence. It hasn't been opened.

25 **MR. STEELE:** No objection.

1 **THE COURT:** All right. So admitted.

2 **(WHEREUPON, State's Exhibit 37 is marked for**
3 **identification and admitted into the record.)**

4 **BY MR. MOYER:**

5 **Q** I'm going to hand you back State's Exhibit
6 Number 37. Would you just hold that up for the jury
7 and tell the jury what that is?

8 **A** This is called a stun gun. There are two
9 probes that are on the outsides. I don't know if it
10 will function. There is a light that can be used.

11 **THE COURT:** I need some warning before
12 that.

13 **BY MR. MOYER:**

14 **Q** Now, did you meet with -- I'm going to take
15 that from you. Did you meet with the victim in this
16 case, Juan Cabrera?

17 **A** Yes, sir, I did.

18 **Q** Okay. What was the purpose of meeting with
19 Mr. Cabrera?

20 **A** To document the injuries he had sustained.

21 **Q** Okay. Now, what did you observe about him?

22 **A** When I first met with him, I asked him
23 where his injuries were. He said on his face. He also
24 had on his elbow, uh, I think on his forehead on the
25 left side, he had -- looked like an area of blood on

1 the left side of his neck. There was also a red
2 abrasion along the side of his neck.

3 I was advised by the deputy that the victim
4 had also been kicked in the back. He lifted his shirt
5 up. There was an abrasion on his lower right back
6 that had a stain on it. A dark colored stain. There
7 was an abrasion of the skin in that area.

8 Q Okay. And you photographed Mr. Cabrera?

9 A Yes, sir. I did.

10 Q Okay. Let's start off -- you still have the
11 laser pointer?

12 A Yes, sir.

13 Q Okay. Let's start off by looking at State's
14 Exhibit Number 15. Tell the jury what is displayed in
15 that photograph.

16 A Typically when I take photographs, I'll
17 take the photograph at a distance just so I can get
18 an overall photograph of the individual. Then I'll
19 get closer, detailed photographs. Here again, because
20 of the -- because of the photograph, on the left side
21 of his neck, there was an area that looked like blood
22 there and an abrasion that ran up along the side of
23 his neck.

24 Q Okay. State's Exhibit Number 11.

25 A This is a photograph of the victim's

1 forehead and again, there was a black streak,
2 something that made contact there. There was an area
3 of redness and an abrasion on the left side of his
4 forehead.

5 Q State's Exhibit 17.

6 A It's just a closer photograph showing the
7 area of blood and then the red abrasion on the side
8 of his neck.

9 Q State's Exhibit 18.

10 A I took an overall photograph of his back.
11 Pulled his shirt up. As you can see, there was an
12 abrasion, almost like road rash, on the lower right
13 area of his back was a scar there which was previous.
14 There also was an area of redness on the left side.

15 Q And State's Exhibit 19.

16 A Looking at the top of his head, you see
17 there was an area of blood. Unfortunately, because of
18 the hair, it's difficult to get in and actually get a
19 photograph of the detail of the injury. But you could
20 tell that he did sustain an injury to the back of his
21 head.

22 Q That area was bleeding?

23 A Yes, sir.

24 Q Fresh blood. Okay. Okay. Now, did you also
25 say you photographed the tire shop itself?

1 **A** Yes, sir. I did.

2 **Q** Okay. Let's start off then with State's
3 Exhibit Number 23. Tell the jury what is shown in
4 that photograph.

5 **A** All this is is a photograph of the front of
6 the building. Poinsett Highway runs along this
7 direction. So the building sets back off of Poinsett.
8 It was basically to show the type of building and to
9 get the, not only the name of the business, but the
10 address is also on there.

11 **Q** Okay. And State's Exhibit Number 24, is
12 that another photograph of the building?

13 **A** Yes, sir. Again, it's just to get a better
14 -- to get the address.

15 **Q** State's Exhibit 25.

16 **A** It's a photograph standing at the doorway,
17 actually just photographing inside of the building.
18 Again, it's at the entrance of that door and walking
19 into the building.

20 **Q** This is standing pretty much near the
21 entrance of the building?

22 **A** Yes, sir.

23 **Q** Could be right about in here?

24 **A** Yes, sir.

25 **Q** State's Exhibit 26.

1 **A** It's just a closer photograph. Usually,
2 it's in progression starting out far away and
3 progressing closer until you get inside and actually
4 photograph the entirety of the interior.

5 **Q** So this is moving into the building. Is
6 that the picnic table that you see in that
7 photograph, the same picnic table you see here in
8 State's Exhibit 26?

9 **A** Yes, sir. It is.

10 **Q** And State's Exhibit 27.

11 **A** I was -- as I walked in, I saw this on the
12 floor without having any idea as to who it might
13 belong. There was also a boot. I had to go ask the
14 deputy if those were involved because those are
15 things I typically collect if they belong to anybody
16 other than the victim.

17 **Q** And let me draw your attention down here to
18 the bottom middle of this photograph. Can you
19 recognize?

20 **A** This is the stun gun that was laying right
21 at the edge of the picnic table.

22 **Q** Is that the stun gun that was just put into
23 evidence?

24 **A** Yes, sir.

25 **Q** State's Exhibit 28.

1 **A** It was just a close up of the stun gun and
2 the boot. There's the athletic shoe.

3 **Q** And that's right there, just giving a
4 perspective?

5 **A** That's correct.

6 **Q** Okay. Okay. Now, State's Exhibit 28. Pay
7 attention to several areas in this section of the
8 document.

9 **A** Yes, sir. The deputy had stated that when
10 the victim was told to give up his money and reach in
11 his pocket and pulled out money and threw it up in
12 the air, the deputy said there was some cash up on
13 top of the little table here. There was also some
14 bills on the floor behind the fan.

15 **Q** I'm going to show you State's Exhibit 30.

16 **A** Yes, sir. It's just a close-up photograph
17 showing that there are at least two one dollar bills
18 on that shelf.

19 **Q** State's Exhibit 31.

20 **A** Just a closer photograph of the, not
21 necessarily the denominations, just the fact that
22 there were bills that were there.

23 **Q** And State's Exhibit 32.

24 **A** Again, there were some, appeared to be one
25 dollar bills at the base of the fan.

1 **Q** You didn't collect that money, did you?

2 **A** No, sir. I was told that they were the
3 victim's. I had no need to collect them.

4 **Q** Okay. So this area right here, these bills,
5 is that down here at the bottom?

6 **A** Yes, sir. It's at the base of the fan.

7 **Q** Okay. Okay. So then after you took the
8 photographs at that location, did you go to Old
9 Buncombe and Morris?

10 **A** Yes, sir. I did.

11 **Q** Were deputies still at that scene?

12 **A** Yes, sir.

13 **Q** Did you photograph that scene?

14 **A** I did.

15 **Q** Was the suspect there at that point?

16 **A** No, sir.

17 **Q** Okay. He was already gone. Now, had you
18 been given any information about a firearm?

19 **A** I was. In fact, the original deputy that I
20 spoke with when I was at the Mustang said that a
21 firearm had been found inside of the Mercedes at Old
22 Buncombe and Morris, that had already been collected.

23 **Q** Okay. So it was collected by -- it was gone
24 from the scene by the time you got to Old Buncombe?

25 **A** That's correct.

1 **Q** Did you take photographs of the area where
2 it was said to have been found?

3 **A** I photographed the outside of the vehicle
4 as well as the inside of the vehicle. I wasn't given
5 specific information as to where it was found other
6 than inside of the vehicle.

7 **Q** Okay. As you did with the Mustang, did you
8 look for dents or paint transfer or anything like
9 that where the vehicle had collided?

10 **A** Yes, sir. On the Mustang, I looked at the
11 front bumper. Again, all I saw was a scuff. Nothing
12 that would have provided me with enough information
13 as to what it struck or any paint transfer.

14 **Q** Okay. You did the same thing with the
15 Mercedes then?

16 **A** I did.

17 **Q** Okay. Let's go through some photographs.
18 State's Exhibit 5 which is already into evidence.
19 It's been shown to the jury. But is that the Mercedes
20 that you photographed?

21 **A** Yes, sir. It is.

22 **Q** And observed. That was the condition it was
23 in when you saw it?

24 **A** Yes, sir.

25 **Q** State's Exhibit 4?

1 **A** Just a different view of the vehicle, of
2 the damage.

3 **Q** State's Exhibit 5.

4 **A** Just photograph -- I photographed the
5 entirety of the vehicle from the front, the sides and
6 the back. This was just denoting the tag that's on
7 the vehicle.

8 **Q** Then you said you took some pictures of the
9 inside of the vehicle. You took these pictures as
10 State's Exhibit 7?

11 **A** Yes, sir. I did.

12 **Q** And then you took these pictures as State's
13 Exhibit 10?

14 **A** Yes, sir.

15 **Q** That's a close up of this area under the
16 front seat?

17 **A** That's correct.

18 **Q** State's Exhibit 8.

19 **A** It's just another photograph, a little
20 closer up. There's a compartment under the driver's
21 seat. This is actually a lid or a door to that, like
22 a glove box where it would be opened up and then pops
23 open and there's a compartment under the driver's
24 seat.

25 **Q** State's Exhibit 20.

1 **A** This is the right rear. Again, you've got
2 the front tire. This is the right rear bumper of the
3 vehicle showing that there was some type of white
4 sludge or something -- white substance on the, uh,
5 bumper cover.

6 **Q** And then State's Exhibit 21.

7 **A** This was an affidavit and notification of
8 the sale of the motor vehicle. Basically, it had
9 information as far as the type of vehicle and who the
10 vehicle belonged to.

11 **Q** Okay. And that was inside of the vehicle?

12 **A** Yes, sir.

13 **Q** Okay. And I'll zoom in a bit. Does it have
14 the make of the vehicle in this area?

15 **A** It just has a -- it's a Model E, but it's a
16 Mercedes.

17 **Q** Does it show ownership of the vehicle or
18 who was it sold to?

19 **A** A Steven Williams.

20 **Q** Looking down here, does it have a date
21 listed in the bottom right-hand corner?

22 **A** Yes, April 14th, 2014.

23 **Q** Okay. And then State's Exhibit 22.

24 **A** That's just a photograph that was taken to
25 show the entire document before close-up photographs

1 were taken of each area.

2 **Q** Okay. Okay. Please answer any questions
3 the defense may have.

4 **CROSS-EXAMINATION**

5 **BY MR. STEELE:**

6 **Q** Mr. Shaw, you know what a gun residue test
7 is, of course?

8 **A** Yes, sir.

9 **Q** Did you conduct one on Mr. Steven Williams?

10 **A** No, sir. I did not.

11 **Q** In fact, you had no interaction with Mr.
12 Williams at all?

13 **A** That's correct.

14 **Q** You didn't even see him, did you?

15 **A** No, sir.

16 **Q** So you don't know if his hands were bagged?
17 That is procedurally what y'all do, isn't it?

18 **A** Not necessarily, no. If the subject is
19 there at the scene, we may do a gunshot residue test.
20 The hands don't have to be bagged.

21 **Q** Okay. But you were the primary forensics
22 investigator on this case, and to your knowledge, no
23 gunshot residue test was done, is that true?

24 **A** I am not aware of any being done.

25 **Q** And being the investigator, if that were to

1 have occurred, you would have likely have known about
2 it, wouldn't you?

3 **A** No, sir.

4 **Q** You wouldn't necessarily have known about
5 it?

6 **A** Not if it was done by somebody else, no.

7 **Q** But anyway, you don't know about one. We'll
8 put it that way.

9 **A** That's correct.

10 **Q** Did you, uh, -- when you examined State's
11 Exhibit 36, the weapon, you did -- did you examine
12 the weapon?

13 **A** No, sir. I had never seen it.

14 **Q** Okay. So you had nothing to do with the
15 weapon either?

16 **A** No, sir.

17 **Q** Your primary responsibility was in
18 documenting the photos, both of Mr. Cabrera and of
19 the scene, the two scenes, is that a correct
20 statement?

21 **A** The three scenes, yes.

22 **Q** Okay. When you were looking in the vehicle,
23 did you find any money in the vehicle?

24 **A** No, sir. I didn't.

25 **Q** You found no cash?

1 **A** No, sir.

2 **Q** The only cash you came in contact with were
3 the two or three one dollar bills out at the tire
4 shop scene, is that correct?

5 **A** That's correct.

6 **Q** None in the automobile?

7 **A** I didn't search the automobile, sir.

8 **Q** But you didn't see any?

9 **A** No, sir. That's correct.

10 **Q** And that is something you would have been
11 interested in if it had been apparent to you?

12 **A** If I had searched the vehicle, yes, sir.

13 **Q** That blood on the door, that would have
14 been probably consistent with the driver crashing
15 into that pole and then getting out of the car,
16 wouldn't it?

17 **A** What blood are you talking about?

18 **Q** Didn't you tell me there were some blood
19 stains on the driver's side door of the Mercedes?

20 **A** No, sir. The Mustang.

21 **Q** Okay. That was on the Mustang. Did you find
22 any stun gun burns on Mr. Cabrera?

23 **A** I did not see any, no.

24 **Q** Does a stun gun leave burns?

25 **A** If it's left on long enough, yes, sir. You

1 may be able to see where the probes made contact.

2 Q Would it not -- would it be a fair
3 statement that it would not be unusual for a stun gun
4 to leave burn marks?

5 A Through clothing, that's correct.

6 Q Okay. And that stun gun would also, if it
7 was applied to the body of Mr. Cabrera, potentially
8 had had some DNA of his on it, wouldn't it?

9 A If it was directly to the skin, maybe.

10 Q Did you test it for DNA from Mr. Cabrera?

11 A I swabbed the stun gun for DNA.

12 Q Did you find any DNA?

13 A That's -- I don't do the DNA testing. I
14 collect the swabs. That's all I do.

15 Q You just take the swabs and then turn them
16 over to somebody else?

17 A It goes into property and evidence. It will
18 be up to the agency to request that any testing be
19 done.

20 Q When you did those DNA swabs and put them
21 in Property and Evidence, you don't know what
22 happened to them after that?

23 A That's correct.

24 Q Did you take any other DNA swabs, other
25 than those?

1 **A** The blood swab off of the vehicle. The
2 Mustang.

3 **Q** And I -- on the Mustang?

4 **A** Yes, sir.

5 **Q** And I'm assuming you don't know what
6 happened to that either?

7 **A** No, sir. That's correct.

8 **Q** Did you check for fingerprints on the stun
9 gun?

10 **A** Uh, no, sir. With my experience, the
11 texture of the stun gun, in my opinion, was not
12 conducive for retaining fingerprints. That's why I
13 swab for DNA only.

14 **Q** You've already said you didn't see any
15 money in the vehicle. You didn't see any money around
16 the vehicle either, did you?

17 **A** No, sir. I didn't.

18 **Q** Did you see any empty casings within -- I
19 know you didn't search the vehicle, but you did
20 observe the vehicle and you did make photos of the
21 vehicle. Did you see any empty gun casings there in
22 the floorboard or anywhere around the vehicle?

23 **A** No, sir. I did not.

24 **Q** You didn't see the gun, you didn't see any
25 bullets, you didn't see any empty casings?

1 **A** That's correct.

2 **Q** Nothing to do with the gun?

3 **A** That's correct.

4 **MR. STEELE:** That's all, Your Honor.

5 **THE COURT:** All right. Any redirect?

6 **MR. MOYER:** Just a couple of questions.

7 **REDIRECT EXAMINATION**

8 **BY MR. MOYER:**

9 **Q** As far as the money goes that you
10 photographed, you said you didn't collect it,
11 correct?

12 **A** That's correct.

13 **Q** So you don't know what denominations were
14 under the -- you could see the top of some of those
15 stacks of bills, but you don't know what the
16 denominations were underneath the initial bill, do
17 you?

18 **A** No, sir. I don't.

19 **Q** Have you ever, uh, -- have you ever had to
20 photograph somebody who's been hit with a stun gun
21 before?

22 **A** Yes, sir. I have.

23 **Q** Okay. And what kind of marks -- does it
24 always leave marks or --

25 **A** Not always. If it's through clothing, it

1 may not. If it's directly on the skin, I have seen
2 that documented, uh, those injuries. It's like little
3 circular marks on where the probes made contact. If
4 that's the case, then I would use a scale to
5 photograph that injury and then I would also scale
6 the probes on the stun gun to see if they were
7 comparable in distance.

8 **Q** And you say it depends on how long it's
9 been held --

10 **A** The longer it is put on, you're more apt to
11 receive burns from that. It's also depending on what
12 the voltage is of the stun gun.

13 **Q** Okay.

14 **MR. MOYER:** Nothing else from this
15 witness, Your Honor. Thank you.

16 **MR. STEELE:** Nothing else, Your Honor.

17 **THE COURT:** All right. Sir, you can step
18 down. Thank you.

19 **MR. MILLER:** Your Honor, at this time, the
20 State would like to read the stipulation out
21 that we discussed.

22 **THE COURT:** Certainly.

23 Ladies and Gentlemen, let me explain to you
24 what a stipulation is. A stipulation is
25 something that the parties have agreed upon that

1 is to be taken as fact by you. In other words,
2 it is something that the State would not have to
3 prove or, better said, is being proved by this
4 stipulation. Does that make sense? It's a fact
5 that they have agreed upon. All right.

6 Yes, sir.

7 **MR. MILLER:** Thank you, Your Honor.

8 The stipulation reads the defendant Steven
9 Levon Williams stipulated and admitted that he
10 was in possession of the revolver in evidence in
11 this case on June 6th, 2014.

12 **THE COURT:** We'll mark that as Court's
13 Exhibit Number 1. All right.

14 **(WHEREUPON, Court's Exhibit 1 is marked for**
15 **identification purposes.)**

16 **MR. MILLER:** At this time, the State calls
17 Juan Cabrera.

18 **THE CLERK:** Mr. Cabrera, please come up.
19 Please place your left hand on the Bible and
20 raise your right hand.

21 **JUAN CABRERA**
22 having first been duly sworn, testifies as follows:

23 **THE CLERK:** All right. Please be seated.
24 Would you please state your name for the record.

25 **THE WITNESS:** My name is Juan Ivan

1 Cabrera.

2 **DIRECT EXAMINATION**

3 **BY MR. MILLER:**

4 **Q** Pull that microphone in a little bit closer
5 to you. Can you hear me?

6 **A** Yes.

7 **Q** Where do you live?

8 **A** I live in Greenville, South Carolina.

9 **Q** Where do you work?

10 **A** I work in the tire shop on Poinsett
11 Highway. The address is 1301 Poinsett Highway.

12 **Q** Is that the tire shop that we've been
13 talking about today and going through?

14 **A** Yes, sir.

15 **Q** Okay. How long have you worked there?

16 **A** Now, it's going to be almost four years.

17 **Q** So you started four years ago. Were you
18 working there in June of 2014?

19 **A** Yes.

20 **Q** Were you working there on June 6th of 2014?

21 **A** Yes, sir.

22 **Q** Okay. I want to talk to you about the tire
23 shop just a little and get a layout. You have a laser
24 pointer up there. Push the top button. This is
25 State's Exhibit 23. Is this the tire shop?

1 **A** Yes.

2 **Q** Okay. If you could, just kind of give the
3 jury the lay of the land. Explain to them what
4 they're looking at.

5 **A** Well, here is the building of the tire
6 shop. Here is the gate, the front gate.

7 **Q** What's at the top of the gate?

8 **A** This is the name of the tire shop, of the
9 sign.

10 **Q** What's this right here at the top of the
11 gate? Is that barbed wire?

12 **A** Yeah.

13 **Q** This is State's Exhibit 24. What are we
14 looking at here, Juan?

15 **A** Well, uh, the tire shop is right here. This
16 is the building. I got some tires outside. And, well,
17 you can't see. There's a machine there. Everything is
18 here inside.

19 **Q** Okay. That was State's Exhibit 24. This is
20 State's Exhibit 25. Is this the tire shop?

21 **A** Yes.

22 **Q** Where do you work?

23 **A** I work right here in this area, but --
24 well, I work in all the area. But here on the front
25 is my area of work, this right here.

1 **Q** You said it's where you work. What do you
2 do?

3 **A** I change tires. I fix tires. I do a little
4 bit of everything.

5 **Q** How many days a week do you work?

6 **A** I work six days a week.

7 **Q** How many hours a day do you work?

8 **A** I work from Monday to Friday, from 9:00 to
9 6:00. And on Saturdays, I work from 9:00 to 2:00.

10 **Q** Is there -- what's all this over here?

11 **A** Just tires.

12 **Q** Do they go all the way to the wall?

13 **A** Yeah.

14 **Q** Okay. Do you remember Friday, June the 6th,
15 2014?

16 **A** Yes, sir.

17 **Q** Okay. What were you doing that day?

18 **A** I was working and I was ready to close the
19 shop because it was around 6:00. A few minutes before
20 6:00, I see a black Mercedes parking in the yellow
21 lines on Poinsett Highway.

22 **Q** Okay. And to give a jury an idea of that,
23 with Your Honor's permission, if you will, step down,
24 Juan.

25 **THE COURT:** Certainly. And, sir, while you

1 are down there, if you will, just speak up since
2 you won't have the microphone.

3 **THE WITNESS:** Okay.

4 **BY MR. MILLER:**

5 **Q** State's Exhibit 35. All right, Juan. First
6 of all, were you working by yourself that day?

7 **A** Yes, sir.

8 **Q** Okay. Where is the tire shop on there?

9 **A** Right here.

10 **Q** All right. Is this the fence we were
11 looking at before?

12 **A** Yes.

13 **Q** You mentioned you saw a black Mercedes
14 earlier. Where did you see it?

15 **A** I see the first time right here in between
16 the yellow lines on Poinsett Highway.

17 **Q** Did you see anybody in the Mercedes?

18 **A** Yeah.

19 **Q** Who'd you see?

20 **A** I see two black males.

21 **Q** Two black males?

22 **A** Yes.

23 **Q** Okay. Thanks, Juan. Juan, this is State's
24 Exhibit 4. You recognize this car?

25 **A** Yes.

1 **Q** Is that the black Mercedes that you were
2 just talking about?

3 **A** Yeah. Same car.

4 **Q** Same car? All right. You said you saw that
5 car before you were closing up. Around what time were
6 you closing?

7 **A** I was closing around 6:00. But the first
8 time, when I seen the black car was maybe 10 minutes
9 before 6:00.

10 **Q** When did you see it again?

11 **A** Like around 6:00.

12 **Q** Okay.

13 **A** When I was ready to close the shop, then
14 they pull up inside into a tire shop.

15 **Q** Were there any customers there when they
16 pulled up?

17 **A** Nobody. Just the two black males and me.

18 **Q** Okay. Where were you standing?

19 **A** (Reviewing.)

20 **Q** Can you see it up here or you need this
21 one?

22 **A** That one's fine. I was right here.

23 (Indicating.) Talking on the phone. After that, I see
24 the black car pull up into the tire shop and is when
25 I hang up the phone. And I ask him, like, can I help

1 you or do you need tires?

2 **Q** You see the person in the courtroom that
3 you asked?

4 **A** Yes, sir.

5 **Q** Who is that?

6 **A** It's right here.

7 **Q** That the defendant in the green shirt?

8 **A** Yes, sir.

9 **Q** Okay. So you asked them if you could help
10 them.

11 **A** Yeah.

12 **Q** Did they need any help?

13 **A** Well, when I ask him can I help you and
14 something he responded to me, give me the money. And
15 I tell him no. He respond again, give me the fucking
16 money. And I tell him no. Is this a joke or what?
17 And is when the second suspect, the other black male
18 with the stun gun, he put it on me.

19 **Q** Juan, you said the stun gun. Is this the
20 stun gun?

21 **A** Yeah, that's the same.

22 **Q** That's the stun gun that the other person
23 pulled out?

24 **A** Yes, sir.

25 **Q** All right. Keep telling the jury what was

1 going on.

2 **A** When he used the stun gun on me, I jumped
3 back. I can see the other black male. He pulled a
4 black revolver from his pants and he put it to me.
5 And he said give me the fucking money.

6 **Q** Okay. Let me stop you right there. You said
7 he used the stun gun on you, were you wearing any --
8 were you wearing a shirt?

9 **A** Shirt, yeah. A black shirt.

10 **Q** Was it a good hit with the stun gun?

11 **A** Kinda but I jumped back.

12 **Q** Okay. You said there was a black revolver.
13 Who pulled out the black revolver?

14 **A** The man who's right here.

15 **Q** The defendant did?

16 **A** Yes, sir.

17 **Q** He's the one that told you to give the
18 money?

19 **A** Yes.

20 **Q** I'm going to try to hold this up. You
21 recognize this, Juan?

22 **A** Yes, sir.

23 **Q** What is it?

24 **A** That is the same gun he used to rob me and
25 the same gun he used to hit me in my head.

1 **Q** Okay. All right. I believe we left off
2 where you said he pulled the gun on you and said,
3 give me the fucking money. What happened after that?

4 **A** After that, I tried to go back to the
5 building because they tried to push me back. I was in
6 the middle of the building. And I decide give the
7 money because he put the gun on me, in my face.

8 **Q** How much money was it?

9 **A** \$150.

10 **Q** How did you give it to him?

11 **A** I take my money from my pocket and I tell
12 him okay, you want my money, take it. I throw it in
13 the air.

14 **Q** What kind of bills did you have?

15 **A** I got ones, fives and maybe two or three
16 20s, but most, like, ones, fives.

17 **Q** State's Exhibit 32, do you recognize this,
18 Juan?

19 **A** Yes, sir.

20 **Q** What is it?

21 **A** This is the part of the money I throw into
22 the air.

23 **Q** State's Exhibit 31. You recognize that?

24 **A** Yeah, that's the same thing. That's part of
25 the money.

1 **Q** Okay. Do you usually leave money laying
2 around the shop?

3 **A** No, sir. Never.

4 **Q** After you threw the money, did anything
5 happen?

6 **A** Yes. The black male who have the stun gun,
7 he push me to the back. He start hitting me. We start
8 fighting. He push me into the ground. We keep
9 fighting. I don't know how happened, but I flipped
10 over. I put him on the ground and I hit him a few
11 times. But maybe a few seconds later, I can feel like
12 somebody hitting me from the back. When I threw my
13 face, I could see the black male with the gun hit me
14 from the back.

15 **Q** Where?

16 **A** In my back and my head.

17 **Q** Okay.

18 **A** Okay.

19 **Q** What did he hit you with?

20 **A** He hit me with the gun.

21 **Q** The gun?

22 **A** Yes.

23 **Q** Okay. Did you see either one of them pick
24 up the money you threw?

25 **A** Yes. When I threw the money into the air,

1 the black male with the gun, he had start taking the
2 money. The other black male with the stun, we start
3 fighting.

4 Q So the defendant, Steven Williams was
5 picking up the money?

6 A Yes, sir.

7 Q Okay. All right. So you're hit in the head
8 with the gun. Where else did you get hit?

9 A My neck, my back, in my face right here.
10 (Indicating.)

11 Q Is that this injury, State's Exhibit 16?

12 A Yeah. Yes.

13 Q Okay. State's Exhibit 17?

14 A Yeah, that's the scratches on my neck.

15 Q State's Exhibit 18?

16 A Yes, sir.

17 Q State's Exhibit 19. Did you have any of
18 those injuries before June 6th of 2014?

19 A No, sir.

20 Q All right. We left it off that you were
21 being hit in the head with the gun. Pick up the story
22 from there. If you will, just continue on with what
23 happened after that.

24 A Okay. After that, uh, the black male with
25 the gun, he go back to his car. And the second one

1 with the stun gun, he tried to leave the shop. I use
2 like a piece of metal to hit him because I feel mad,
3 upset with him. Because if somebody come to your job
4 or house and try to take your money, it's not right.

5 Q Did they leave?

6 A They leave and after --

7 Q How did they leave?

8 A Well, when they get out from the shop, they
9 go inside into the black Mercedes and they left.

10 Q Did you see who got in the driver's seat?

11 A Yes.

12 Q Who got in the driver's seat?

13 A In the driver's seat was the man with the
14 gun. He was wearing a black shirt.

15 Q Is that the defendant?

16 A Yeah. That's the man who's right here.

17 Q I'm handing you State's Exhibit 2, which
18 has been admitted into evidence. Do you recognize
19 this?

20 A Yes, sir.

21 Q Okay. Did you initial it?

22 A Yes.

23 Q Did you review it?

24 A Yes, sir.

25 Q What is it?

1 **A** That's a copy of the video from the
2 security camera from next door, from the building
3 next door.

4 **MR. MILLER:** May I publish to the jury at
5 this time?

6 **THE COURT:** Certainly.

7 **(WHEREUPON, State's Exhibit 2 is played for the**
8 **jury.)**

9 **BY MR. MILLER:**

10 **Q** Is that the Mercedes, Juan?

11 **A** Yes, sir.

12 **Q** Is that the same Mercedes you saw in
13 between the yellow lines earlier?

14 **A** Yes, that's the same car.

15 **Q** Juan, you ever seen either one of the two
16 guys who robbed you before?

17 **A** No, sir.

18 **Q** Okay. When you say \$150, is that exact or
19 is that the best you remember?

20 **A** I remember it was \$150.

21 **Q** Okay.

22 **(WHEREUPON, State's Exhibit 2 continues playing.)**

23 **BY MR. MILLER:**

24 **Q** Juan, is that the defendant in the black
25 shirt there?

1 **A** Yes. That's him right here.

2 **(WHEREUPON, State's Exhibit 2 continues playing.)**

3 **BY MR. MILLER:**

4 **Q** Is that you, Juan?

5 **A** Yes, sir.

6 **Q** What were you doing right there?

7 **A** Uh, just trying to get some help. Yeah.

8 **Q** Did you have your phone on you?

9 **A** Uh, no, sir. I have it but I left it inside
10 in the shop. But when that happened, you know...

11 **Q** I understand. Is that them driving off?

12 **A** Yes.

13 **Q** Is that you?

14 **A** Yes, sir.

15 **(WHEREUPON, State's Exhibit 2 concludes.)**

16 **BY MR. MILLER:**

17 **Q** Juan, I want to show you another picture
18 and then we'll move on and go back just a little bit.
19 You recognize this?

20 **A** Yes.

21 **Q** This is State's Exhibit 27. What is this
22 right here?

23 **A** Looks like --

24 **Q** Here's a better picture for you.

25 **A** That's the stun gun.

1 **Q** In this picture, Juan, State's Exhibit 27,
2 you usually have tires sitting around like this?

3 **A** Yes.

4 **Q** Okay.

5 **A** Well, normally, this happened because of
6 this when they rob me.

7 **Q** What do you mean that happened because of
8 when they robbed you?

9 **A** Yeah. Because we supplied in this area. And
10 the black male with the stun gun, he was taking the
11 tires and threw it at me.

12 **Q** Threw the tires at you?

13 **A** Yes.

14 **Q** Okay. The car we saw you drive off in,
15 State's Exhibit 3, is that the same car you drove off
16 in?

17 **A** Yes, sir.

18 **Q** Okay. Is that your car?

19 **A** Yes.

20 **Q** Okay. Is this the door handle of your car,
21 State's Exhibit 13?

22 **A** Yes, sir.

23 **Q** What's this right here?

24 **A** Some blood came off from my head.

25 **Q** Was that blood there before June 6th of

1 2014?

2 **A** No, sir.

3 **Q** Okay. Juan, I'm going to ask you to come
4 down, again, with the Court's permission.

5 **THE COURT:** Certainly.

6 **BY MR. MILLER:**

7 **Q** This is State's Exhibit 34.

8 **A** This is the car shop right here.

9 **Q** Do you recognize this area?

10 **A** Yes.

11 **Q** Is this accurate?

12 **A** Yes.

13 **Q** Now, after you both drove off, tell the
14 jury where you went.

15 **A** I make a right.

16 **Q** If you can step back just a little bit so
17 we can make sure all the jurors can see.

18 **A** I make a right here on Fair Street. I stop
19 right here to ask -- I asked a lady to help me, if
20 she could call the police. And I keep going. I make a
21 stop right here. I asked the lady, do you see a black
22 Mercedes pass around here. She said yeah, they make a
23 right. I stop right here. I ask the lady. She was
24 driving a moped, if she seen a black Mercedes. She
25 said yeah, they make a right on...

1 **Q** You know the street name you're looking
2 for?

3 **A** Yes.

4 **Q** What street name you looking for?

5 **A** (Reviewing.)

6 **Q** Juan, did you give a statement in this
7 case?

8 **A** Yes.

9 **Q** If I showed you your statement, would you
10 recognize it?

11 **A** Yes, sir.

12 **Q** If you looked over your statement and read
13 it, would that help refresh your memory?

14 **A** Yes.

15 **Q** You want to step up here and take a look
16 over it?

17 **A** (Reviewing.)

18 **Q** Is that your statement?

19 **A** Yes.

20 **Q** Okay. Just take a minute. Take a look at
21 it. Get your memory refreshed. Let us know.

22 **A** (Reviewing.)

23 **Q** Juan, I'm going to read part of your
24 statement to you.

25 **A** Okay.

1 **Q** Read it along with me and make sure I read
2 it correctly. All right. Start right here. They pull
3 it out of the lot --

4 **MR. STEELE:** Excuse me. Your Honor, I
5 object to the lawyer reading it. This gentleman
6 can read it. He wrote it. I don't think the
7 lawyer ought to read it to him.

8 **MR. MILLER:** That's fine.

9 **BY MR. MILLER:**

10 **Q** I was going to direct you to the area of
11 the statement where you described that the chase
12 happened.

13 **THE COURT:** All right. Let's let him read
14 through it and see if he can...

15 **THE WITNESS:** When they pull out of the,
16 uh, -- of the lot -- I can't read it.

17 **MR. STEELE:** I can't hear him, Your Honor.

18 **THE COURT:** I think he said he can't read
19 what's written in a certain place.

20 **THE WITNESS:** When they pull out of the
21 lot, I run to my car and they pull -- they pull
22 onto Poinsett Highway. And they turn a right
23 onto Fair Street. I follow them onto Fair
24 Street. I make a right on First Avenue.

25 **BY MR. MILLER:**

1 **Q** This is page 2. That's page 1.

2 **A** When they make a right on First Avenue,
3 they make a left onto Old Buncombe Road. I can't read
4 this right here.

5 **MR. MILLER:** Your Honor, can we stipulate
6 to what it says?

7 **MR. STEELE:** This is the examination of
8 this witness.

9 **THE WITNESS:** Or I can explain you better
10 if you want with map.

11 **MR. MILLER:** Okay.

12 **THE WITNESS:** Okay.

13 **THE COURT:** He's just having trouble
14 reading the handwriting.

15 **MR. MILLER:** He didn't write. I just
16 didn't want to read it into the record.

17 **MR. STEELE:** But it's his statement.

18 **THE COURT:** Right.

19 **MR. MILLER:** Yes.

20 **MR. STEELE:** Presumably, he'd be familiar
21 with his statement.

22 **THE COURT:** All right. If you want to --
23 if you feel like you can explain it better ---

24 **THE WITNESS:** Yeah.

25 **THE COURT:** --- stepping down, then do

1 that.

2 **THE WITNESS:** Okay. When they left the
3 shop, they make a left on Fair Street. And I
4 stop right here for some help. I asked the lady
5 please help me, somebody rob me, can you call
6 the police. And I kept going. And here on First
7 Avenue, I stopped this right here for ask for
8 some help. I asked a lady who was riding a
9 moped. I asked her if she saw a black Mercedes.
10 She say yes. They just passed right here on
11 First Avenue. And I make a right on First Avenue
12 and I keep going this way here.

13 Here, here is Old Buncombe Road. I stop
14 right here. The black males was here waiting for
15 make a left on Old Buncombe Road. When they made
16 a left here, I made a left here. When he's
17 sitting in the mirror, he started driving fast.
18 I decide to hit him to make him stop. I was mad.
19 They have to pay for what they did. So he keep
20 driving fast. Right here, on Morris Street, he
21 tried to make a right. That is when he hit the
22 telephone pole.

23 **BY MR. MILLER:**

24 **Q** All right. Take a seat again, Juan.

25 **A** (Witness complies.)

1 Q Juan, are you nervous?

2 A Uh, a little bit.

3 Q Is that as best you could remember it?

4 A (Nods head.)

5 Q When you turned left onto Old Buncombe,
6 you're on Old Buncombe, did anything happen with the
7 car in front of you?

8 A Yeah.

9 Q You said you bumped them. Did anything else
10 happen?

11 A After I hit his car, he shoot me with the
12 gun.

13 Q Did the bullet actually hit you?

14 A Well, he shoot me, but I escape.

15 Q Juan, did the bullet that was fired hit
16 you?

17 A No, no, no. Don't hit me, but I can hear
18 when he shoot the gun.

19 Q Who shot at you?

20 A The man who is right here.

21 Q The defendant?

22 A Yes, sir.

23 Q Okay. Is that before or after he drove his
24 car into the pole?

25 A That happened before he hit the telephone

1 pole.

2 Q Okay.

3 A That happened after I hit his car.

4 Q Okay. All right. After he drove into the
5 telephone pole, what did you do?

6 A I stop right there for 10 seconds. And I
7 decide to find somebody to call the police. I left
8 the scene and I find maybe less than a mile, that's a
9 little plaza close to there, to the accident. I stop
10 there. And I ask somebody if they could call the
11 police, make the report of the accident.

12 Q Okay.

13 A And after that, I decide to go back to the
14 tire shop. And that's when I found the two police
15 officers.

16 Q Not at the tire shop, but on your way back?

17 A Yes, on the way back.

18 Q Okay.

19 A And I stop there and I explain to them what
20 happened.

21 Q Uh-huh.

22 A And a few minutes later, he take me back to
23 the scene to recognize the man who rob me and the man
24 who use the gun to rob me and the one who shot me
25 with the gun.

1 **Q** Did you see that man at the scene?

2 **A** Yes.

3 **Q** Okay. How certain are you that that was the
4 man?

5 **A** 100 percent.

6 **Q** Okay. How about today? You said that's him.
7 How certain are you today?

8 **A** Yeah.

9 **Q** Still 100 percent?

10 **A** Yes, I'm 100 percent it's him.

11 **Q** Juan, at any time during all these events,
12 were you ever scared? Did you ever feel fear?

13 **A** I fear for my life to be honest with you
14 because I know that the second suspect is gone,
15 right? And I fear for my life because I feel like
16 somebody's going to come to my job and do something
17 to me. Yes. And you never know.

18 **Q** Juan, if you will, answer any questions Mr.
19 Steele may have.

20 **A** All right.

21 **THE COURT:** I'll tell you what, Mr.
22 Steele, before you begin your examination, let's
23 be in recess for 10 minutes. Ladies and
24 Gentlemen, if you'll just step to your jury
25 deliberation room for just a moment. And again,

1 I know I sound like a broken record. Please
2 don't discuss the case with anyone. Thank you.

3 If everybody will just stay seated until
4 they leave.

5 **(WHEREUPON,** the jury exits at approximately
6 11:08 a.m.)

7 **THE COURT:** All right. We're in recess for
8 10 minutes.

9 Except, sir, you can't discuss your
10 testimony with anyone. But if you need to take a
11 break, you can. If you want to step to the
12 restroom, you can, but you can't discuss your
13 testimony. Okay.

14 All right. In recess for 10 minutes.

15 **(WHEREUPON,** a short recess is taken.)

16 **THE COURT:** Mark, before you go out there,
17 let's talk about something. I know that Mr.
18 Steele wants to ask a question for proffer. And,
19 you know, I don't know if you want to have a
20 minute to talk to the victim on this case just
21 to let him know. He probably needs to be advised
22 of his rights about answering that question. I'm
23 not going to let him answer it in front of the
24 jury, but he probably needs to be advised of his
25 rights about that. I'm happy to do it on the

1 record if you want me to do it. Or if you'd like
2 to speak with him or if you -- whatever you want
3 to do.

4 **MR. MOYER:** What is the question?

5 **THE COURT:** I think the question is, is he
6 a legal -- is he here in this country illegally.

7 **MR. STEELE:** Your Honor, here's a
8 suggestion ---

9 **THE COURT:** Yes, sir.

10 **MR. STEELE:** --- to the Court and to the
11 government, of course. We can do it right now. I
12 would say on the record that if it had not been
13 ruled inadmissible, then I would ask Mr. Cabrera
14 is he in this country legally and does he have a
15 green card and leave it at that.

16 **THE COURT:** All right. So you don't want
17 him to answer that question?

18 **MR. STEELE:** I don't require him to
19 answer.

20 **THE COURT:** Okay. If you don't require him
21 to answer that question, then that's perfectly
22 fine. I apologize. I thought you wanted to put
23 him on the stand and proffer the answer. All
24 right.

25 All right. You can go ahead and get him.

1 You don't need to talk to him about anything.

2 (WHEREUPON, there is a pause.)

3 **THE COURT:** All right. We're ready to
4 bring the jury back in?

5 **MR. MILLER:** Yes, Your Honor.

6 **MR. STEELE:** Yes, Your Honor.

7 **THE COURT:** All right.

8 If there's no objection, we're going to,
9 for the time being, lock this taser up in the
10 closet. They've looked at it and can't figure
11 out how to take the batteries out.

12 **MR. MOYER:** Okay.

13 (WHEREUPON, the jury enters at approximately
14 11:21 a.m.)

15 **THE COURT:** All right.

16 Ladies and Gentlemen, I know there had been
17 some concern about the taser in this case. I
18 will let you know that we have now secured that.
19 We've put it up so it's not out. Nobody can
20 inadvertently touch it or anything. Okay.

21 All right. Thank you for calling that to
22 our attention.

23 Yes, sir.

24 **MR. STEELE:** May it please the Court?

25 **THE COURT:** Yes, sir.

1 **MR. STEELE:** I'm going to go up here with
2 the witness.

3 **THE COURT:** Certainly.

4 **CROSS-EXAMINATION**

5 **BY MR. STEELE:**

6 **Q** I'm going to ask you to look on with me, if
7 you will, please. Look on with me, sir. I'm going to
8 read something to you. You've been in the court the
9 whole time --

10 **MR. MILLER:** Objection, Your Honor. If
11 he's trying to impeach him on something, first,
12 he needs to set the grounds for impeachment and
13 also what document he's using and reading from.

14 **MR. STEELE:** Well, I was going to tell
15 him.

16 **THE COURT:** All right. Well, why don't you
17 go ahead and tell him now what you're --

18 **MR. STEELE:** This is the report of Officer
19 George --

20 **MR. MOYER:** Your Honor, we object to him
21 -- he can't be impeached on somebody else's
22 statement.

23 **MR. STEELE:** Well, this is actually a
24 report quoting --

25 **MR. MOYER:** I --

1 **THE COURT:** Will y'all approach just for a
2 moment.

3 **(WHEREUPON, a bench conference is held off the**
4 **record.)**

5 **THE COURT:** All right.

6 **BY MR. STEELE:**

7 **Q** When you, uh, -- who did you say -- which
8 one of the two men did you say robbed you and
9 actually picked up the money?

10 **A** The man with the gun.

11 **Q** Are you saying it was Mr. Williams?

12 **A** Yes, sir. Same man right here.

13 **Q** Now, they didn't get all your money, did
14 they?

15 **A** Well, some money -- he left some money on
16 the shop like you see on the pictures.

17 **Q** Well, not only that, but didn't you hold
18 back \$250?

19 **A** \$150.

20 **Q** How much did you hold back and not give
21 them?

22 **A** Can you explain me?

23 **Q** Yes, I can. Did you have some money that
24 you did not give them? I'm not talking about --

25 **A** Yes.

1 Q You see what I'm asking?

2 A Yes, sir.

3 Q Is that right? Did you?

4 A Yes.

5 Q How much?

6 A I have in my wallet more money. I don't
7 remember. It was between \$250-350.

8 Q So they didn't get that money?

9 A No, they don't get that money.

10 Q And they didn't make any effort to get your
11 wallet or go in your pocket or anything?

12 A Well, they don't search me.

13 Q They didn't search you for the rest of your
14 money?

15 A No.

16 Q So you were able to keep that?

17 A Yeah.

18 Q Did you have a gun that day?

19 A No, sir.

20 Q Did you ever -- well, you didn't have a
21 gun, so you never fired a gun that day?

22 A No.

23 Q The only man, according to your testimony,
24 with the gun is Mr. Williams? That's the only gun you
25 saw other than the stun gun?

1 **A** Yes.

2 **Q** Is that correct?

3 **A** Yes.

4 **Q** You never did see Leviticus Young with a
5 gun, is that right?

6 **A** No. Well, he only had the stun gun.

7 **Q** That's right. You only saw him with the
8 stun gun.

9 **A** No.

10 **Q** You never did call 911, did you?

11 **A** No, sir.

12 **Q** And you had your phone with you there at
13 the shop?

14 **A** Yes.

15 **Q** But when you got in your automobile to
16 chase them, you left it at the shop?

17 **A** I left my cell phone in the shop.

18 **Q** But you could have called 911 from right
19 there in the shop before you left, is that correct?

20 **A** Yes.

21 **Q** You could have, but you did not.

22 **A** Yes, I don't call the police. Because I
23 want to be honest with you, if I called the police,
24 they never want to catch them. That's why I decide
25 chasing them. Okay.

1 **Q** So what you're telling me is your decision
2 not to call law enforcement was a conscious decision
3 on your part. In other words, you decided not to call
4 them because they don't ever try to catch them?

5 **A** No, no, no. I decided chasing them and then
6 try to make them stop and then call the police.

7 **Q** I think I heard your answer. You don't call
8 law enforcement because you thought it was better to
9 chase them, that would be a good way to put it,
10 right?

11 **A** Well, at that moment, I can't find my cell
12 phone.

13 **Q** It was there in the shop?

14 **A** It was in the shop.

15 **Q** You know that?

16 **A** Yeah.

17 **Q** But your testimony is you didn't call law
18 enforcement because you thought it was better to
19 chase after them?

20 **A** No, no, no. You don't understand.

21 **Q** Well, go ahead then. I'll listen.

22 **A** I don't call the cops because I can't find
23 my cell phone in that moment. And then I decided,
24 okay, I have to chasing them. Try to make them stop.
25 If I wait, find my cell phone and I call the police,

1 the police don't want to find them.

2 Q The police don't want to find them?

3 A They don't want to find them.

4 Q Okay.

5 A Cause I can't tell them what, uh, the tag
6 number. I can tell them was two black males, was a
7 black Mercedes, but I don't know the tag number.

8 Q You don't know what?

9 A The tag number, yeah.

10 Q Did I just hear you say the police don't
11 want to find them?

12 A He's no want to find them, yeah.

13 Q Okay. In fact, you never did call 911 that
14 day at all, did you?

15 A No, but I ask two people.

16 Q You asked some other people. But you
17 personally never did?

18 A I never did because I don't have the cell
19 phone, sir.

20 MR. STEELE: Can I have a moment, Your
21 Honor?

22 THE COURT: Certainly.

23 (WHEREUPON, there is a pause.)

24 MR. STEELE: That's all for cross-
25 examination.

1 **THE COURT:** All right. Anything else for
2 this witness?

3 **MR. MILLER:** No, Your Honor.

4 **THE COURT:** All right. Sir, you can step
5 down.

6 **MR. MOYER:** The State calls Dana Lewis to
7 the stand.

8 **THE CLERK:** Ma'am, if you will, please
9 come forward. Please place your left hand on the
10 Bible and raise your right hand.

11 **DANA LEWIS**
12 having first been duly sworn, testifies as follows:

13 **THE CLERK:** Please be seated. Would you
14 please state your name for the record.

15 **THE WITNESS:** Sergeant Dana Lewis.

16 **DIRECT EXAMINATION**

17 **BY MR. MOYER:**

18 **Q** Okay. Where are you employed?

19 **A** Greenville County Detention Center.

20 **Q** What is your position?

21 **A** I'm the population manager and keeping the
22 records straight at the jail, jail records.

23 **Q** How long have you worked there?

24 **A** 22 years.

25 **Q** What are your duties in that position, in

1 your position at the Greenville County Detention
2 Center?

3 **A** I have to make sure all the court paperwork
4 matches up with our computer records and all our
5 records stay straight and all the inmates'
6 information is correct, and right before we release
7 them or send them to the Department of Corrections or
8 even before then as we book them in.

9 **Q** Well, were you given a summons to appear in
10 court today with a record?

11 **A** Yes.

12 **Q** And what is that particular record that you
13 were asked to bring with you?

14 **A** The inmate's property record.

15 **Q** For?

16 **A** Uh, --

17 **Q** What inmate?

18 **A** Steven Williams.

19 **Q** Okay. And what is an inmate property
20 record?

21 **A** It's a form that our officers and property
22 clerks fill out that inventories all the property
23 that came into jail with them, meaning their personal
24 belongings, anything in their pockets, clothing, that
25 kind of thing. So it's a record of everything they

1 have so that when we release them, they get it all
2 back.

3 Q Okay. And tell us how that property record
4 is taken and, uh, who takes it and things like that.

5 A When the arresting agency brings them to
6 jail, there's what we call a change of custody. We
7 send our search officer out. The inmates are searched
8 and their property is taken. Once that process
9 finishes, they move them into the booking area, our
10 officer does, the search officer does. The search
11 officer will record on the property record anything
12 that had -- they had in their pockets, jewelry, cell
13 phones, things of that nature, anything like that, it
14 gets inventoried on this property record.

15 All of that property goes into a sealed
16 plastic baggie that has a control number on it. It's
17 placed with the inmate's paperwork, their court
18 paperwork, things like that that they are coming into
19 jail for. After they are booked in, all that property
20 goes back to the property clerk so that when the
21 inmate comes around to change clothes into a
22 jumpsuit, then the property clerk at that point
23 finishes inventory and everything that was in the
24 bag, all of their clothing and gets the inmate to
25 sign it that yes, this is correct, this is what I had

1 on me. Then it gets put in our property room in the
2 secure area so it gets sealed up in a bag.

3 Q Okay. Now, is that particular record kept
4 and preserved by the Greenville County Detention
5 Center?

6 A Yes.

7 Q How was it kept and how was it preserved?

8 A One copy goes with his actual property bag
9 that's got all his property. It gets sealed in the
10 bag with the tag. That tag's got a number on it so
11 that we know if it's ever been opened or tampered
12 with. It's sealed in the bag, the original copy. The
13 second copy, one is given to the inmate. Another copy
14 is put in the inmate's booking folder which is where
15 all their court paperwork goes.

16 Q Do you know how long the record is kept?

17 A It's kept while they are in jail; and then
18 after, it goes into a permanent record. And those
19 records, I'm not real sure. Sometimes up to 25 or 30
20 years, they are kept.

21 Q So they are kept in the course of regularly
22 conducted business activity?

23 A Yes.

24 Q It's a regular practice of the detention
25 center to make and keep those records?

1 **A** Yes.

2 **Q** Do you have access to the records as a
3 regular and normal function of your job?

4 **A** Yes.

5 **(WHEREUPON, State's Exhibit 38 is marked for**
6 **identification purposes.)**

7 **BY MR. MOYER:**

8 **Q** I'm going to hand you what's been marked as
9 State's Exhibit 38. Do you recognize that?

10 **A** Yes.

11 **Q** What is that?

12 **A** This is the inmate property record for
13 Steven Williams.

14 **Q** Okay. And is that an exact and accurate
15 copy of inmate Steven Williams' inmate property
16 record?

17 **A** Yes.

18 **Q** What is the date for that?

19 **A** 6/6/2014.

20 **Q** And it's not been changed or altered in any
21 way?

22 **A** No.

23 **MR. MOYER:** Your Honor, at this time, I
24 move that State's Exhibit 38 is entered into
25 evidence.

1 **THE COURT:** Any objection?

2 **MR. STEELE:** None.

3 **THE COURT:** All right. It is so admitted.

4 **(WHEREUPON, State's Exhibit 38 is admitted into**
5 **the record.)**

6 **BY MR. MOYER:**

7 **Q** Okay. So that's -- State's Exhibit, 38
8 again, is an inmate property record for the
9 defendant, Steven Williams, when he was booked into
10 the detention center?

11 **A** Yes.

12 **Q** And what was the date again?

13 **A** 6/6/2014.

14 **Q** June 6th of 2014?

15 **A** Yes.

16 **Q** Did he sign the form?

17 **A** Yes.

18 **Q** Why is the form signed?

19 **A** The inmate has to sign the form to confirm
20 that they review it and make sure that all the stuff
21 is correct. If they feel like there's any
22 discrepancies, they can voice it at that time. Then
23 they sign it agreeing that it's all correct.

24 **Q** And what -- did he date it when he signed
25 it?

1 **A** Yes.

2 **Q** What was the date?

3 **A** 6/6.

4 **Q** Okay. And so what property was taken from
5 him and stored on that particular day?

6 **A** One pack of cigarettes; a cell phone; two
7 shoes, they were black, white, brown; one black
8 shirt; one black pants; one brown belt; one gray
9 shorts; and one lighter.

10 **Q** Okay.

11 **A** And he had money of \$130.79.

12 **Q** When you say money, that was --

13 **A** Cash on him was \$100.79. Excuse me.
14 \$130.79.

15 **Q** Okay. And did he have a wallet?

16 **A** No.

17 **Q** If he had one, that would have been checked
18 on the form?

19 **A** Yes.

20 **Q** Okay. Nothing further for this witness.

21 **THE COURT:** Okay.

22 **CROSS-EXAMINATION**

23 **BY MR. STEELE:**

24 **Q** Of course, you don't know where that money
25 came from, do you?

1 **A** No.

2 **Q** Would it be policy of the sheriff's
3 department in cases of armed robbery that if money
4 was recovered from armed robbery, that money would be
5 taken and placed in Property and Evidence, wouldn't
6 it?

7 **A** I'm not sure. I don't work for the
8 sheriff's office so I don't know what their policy
9 is.

10 **Q** It wouldn't be put into the detention
11 center money?

12 **A** Money that's given to us, we don't question
13 where it came from. They just give it to us and we
14 inventory it and put it in the safe.

15 **Q** But there is a place called Property and
16 Evidence where they keep evidence that's related to
17 offenses, isn't that right?

18 **A** Yes.

19 **MR. STEELE:** That's all, Your Honor.

20 **THE COURT:** All right.

21 **MR. MOYER:** Nothing further, Your Honor.

22 **THE COURT:** Ma'am, you can step down.

23 Thank you.

24 **MR. MOYER:** At this time, the State rests.

25 **THE COURT:** All right. Ladies and

1 Gentlemen, we've now come to a point where we
2 need to take a short break so I can take up a
3 legal matter with the parties. If you will, step
4 to your jury deliberation room, then we'll be
5 back with you very shortly. All right. Thank
6 you.

7 **(WHEREUPON,** the jury exits at approximately
8 11:29 a.m.)

9 **THE COURT:** All right. Mr. Steele, is
10 there anything we need to take up?

11 **MR. STEELE:** Yes, Your Honor.

12 **THE COURT:** Yes, sir.

13 **MR. STEELE:** I would, at this time, make a
14 motion for directed verdict of not guilty based
15 upon the fact that the evidence taken in the
16 light most favorable to the State does not
17 establish that a reasonable juror, sincerely
18 motivated, could reach a conclusion that Mr.
19 Williams is guilty beyond a reasonable doubt. On
20 those grounds, I would ask for directed verdict
21 of not guilty.

22 **THE COURT:** All right. All right. Thank
23 you.

24 Mr. Miller, anything?

25 **MR. MILLER:** Your Honor, in response to

1 Mr. Steele's motion, we believe that each
2 element -- there is evidence to support each
3 element of each crime that has been alleged
4 against Mr. Williams. Again, it's not the weight
5 of the evidence, just if there's any existence
6 at all of the evidence. The testimony of all the
7 witnesses presented as well as the photographs
8 and physical evidence that was produced, we
9 believe there's evidence to support each element
10 of each crime.

11 **THE COURT:** I believe at least one
12 interpretation of each piece of evidence could
13 support a verdict in this case -- without
14 commenting on the weight of that, uh, it could
15 support a verdict in this case. Therefore, I
16 would respectfully deny your motion at this
17 time.

18 Anything else we need to take up before I
19 speak with him about whether or not he intended
20 to testify?

21 **MR. STEELE:** One other thing, Your Honor.

22 **THE COURT:** Yes, sir.

23 **MR. STEELE:** I had attempted to cross-
24 examine Mr. Cabrera regarding some statements
25 that he gave to law enforcement.

1 **THE COURT:** Yes.

2 **MR. STEELE:** And Your Honor ruled against
3 me. I would just like the record to reflect that
4 I did proffer that question. It was objected to
5 and Your Honor sustained my objection. I want to
6 preserve that as a proffer.

7 **THE COURT:** It is certainly, uh,
8 preserved. I will, uh, -- just to be a little
9 clearer, it was a statement from an officer's
10 report while questioning the alleged victim in
11 this case, Mr. Cabrera. It was asking him about
12 statements in that report. All right. Anything
13 else?

14 **MR. STEELE:** No, ma'am. We are ready for
15 you to conduct the voir dire of Mr. Williams
16 regarding his decision to testify ---

17 **THE COURT:** All right.

18 **MR. STEELE:** --- or not.

19 **THE COURT:** Mr. Williams, will you please
20 stand and raise your right hand?

21 **(WHEREUPON, the defendant is first duly sworn.)**

22 **THE COURT:** Okay. You can put your hand
23 down. I need to ask you -- we spoke yesterday
24 about whether or not, uh, -- or I spoke with you
25 yesterday to let you know that I'd be asking you

1 some questions about whether or not you intended
2 to testify in the trial of this case. At that
3 time, I also asked the State to inform you of
4 any convictions that they intended to use for
5 impeachment purposes against you. We went
6 through those, I believe, on the record. Have
7 you discussed with your attorney whether or not
8 you intend to testify in the trial of this case?

9 **MR. WILLIAMS:** (No audible response.)

10 **THE COURT:** And if you need more time to
11 speak with him, that's perfectly fine.

12 **(WHEREUPON, Mr. Steele consults with the**
13 defendant.)

14 **MR. WILLIAMS:** Yes, ma'am.

15 **THE COURT:** All right. And you've had
16 enough time to discuss that decision with him?

17 **MR. WILLIAMS:** Yes, ma'am.

18 **THE COURT:** Now, I informed you yesterday
19 that this has to be your decision. While you
20 will want to listen to your attorney, and he is
21 an outstanding attorney, you'll want to listen
22 to him on this matter, it ultimately has to be
23 your decision. You understand that?

24 **MR. WILLIAMS:** Yes, ma'am.

25 **THE COURT:** All right. You understand that

1 you have an absolute right to remain silent
2 about this matter. In fact, I will instruct the
3 jury that they could not discuss in any way, it
4 could not be held against you, it couldn't even
5 be brought up in the jury deliberation room that
6 you did not testify in the trial of this case.
7 On the other hand, this is your opportunity to
8 tell your side of the story if you so choose in
9 court during the trial of this case. Are you
10 under the influence of drugs or alcohol here
11 today? I had to ask you that earlier; I have to
12 ask you again.

13 **MR. WILLIAMS:** No, ma'am.

14 **THE COURT:** And has anyone forced you into
15 this decision in any way?

16 **MR. WILLIAMS:** No, ma'am.

17 **THE COURT:** Has anybody promised you
18 anything to get you to make this decision here
19 today?

20 **MR. WILLIAMS:** No, ma'am.

21 **THE COURT:** And tell me this, what is your
22 decision? Do you intend to testify in the trial
23 of this case?

24 **MR. WILLIAMS:** This is my lawyer. He
25 instructed me not to testify. But I'm really

1 sort of --

2 **THE COURT:** Okay. Let's talk abo --

3 **MR. WILLIAMS:** I'm sort of conflicted
4 because there's a lot of things coming at me,
5 you know what I'm saying? A lot of people saying
6 things and this and that. We don't really have -
7 - we don't have no witnesses on my side.

8 **THE COURT:** I understand.

9 **MR. WILLIAMS:** To really tell my side of
10 the story.

11 **THE COURT:** Yes, sir.

12 **MR. WILLIAMS:** We are depending on the
13 prosecution evidence to try to find me not
14 guilty. You know what I'm saying? There's a lot
15 of things weighing on me. You know what I'm
16 saying?

17 **THE COURT:** Okay.

18 **MR. WILLIAMS:** My side of the story has not
19 been put out there.

20 **THE COURT:** Let me tell you what I'm going
21 to instruct the jury. No matter whether you
22 testify or not, I'm going to instruct the jury
23 that it's the State's burden to prove this case.
24 You don't have to put up any evidence. You don't
25 have to do anything. The State has to meet their

1 burden and their decision is to decide whether
2 or not the State has met their burden of proof
3 beyond a reasonable doubt of each of the
4 elements of the crimes that you're charged with.
5 So I'm going to instruct them as to that.

6 There was some talk earlier about -- when
7 you pled guilty to the weapons charge, there was
8 some talk about trying to keep the jury from
9 hearing that you had a prior record. I know that
10 you've had those conversations with your
11 attorney. I will tell you that the State
12 intends, if you do take the stand, to use those
13 against you. In other words, bring those up.

14 However, you know, as I said, this has to
15 be your decision and your decision alone. It
16 sounds like you may need a couple of minutes
17 more to talk to your lawyer. Is that fair to
18 say?

19 **MR. WILLIAMS:** It's -- it's -- it's -- see,
20 they are using my prior record, trying to use my
21 prior record cause they seeking life without
22 parole. You know what I'm saying? They are
23 trying to use that against me as is already. You
24 know what I'm saying? That's what I'm looking
25 at. You know what I'm saying? They trying to use

1 that against me as is. It's still going to be
2 brought up. Still going to be used against me
3 anyway.

4 **THE COURT:** Why don't you take -- why
5 don't we break for about five more minutes and
6 let you talk to your lawyer, maybe for the two
7 of y'all to talk privately for a moment. How
8 about that?

9 **MR. STEELE:** Yes, ma'am.

10 **THE COURT:** All right.

11 **MR. STEELE:** Thank you, Your Honor.

12 (WHEREUPON, there is a recess.)

13 **THE COURT:** All right. We're ready to go
14 back on the record?

15 **MR. STEELE:** Yes, ma'am.

16 **THE COURT:** All right. And Mr. Williams,
17 I'll just remind you that you're still under
18 oath. Have you had sufficient time to talk to
19 your lawyer about this?

20 **MR. WILLIAMS:** Yes, ma'am.

21 **THE COURT:** And what is your decision?

22 **MR. WILLIAMS:** I don't want to testify.

23 **THE COURT:** All right. Okay. Any other
24 questions, Mr. Steele, you would like me to ask
25 your client about this matter?

1 **MR. STEELE:** No, ma'am.

2 **THE COURT:** Anything from the State?

3 **MR. MOYER:** No. No, Your Honor.

4 **THE COURT:** All right then. I have done --
5 well, my law clerk and I have done a jury
6 charge. We need to reprint it because, uh, I
7 want to give them instructions on the
8 defendant's right to remain silent.

9 You had made a motion yesterday to have a
10 charge for the hand of one is the hand of all.

11 I certainly will hear argument from you,
12 Mr. Steele, but as a preliminary matter, I feel
13 like the evidence does give rise to that since
14 there are two folks who the alleged victim says
15 were involved in this.

16 **MR. STEELE:** I would respectfully accept
17 to that part of Your Honor's charge on the
18 grounds that, number one, Mr. Young is not here
19 to contest these charges. He's not here to go on
20 trial. They are being tried separately. Based
21 upon that factor alone, Your Honor, I would
22 submit that the hand of one being the hand of
23 all would not apply. So I would respectfully ask
24 the Court not to charge that.

25 **THE COURT:** All right. Your objection to

1 that portion of my charge is noted and
2 overruled. I'm happy to give y'all a copy of my
3 charge to take a look at before you argue. Our
4 timing is a little odd. I think that they have
5 gone to pick up the food right now, but are not
6 back with the food for the jury. I do not mind
7 charging -- giving my charge on the law first to
8 give the jury something until their lunch comes
9 and then break and then let you all do closings.
10 I'm happy to do that. But y'all can just think
11 about that for a moment.

12 Another thing I need to point out to you is
13 I have, uh, with good success, been sending a
14 written copy of my charge back with the jury.
15 But I only do it with consent of both sides. And
16 I give the jurors this instruction. I will give
17 each of you a copy of these instructions in
18 written form during your deliberations. You may
19 refer to the instructions to guide your
20 decision-making. You must consider the
21 instructions as a whole and not follow some and
22 ignore others. Please return the copy of the
23 instructions to the court at the time your
24 verdict is rendered.

25 I have done that. It definitely cuts down

1 on the questions from the jury, but I'm not
2 going to do that unless both sides consent. I
3 know you need to talk to your client about both
4 things, my charging on the law first, if you
5 would like, or, uh, my, uh, -- and my sending a
6 copy of the charge back to the jury.

7 **MR. STEELE:** I don't exactly know what the
8 court means by charging on the law first. What's
9 Your Honor's --

10 **THE COURT:** Rather than letting y'all --
11 uh, rather than letting y'all argue first and
12 then I would conclude with my charge on the law,
13 I would just charge on the law first and then
14 let, uh, you know, each of you argue after
15 lunch. It really makes no difference to me.

16 **MR. STEELE:** I'll ask him about that.

17 **THE COURT:** Okay. Y'all can talk about --
18 y'all can talk about that and how about we take
19 another five-minute break.

20 **MR. STEELE:** And I'll go over Your Honor's
21 charge with him.

22 **THE COURT:** Sure. I'll tell you what, I
23 can give you a copy of the charge right now, but
24 there is something I definitely want to change.
25 In the charge book, at some point in time, they

1 have listed the defendant's right to remain
2 silent as failure of the defendant to testify as
3 a heading. I don't like that. I use -- instead,
4 I'm changing that to defendant's right to remain
5 silent. So I will just change that on here for
6 you. I think everything else should be the same.
7 Is that right?

8 **MR. STEELE:** Well, I'll go ahead and
9 discuss all of that with him.

10 **THE COURT:** Here it is. I just don't like
11 that heading. That's the only thing. We've got a
12 copy for y'all too.

13 **(WHEREUPON, there is a pause.)**

14 **THE COURT:** Well, I'm just informed that
15 the food for the jury is here. So that kind of
16 takes care of that problem. Why don't we -- that
17 will give you a chance to look at the charge
18 over lunch. We will break. It usually takes them
19 about 30-40 minutes to eat. So we will break
20 about that time, if y'all don't mind.

21 Then we'll pick back up with, uh, Mr.
22 Steele, your opening -- I mean, excuse me, your
23 closing.

24 **MR. STEELE:** So Your Honor is saying we're
25 starting break now?

1 **THE COURT:** Yes, sir.

2 **MR. STEELE:** Okay.

3 **THE COURT:** Yeah, the food just came in.

4 **MR. STEELE:** Okay.

5 **THE COURT:** So we're good. So we'll start
6 back at -- let's say we'll start back at, uh,
7 12:35. That might be too precise.

8 **MR. STEELE:** Well, I'm going to ask for
9 access to talk to him.

10 **THE COURT:** Of course.

11 (WHEREUPON, a lunch recess is taken.)

12 **MR. STEELE:** Your Honor, I would have no
13 objections to the charge except those that I've
14 already made.

15 **THE COURT:** All right. Very good. How do
16 you feel about the written -- the written charge
17 going back to the jury?

18 **MR. STEELE:** I've discussed it with him.
19 We have no objection.

20 **THE COURT:** All right. Thank you so much.

21 **MR. BEIGHLEY:** No objection from the State.

22 **THE COURT:** All right. Very good then.

23 **MR. STEELE:** One other thing, Your Honor,
24 if the Court pleases.

25 **THE COURT:** Yes, sir.

1 **MR. STEELE:** I never did formally rest.

2 **THE COURT:** And I thought about that when
3 we went back -- when I went back to eat lunch. I
4 thought we need to rest.

5 **MR. STEELE:** And I will do that at this
6 time.

7 **THE COURT:** All right.

8 **MR. STEELE:** And I will --

9 **THE COURT:** Do you want to do it in front
10 of the jury? I'll bring the jury in and let you
11 rest.

12 **MR. STEELE:** No, ma'am.

13 **THE COURT:** You don't want to --

14 **MR. STEELE:** That won't be necessary.

15 **THE COURT:** All right.

16 **MR. STEELE:** I would, however, like to
17 renew all my previous motions, in particular,
18 those -- that motion for directed verdict at the
19 conclusion of the State's case on the same
20 grounds that I cited at that time. I would also,
21 uh, reiterate all the objections to the evidence
22 that I moved into evidence that was overruled by
23 the court. I would renew all previous motions
24 made at this time.

25 **THE COURT:** All right. Very well. Your

1 objections are noted to all the evidence and
2 overruled. And your motion for directed verdict
3 is, once again, respectfully denied.

4 **MR. STEELE:** Thank you, Your Honor.

5 **THE COURT:** Thank you.

6 You think they are finished eating?

7 **THE BAILIFF:** They should be, yes.

8 **MR. MOYER:** I have one other matter,
9 Judge.

10 **THE COURT:** Oh, okay. Yes, sir.

11 **MR. MOYER:** I just want to -- just going
12 over my notes and thoughts about the opening
13 statements, the defense made reference to some
14 facts that never were actually entered into the
15 record. I just want to make sure that that is
16 clear that it can't be argued. The defense made
17 reference to prior difficulties between
18 Leviticus Young, who is the co-defendant who is
19 not here, and the victim and this just being
20 about a fight due to these prior difficulties.
21 There's been no evidence put into the record to
22 reflect any of that. I just want to make clear
23 that we all understand that's not something that
24 would come out in closings.

25 **THE COURT:** All right.

1 **MR. STEELE:** At that time, Your Honor, I
2 thought we had reached an irrevocable decision
3 that Mr. Williams was going to testify. And I
4 understand that's not evidence and I certainly
5 would make no reference to it.

6 **THE COURT:** I would never in a million
7 years expect that you ever would do that.

8 **MR. STEELE:** Thank you.

9 **THE COURT:** Anything else that we need to
10 --

11 **MR. STEELE:** Nothing from Mr. Williams,
12 Your Honor.

13 **MR. BEIGHLEY:** Nothing from the State, Your
14 Honor.

15 **THE COURT:** All right then. We're ready to
16 bring the jury back in.

17 Mr. Steele, I normally -- my law clerk has
18 gone to get me a clean copy of the jury charge
19 to send to the jury. She's going to come in very
20 quietly as to not interrupt your argument.

21 **MR. STEELE:** Thank you, Your Honor.

22 **THE COURT:** Before the jury comes back in,
23 I'm informed that because of a particular lock
24 that's on the gun, the bullets can go back. It
25 can not be loaded and fired in any way. The

1 bullets -- the ammunition could go back with the
2 gun itself. What about the taser though? How do
3 y'all want to handle the taser?

4 **MR. MOYER:** The jury -- at least one juror
5 seemed very nervous about it.

6 **THE COURT:** Yeah.

7 **MR. MOYER:** Maybe we should tell them if
8 they want to see it, just let us know maybe.

9 **THE COURT:** I think that would be best
10 just to say --

11 **MR. STEELE:** That's all right.

12 **THE COURT:** And there are some videos. Do
13 you all have any way for those videos or audio
14 to be played? We can work on that if you --

15 **MR. BEIGHLEY:** Just as we played them here
16 in the courtroom.

17 **THE COURT:** All right. All right.

18 **MR. MOYER:** I mean, the only -- we could
19 take the laptop. We could disconnect it and send
20 the laptop back with them, if Your Honor
21 chooses, or we can tell the jury that if they
22 want to either view the video or listen to the
23 911 tape, they could be brought in and watch it
24 here. It doesn't matter to us.

25 **THE COURT:** Does that laptop have anything

1 on it other than -- I mean, other than really
2 the capacity to play these videos?

3 **MR. MOYER:** It could connect to the
4 internet.

5 **THE COURT:** Uh-huh. Well, we'll just tell
6 them to bring -- we can just tell them that they
7 can come back in here and view it if that's
8 alright with you.

9 **MR. STEELE:** Yes, ma'am.

10 **THE COURT:** We'll do it like that. Thank
11 y'all.

12 **MR. MOYER:** Thank you.

13 **THE COURT:** They ready?

14 **(WHEREUPON, the jury enters at approximately**
15 12:47 p.m.)

16 **THE COURT:** Good afternoon, Ladies and
17 Gentlemen. We are now ready to proceed with
18 closing arguments in this case.

19 Yes, sir.

20 **MR. STEELE:** May it please the Court?

21 May it please you, Madam Foreman and Ladies
22 and Gentlemen of the jury. I want to start off
23 by thanking y'all for your attention. I told you
24 in the beginning that you'd be making a very
25 important decision, perhaps one of the most

1 important decisions ever made in the life of
2 Steven Williams. I ask you to give the evidence
3 and the witnesses your attention. On behalf of
4 Mr. Williams and on behalf of this justice
5 system that I work in every day of my life, I
6 thank you.

7 The Court, the judge, is going to, at the
8 beginning of your deliberations, immediately
9 before your deliberations, she's going to tell
10 y'all about what the law is in your case. She's
11 going to go over the specific offenses and she's
12 also going to talk to you generally about what
13 the law is in criminal cases. One of the most
14 important facets of the law that she's going to
15 talk to you about is the concept of proof of
16 guilt beyond a reasonable doubt.

17 One of the things she's going to tell you
18 is that if this were a civil case, you could
19 find one way or the other by the plaintiff, for
20 the plaintiff, for the defendant, by a mere
21 tipping of the scales. The law calls that a
22 preponderance of the evidence. In other words,
23 if the scales are tipped slightly in the favor
24 of one party or the other, you are allowed under
25 our law to find for that party.

1 But we in America don't like people that
2 are not guilty of anything to be convicted of
3 anything. So as I told you in my opening
4 statement, we have now come up with something
5 called proof of guilt beyond a reasonable doubt.
6 It goes back many years and it is a great
7 concept that protects the citizen accused of
8 being convicted by inadequate evidence. Ladies
9 and Gentlemen, if there was ever a case with
10 inadequate evidence and shot through with
11 reasonable doubt, it's this case, which I'm
12 going to talk to you about in detail.

13 So remember throughout my argument to you,
14 throughout the argument of the government lawyer
15 to you and throughout Your Honor's charge to
16 you, Mr. Williams over there, as I've already
17 told you, is presumed to be innocent. They have
18 to present competent evidence to you that
19 removes that presumption of innocence. And if
20 they fail to do so, then you are required under
21 your oaths to come back with a verdict of not
22 guilty.

23 The United States Constitution says that no
24 citizen will be required to give evidence
25 against him or herself. For that reason, in a

1 criminal trial, the person on trial, in this
2 instance, Steven Williams, is never required to
3 take the stand to prove their innocence. They
4 are not even required to take the stand to give
5 evidence at all. And the judge is going to
6 charge you and she's going to tell you when she
7 gives you the law that you can't consider the
8 fact that Mr. Williams did not testify. It is
9 his constitutional right.

10 It is one of our fundamental principles of
11 law that no citizen has to take the stand. And
12 there's a good reason for that. The reason for
13 that is all the burden of proof, everything that
14 has to be proven stays on this side of the
15 courtroom. It stays with the State. It never
16 shifts over to Mr. Williams. Mr. Williams
17 doesn't have to prove anything. Hence, he has
18 not testified and he doesn't have to testify.

19 It would be a violation of your oaths as
20 jurors -- and I don't mean to suggest that
21 anybody here is going to do it, but it would be
22 a violation of your oaths as jurors to bring up
23 the fact in deliberations, directly or
24 indirectly, that Mr. Williams has not taken the
25 stand. That is his right not to do so.

1 Ladies and Gentlemen, I've already told you
2 that reasonable doubt is the standard of proof
3 required in this and every criminal case. What
4 does reasonable doubt mean? It's not the easiest
5 concept in the world to define. The judge is
6 going to give you a definition. One definition
7 that some people use is that it has to be a
8 possibility, but not a mere possibility, not a
9 mere whimsical doubt, but a doubt to which you
10 can give a reason, a doubt which has substance,
11 a doubt that leaves you uneven in your
12 deliberations. And I would submit to you in this
13 case we have several reasonable doubts. And I'm
14 going to talk to you about them.

15 You know, it's always uncomfortable for a
16 defense lawyer to talk about what law
17 enforcement has not done. But in this case, I
18 would submit to you there are several things
19 that law enforcement did not do in this case
20 that could have solved this case and removed all
21 reasonable doubt, but they didn't do it. First
22 of all, there wouldn't be any mystery about
23 whether or not Steven Williams fired a pistol.
24 And by his -- by his entering a not guilty plea,
25 he is saying, in essence, that he did not fire

1 that pistol. They have to prove that he fired
2 that pistol and that he had that pistol.

3 But I would submit to you the evidence that
4 says he fired that pistol is far from
5 conclusive, but it could be conclusive. There is
6 something called a residue test that they can
7 conduct on your hands. You heard the officers
8 talk about it when I cross-examined them about
9 it. I asked at least one of the officers, I may
10 have asked two, did you conduct that test? Was
11 there a gunshot residue test done on Steven
12 Williams? There was not. I asked them about
13 bagging his hands to preserve the evidence on
14 his hands. And then at some assumed time, giving
15 the gunshot residue test. They said they did not
16 do that. I would submit therein, by itself, that
17 is a reasonable doubt. Why was that not done?

18 Furthermore, no fingerprints were taken off
19 of anything. No fingerprints from his shop. No
20 fingerprints from any of the weapons. There
21 again, Ladies and Gentlemen, where is that
22 evidence? Why didn't they do that? Here's a
23 reason that, I would submit, arises out of the
24 evidence.

25 One of the officers, I believe it was, uh,

1 Mr. McAlmont -- I think I've got his name right.
2 I asked him about handcuffing and taking Mr.
3 Williams into custody. He said, I heard
4 something about an armed robbery and I decided
5 he may have been involved in it. Therein lies
6 the key to why law enforcement did not do the
7 other things that they should have done in this
8 case.

9 He had already decided -- they had already
10 decided that the version of events given to them
11 by Mr. Cabrera was the only version of events
12 that they were interested in hearing. They
13 weren't interested in hearing anything else
14 other than that Mr. Williams robbed Mr. Cabrera.
15 So they didn't conduct those tests on his hands.
16 They didn't look for fingerprints. They didn't
17 do anything that would have corroborated the
18 testimony of Mr. Cabrera and given you something
19 to work with in your deliberations. So you don't
20 have that.

21 What does the law say about that? The law
22 says about that, if you don't have that, then a
23 reasonable doubt can arise out of the lack of
24 evidence just as readily as it can arise out of
25 evidence itself. I would submit to you the

1 absence of that gunshot residue test, the
2 absence of those fingerprints, that is strong,
3 strong evidence. Just pick one. That's a
4 reasonable doubt. And one reasonable doubt
5 requires you to come back with a verdict of not
6 guilty.

7 Let's talk about the firing of the weapon.
8 You're going to have the weapon back in the jury
9 deliberation room. It's right here. You heard me
10 cross-examine Mr. McAlmont about it.

11 Mr. Cullum, unbiased witness. Mr. Cullum
12 has nobody to punish or reward in this case. He
13 has nothing to do with it. He was an American
14 citizen barbecuing on his back porch, minding
15 his own business. But he came in here and he
16 told you what he heard. He said he was back
17 there getting ready to barbecue some chicken, I
18 believe he said, and he heard -- his testimony
19 was he heard two shots.

20 He said very directly and very
21 conclusively, you might remember, I asked him
22 several times, was it two shots? Yes.
23 Absolutely, two shots. Well, read in his
24 statement where he said there were three shots.
25 He said, okay, maybe there was the car

1 backfiring. I asked him this question because
2 this question is the key to this case and one of
3 the most important things that you're going to
4 have to consider back there. I asked him, are
5 you absolutely, 100 percent sure that it was at
6 least two shots. He answered yes. He was
7 absolutely sure that it was two. Based upon
8 having his memory refreshed by his statement, it
9 could have been three.

10 So Ladies and Gentlemen, this is the gun
11 that was taken from under the seat in Mr.
12 Williams' automobile according to the evidence
13 that you've received. You can look at this
14 pistol and you can see that it has places there
15 for five bullets. You're also going to have back
16 there in the jury room also placed into
17 evidence, five bullets. I will submit, and the
18 Court is going to tell you this is the kind of
19 evidence we call circumstantial evidence, this
20 is the kind of evidence that makes a certain
21 version of events impossible.

22 You know, the analogy is if you see a
23 turtle sitting on top of a fence post, you
24 didn't see him climb up there, you can be pretty
25 sure somebody put him up there. You can be

1 pretty sure that one bullet was fired from this.
2 We don't know when. Mr. Cullum said he heard at
3 least two shots, maybe three. The shots could
4 not have come from Mr. Williams' gun. To
5 conclude otherwise would be to conclude that as
6 he drives down the road, he fires one, takes
7 some out, puts them in. There was no evidence
8 that there were any other bullets.

9 This, Ladies and Gentlemen, I would submit
10 to you is conclusive evidence that at some time,
11 we don't know when, because there was no test
12 done on this property either. Law enforcement
13 chose not to check this weapon to see if it had
14 been recently fired. That one bullet could have
15 been fired a long time ago. The important thing
16 is the evidence is undisputed that it was one
17 bullet. Mr. Cullum says he heard two shots. So
18 it could not have been fired by Mr. Williams.

19 I would submit to you that a reasonable
20 inference to be drawn from the testimony is
21 this. Mr. Williams was driving. He was
22 responsible for maintaining this automobile.
23 This was found in a compartment under his seat.
24 A reasonable inference is it was never removed
25 from the compartment under his seat. It's

1 impossible that he would have fired the two or
2 three shots that Mr. Cullum heard.

3 So therein, Ladies and Gentlemen, that is a
4 reasonable doubt. This evidence right here, I
5 would submit again this is something that can't
6 be argued about. This was put into evidence, not
7 by me, but by the government. They say this is
8 the weapon that was fired and they have to
9 conclude, whether they like it or not, that only
10 one bullet was fired. A very important
11 reasonable doubt. Therein again, a reasonable
12 doubt requiring you, if you agree with me that
13 it is a reasonable doubt, to come back with a
14 verdict of not guilty.

15 Here's what is interesting in this case.
16 Who called law enforcement? The person who
17 called law enforcement, and we put into evidence
18 this call to the Highway Patrol, was Steven
19 Williams over here. Does anybody believe that a
20 person who had just committed an armed robbery,
21 had just committed an attempted murder, had just
22 committed possession of a weapon in the use of a
23 violent crime, had just committed all these
24 things, that he would be foolish enough to call
25 the Highway Patrol and report himself or report

1 that there had been an accident? I would submit
2 to you it flies in the face of belief. He would
3 never had done that. He would never had made
4 that. The reason he did that is because he
5 didn't have anything to fear, nothing to hide. I
6 would submit therein is a reasonable doubt.

7 Now, let's look at the other side of that
8 coin. What did Mr. Cabrera not do? He didn't
9 call law enforcement. He says he told some
10 people on the street to call law enforcement. We
11 asked him, or I asked him where was his cell
12 phone. He said, well, the cell phone was there
13 in the shop. I asked him, well, you didn't call
14 law enforcement? No, I didn't call them, because
15 when I call them, they don't do anything. I
16 think that's what he said. You, Ladies and
17 Gentlemen, remove -- remember the testimony the
18 way you heard it. But he had some excuse about
19 when I call the police, I don't -- they didn't
20 do anything so I decided it was the best thing
21 to chase after the people myself.

22 Well, Ladies and Gentlemen, that's not how
23 things work. I will submit to you if these
24 events had occurred the way Mr. Cabrera said
25 they occurred, he wouldn't have done that. He

1 would have called law enforcement like any other
2 citizen. He would have just dialed 911. He had
3 his phone there in the shop. He could have done
4 that. He didn't do that, as I've already said.

5 Steven Williams called law enforcement.
6 Reasonable doubt. Juan Cabrera did not call law
7 enforcement. Reasonable doubt.

8 Now, they say this started out as an armed
9 robbery. You know, usually -- an old bank robber
10 client of mine told me one time we always rob
11 banks because that's where the money is. So if
12 you were going to commit an armed robbery,
13 doesn't it make sense, Ladies and Gentlemen,
14 that you would pick a place where there might be
15 a reasonable amount of money justifying your
16 taking the risk?

17 I would submit to you that Mr. Cabrera's
18 tire shop is not a place you would pick to rob
19 if you were going to rob a place. That does not
20 look like the most money producing place in
21 town. Nothing against Mr. Cabrera. But if Mr.
22 Williams was going to rob a place, I would
23 submit to you he would have picked some place
24 other than the tire shop operated by Mr.
25 Cabrera. It makes no sense. You could go to that

1 place and there not be a dime in the whole
2 place. I would submit Mr. Williams would not
3 have picked that as the place to rob if he were
4 going to commit an armed robbery. Therein again,
5 a reasonable doubt. A reasonable doubt which
6 requires you, under your oaths, to come back
7 with a verdict of not guilty.

8 By the way, there's going to be -- there's
9 some testimony that one of these bullets
10 misfired, but it didn't produce any bang or
11 boom. Those are the words from the officer
12 himself. So the only noise would have come from
13 that one bullet. There was at least two shots,
14 possibly three.

15 They recovered some money from Mr. Williams
16 down in property and evidence. As you know from
17 having heard the testimony, when you go into the
18 jail, they empty your pockets and they itemize
19 all the things that you have in your pockets.
20 But that's not how an investigation is
21 conducted, Ladies and Gentlemen. If money is
22 evidence in a crime, they take it from you and
23 they value it or they put it in property and
24 evidence along with this gun, along with that
25 stun gun, along with all these things that are

1 being put into evidence. But that money was left
2 in Mr. Williams' possession. And they searched
3 him out there on the road. They always do in an
4 arresting situation.

5 They didn't take his money because
6 apparently an inference can be drawn that the
7 investigating officers again, they didn't think
8 that was money that was a part of this so-called
9 armed robbery. So therein again, a reasonable
10 doubt. The money is not in Property and Evidence
11 where it would normally be. It's down there with
12 Mr. Williams' property. Presumably, when he gets
13 out of jail, he can have his money back. That's
14 what they do down there. Whatever you came in
15 with, they give back to you. So it wasn't taken
16 as the fruits of the robbery, it was taken
17 because it was in his possession. Therein again,
18 a reasonable doubt.

19 You know, one of the officers conceded on
20 cross-examination that a stun gun can leave
21 marks and it can also leave DNA samples. He said
22 he swabbed the stun gun for DNA. We haven't
23 heard any testimony from whether that swabbing
24 was tested, whether it was compared to Mr.
25 Cabrera's DNA, whether they tried to figure out

1 if it had indeed touched him. There again, some
2 evidence that's missing, some evidence that you
3 would liked to have had. Something that would
4 have helped you in your deliberation. It was the
5 government's responsibility to bring it in here.
6 It's also their responsibility to prove Mr.
7 Williams guilty beyond a reasonable doubt. When
8 they leave things out, that's what we call a
9 reasonable doubt arising out of the lack of
10 evidence.

11 There again, what happened to those DNA
12 swabs? Where are they? Were they tested? And if
13 they were tested, what was the result? We don't
14 know. But I would submit you would be justified,
15 you would be justified in resolving that doubt
16 against the State of South Carolina and
17 concluding that there is a reasonable doubt as
18 to the guilt of Steven Williams.

19 You know, uh, one of the things you have to
20 consider when you are deliberating is the
21 demeanor of the witness. Mr. Cabrera testified
22 right up here. He was asked a very direct
23 question, and I thought a simple question about
24 the route he took. He came down here and he
25 couldn't figure out which route he took. They

1 gave him his statement. He read it. He still
2 couldn't figure out his route. If he were
3 testifying truthfully about a very traumatic
4 event that happened in this case involving the
5 life of another fellow human being, Steven
6 Williams, wouldn't you think he would remember
7 that traumatic event well enough that he could
8 remember his route, particularly when he goes
9 back to the witness stand and he looks at his
10 own statement and they point out to him what he
11 wrote and said does this refresh your memory and
12 he still can't do it. He's up here and he can't
13 do it. So I would submit to you, Ladies and
14 Gentlemen, when you consider the demeanor of
15 witnesses, and in particular, Mr. Cabrera,
16 therein again lies a reasonable doubt.

17 Ladies and Gentlemen, the -- I told you at
18 the outset of this case that this was an
19 important day to Steven Williams. And you know,
20 there aren't words -- I don't have the words to
21 tell you how important they are. But I think you
22 ladies and gentlemen know, I think you know that
23 this is a big decision that you're going to make
24 in the life of another person.

25 So when you hear the judge charge you on

1 what reasonable doubt is and what your
2 responsibilities as jurors are, I don't envy
3 your responsibility because it is a heavy one.
4 You've got to decide whether or not every
5 reasonable doubt has been removed. I would
6 submit -- not me, not what I'm telling you, but
7 what has arisen out of the evidence that has
8 come from up here on this witness stand.

9 I have named five or six things that I
10 would submit to you are a reasonable doubt. I'm
11 not going to go through them again. But the
12 bullets, the lack of gun shot residue test, the
13 fact that Mr. Cabrera didn't call law
14 enforcement and Mr. Williams did, the fact that
15 Mr. Cabrera couldn't remember things and had to
16 have his -- couldn't even tell us after he had
17 his memory refreshed, the fact that no
18 fingerprints were taken, the fact that all of
19 these things are out there, there's not a
20 reasonable doubt in this case, there are a half
21 a dozen or more reasonable doubts. Pick one,
22 Ladies and Gentlemen. Pick one. It only requires
23 one reasonable doubt, one doubt being
24 entertained by you as having a substantial
25 reason to require you again to come back with a

1 verdict of not guilty.

2 If this were a civil case, I'd start -- I'd
3 end where I started. If this were a civil case,
4 Ladies and Gentlemen, the preponderance of the
5 evidence would do it. But this is a criminal
6 case. We don't want to make a mistake about the
7 guilt of a fellow citizen. We want to make sure
8 we're true and that our verdict is true.

9 So Ladies and Gentlemen, if every
10 reasonable doubt is not removed, what does that
11 mean? That means that the scales of justice that
12 you're going to use your common sense and
13 judgement in there to deliberate with, they have
14 to tell you if the scales were not tipped
15 slightly. If the scales are tipped all the way
16 down, beyond any reasonable doubt, that's the
17 degree of proof required in this case. If you
18 have a reasonable doubt in your mind and you are
19 hesitating to act, resolve that reasonable doubt
20 in favor of Steven Williams and come back with a
21 verdict, not guilty. Thank you.

22 **THE COURT:** Thank you, Mr. Steele.
23 Mr. Miller?

24 **MR. MILLER:** Thank you, Your Honor. May I
25 have a moment to set up?

1 **THE COURT:** Certainly.

2 **(WHEREUPON,** there is a pause.)

3 **MR. MILLER:** I just want to say first of
4 all, there's a difference of opinion with myself
5 and Mr. Steele in the amount of evidence that
6 this case does have.

7 **THE COURT:** Mr. Miller, I hate to ask you
8 to do this, but could you move this just a
9 little bit so the court reporter can see you? I
10 hate to ask you -- I hate to interrupt somebody
11 during their closings.

12 **MR. MILLER:** Not a problem.

13 **THE COURT:** Thank you.

14 **MR. MILLER:** Yes, Your Honor.

15 I want to give you an idea of where I'm
16 going and what I'm going to talk about so you
17 can follow along with me and also give myself
18 order. There's a couple of things I want to talk
19 about that Mr. Steele discussed to you. He
20 brought up why rob this tire shop. He also
21 brought up why didn't Juan call 911. I'm going
22 to move this back a little bit so you will be
23 able to see the photos. We're going to use those
24 as well.

25 And also he mentioned -- he brought up DNA

1 swabs. So to start off, let's start off with
2 the DNA swabs. The stun gun that was used on
3 Juan, everybody saw it. Juan had on a shirt.
4 Investigator Shaw told you if he's wearing a
5 shirt, he's not going to get DNA. For these
6 types of questions that you might have, you can
7 use your common sense and your life experience
8 to answer these questions. He's wearing a shirt.
9 It's not going to touch the skin. You're not
10 going to get DNA.

11 The swab of the blood that was on the door,
12 Juan testified and told you, that was my blood.
13 Common sense and life experience. We know what
14 happened there.

15 Mr. Williams called 911, but not Juan. If
16 you remember the call when it was played for
17 you, there was a lady's voice on the line first.
18 Do you remember that? So really, common sense
19 would tell you she called 911 and handed the
20 phone to Mr. Williams later. He did not call
21 911. Why would Juan not call 911? He was just
22 robbed at gun point, beat on the head with a
23 gun, hit with a stun gun, kicked in the back and
24 he was in fear for his life and he was mad.

25 So the first thing he did was he ran out

1 and tried to get help. To say he didn't think
2 law enforcement would do anything so he didn't
3 call them, I think really what he was testifying
4 to, and again, you heard it, was that the only
5 information that he could have given law
6 enforcement at the time was two black males in a
7 black Mercedes. That is not a lot of
8 information. So he followed after them to get
9 more information. Hopefully, he would see a tag
10 number or anything like that to be able to give
11 them an indication of something specific to law
12 enforcement to say, you can now follow this and
13 find out who did it.

14 So he didn't have his phone on him when he
15 went to his car. The first thing he did was he
16 flagged someone down to look for help. Stopped
17 twice to ask people to call 911. He was trying
18 to find law enforcement. Actually, he did find
19 law enforcement and he went straight to them and
20 told them what happened. He was not avoiding law
21 enforcement. He was trying to find them at the
22 same time and not allow the defendant and
23 Leviticus Young to get away with what they did.

24 Why rob his tire shop? First off, it was
25 on a Friday. More money at the end of the week

1 than at the beginning of the week doing
2 business. He'd been doing business all week,
3 more money then. Common sense.

4 Something else. I don't know if you noticed
5 in this picture. Rob a -- you want to rob a
6 place that has money. It doesn't necessarily
7 have to be a lot of money but you want an easy
8 target. Right there, inside of the building,
9 what does that say? Cash Only. Cash Only. You
10 know there's cash. You know there's money. Two
11 against one. You had a gun and a stun gun. What
12 are the odds? Cash Only. More likely money. At
13 the end of the day, no more customers. Seemed
14 like a very good time. I thought of those three
15 things real quick. I may mention them again.

16 Now, I want to talk to you a little bit
17 about the law briefly. Your Honor will instruct
18 you on the law in detail. I'm going to try to
19 summarize it a little bit as to how it applies
20 to this case to hopefully aid you in your
21 deliberations. We do have to prove each and
22 every element to you beyond a reasonable doubt.

23 Beyond a reasonable doubt is not 100
24 percent. It does not overcome every doubt. That
25 is not the standard. You can use your common

1 sense, your life experience, and you examine the
2 evidence before you. If you are firmly convinced
3 by the end of that then you are beyond a
4 reasonable doubt. You can have a question along
5 the way. You can pause along the way because you
6 are deliberating. That's fine. But once you've
7 reached the decision and you've reached a
8 decision you are firmly convinced of Steven
9 Williams' guilt, then you are beyond a
10 reasonable doubt. It's overcome in this
11 courtroom all the time.

12 I'm going to start off with Assault and
13 Battery in the first degree. I'm kind of trying
14 to break this down in the simplest terms I can
15 for you is that if you caused injury to another
16 person during the commission of a robbery, you
17 have committed assault and battery in the first
18 degree.

19 Armed robbery. Everybody has an idea of
20 what a robbery is. You use force, intimidation,
21 threats, a weapon to take something of somebody
22 else and keep it. Not give it back. It becomes
23 an armed robbery when you use a weapon. When a
24 weapon is involved, it's an armed robbery.

25 Possession of a weapon during the

1 commission of a violent crime. Armed robbery is
2 considered a violent crime. If you find Mr.
3 Williams guilty of armed robbery and then you
4 determine that he had a weapon in his
5 possession, that's how that kind of breaks down
6 for you.

7 Attempted murder, the last one. Here is the
8 way I think about this, if that bullet hit Juan
9 and that bullet killed Juan, we would be here on
10 murder. It only takes one bullet to do it. It
11 doesn't take five. It doesn't take two. It takes
12 one. We have to show you malice, malice
13 aforethought. We have to show you an evil
14 intent, an ill mind, an ill will. And it doesn't
15 have to be thought out for a long period of
16 time. It can form like that. It doesn't take
17 long.

18 So how do we know -- and I'm going to get
19 into this a little bit more later. But I briefly
20 just want to say how do we know that there was
21 evil intent and ill will? We know that one was
22 fired. We know that. We know one round was
23 fired. If I can find it for you, we know another
24 round was tried to be fired, tried to shoot. I
25 want to get down into more of this. I'll talk

1 about it more as I go through the facts as to
2 how that's important. There's also a bunch of
3 other little things that come along the way,
4 other details that are very important, that
5 corroborate what Juan told you. You have to
6 determine if you believe it or not.

7 Also, in examining his testimony, you have
8 to examine the circumstances and what happened
9 and how he's remembering it. Also, it was two
10 years ago and a very stressful situation. I've
11 been -- everybody's been in stressful
12 situations. It can be difficult to remember the
13 exact details every time in a stressful
14 situation, especially when your focus is on
15 something else.

16 All right. 1301 Poinsett Highway, here's
17 the tire shop where Juan worked. He's been there
18 about four years, worked six days a week. Worked
19 hard. A little before, a black Mercedes parked
20 out right here. Parked out right there and sees
21 that Cash Only. Scoping the place out. Sees two
22 black males in the car. Shown him a picture of
23 the car. Everybody heard it. He said that was
24 the same car. Scoping it out. Making sure it's a
25 good place to rob. What makes it a good place to

1 rob is the getaway. The getaway. So they scope
2 it out.

3 His last customer leaves. They pull in. I'm
4 not going to show you the video again. But I'm
5 just going to talk about it a little bit.
6 Everybody saw them pull in. They pulled in real
7 slow. They didn't pull in at a normal rate of
8 speed. They pulled slow, stopped for a little
9 while.

10 Where they stopped -- I think this is
11 important, too, is they pull up -- remember
12 where they stopped? The gate came out. They
13 stopped right at the exit, right when you get
14 out. They pulled all the way in. They didn't
15 stay all the way out. They stopped in the exit.
16 They blocked him in. If you remember the tire
17 shop, again you can look at the photos
18 sometimes, Juan told you he was standing right
19 here. You saw where they were standing, two
20 against one blocking him in. Blocking him in.
21 Not there to change tires. Not there to get a
22 plug. They blocked him in. They also sat in the
23 car for a little bit before they went out,
24 before they got out. Hey, get the stun gun, let
25 me get the gun from under the seat. In and out,

1 make sure you had a good robbery.

2 They come back. It was around six o'clock.
3 They walk up. Give me your money. Juan, not
4 really sure what's going on, says no. It seems
5 reasonable. Someone says give me your money. I'm
6 not just going to hand over my money. But you
7 pull out the stun gun, which you're not going to
8 bring out, then you point a gun in my face and
9 you say give me your fucking money. You know
10 it's serious. You know it's real. And it's two
11 against one in that little space.

12 You saw how big Juan is. He's not that big.
13 Two against one. So what does he do? He throws
14 the money up. How do we know he threw the money
15 up? How do we know he's telling you the truth
16 about that? Money landed on the shelf. Money
17 landed on the floor. Juan told you I don't keep
18 money there, which would make sense. What
19 businesses leave money laying around?

20 Then what happens? Leviticus Young goes
21 back and he pushes Juan back. Juan tells you he
22 pushes him back. He used the stun gun. Again,
23 how do we know he pushed him back? How do we
24 know Juan is telling you the truth? How do we
25 corroborate this? Here's the bench back. There's

1 the bench. There's the stun gun. Again, this was
2 not just Juan's words. There's evidence
3 supporting what he told you.

4 Remember there's also part of the law that
5 Your Honor will charge you on is called the hand
6 of one is the hand of all. I'll try to break
7 this down for you. If people act in a group to
8 commit a crime and if there are reasonable
9 consequences that could come from that crime,
10 then everybody in that group is responsible. So
11 in this case, if Leviticus Young kicked Juan,
12 that is as if Steven Williams kicked Juan. If
13 Steven Williams pointed a gun at Juan, Leviticus
14 Young pointed a gun at Juan. They are both
15 responsible. The hand of one is the hand of all.

16 So the stun gun is used on Juan. He jumps
17 back a little bit with the shirt on. Common
18 sense, is there going to be DNA? No. So pushes
19 him back. Starts beating him up. Throwing tires
20 at him. Why do that? Why do that? Cause you
21 don't want him to fall out. You want to
22 intimidate him. You want to scare him.
23 Intimidate him.

24 Juan starts getting the upper hand. He
25 fights back. Everybody's heard of this term.

1 Juan did it, fight or flight. Both natural
2 reactions. Juan fought. That's why he chased him
3 and why he fought back. This is just how he
4 reacted. But he is getting the upper hand. What
5 did Steven Williams do after he picks up the
6 money? He gets the gun, hits him on the back of
7 the head.

8 How do we know Juan, who identified that as
9 the gun -- and also, by the way, you remember we
10 read into the record the stipulation. Steven
11 Williams admitted he had possession of this gun
12 on that day. He has admitted that. How do we
13 know Juan is telling the truth? He has them?
14 There are there on the neck, the forehead.
15 There's a close up of the neck. Lower back and
16 his head. He didn't need them to tell you that,
17 but the pictures tell you that. Again, there is
18 evidence corroborating what Juan says.

19 They leave in cars after that. They ran to
20 the car. Now, you've got to get away. Now,
21 you're going to leave. Here's something I don't
22 think we've talked about in a little bit. Took
23 back roads down Fair Street. Before I get into
24 that and the testimony about that, yeah, Juan
25 had a little trouble remembering that. But as

1 he's trying to follow them, is it reasonable to
2 think that he might not remember the exact
3 details of the road he was going on two years
4 ago and might have a little trouble with it
5 again? He wasn't being dishonest. He was telling
6 you as best he could remember.

7 Now, if you remember Deputy Belding who
8 patrols this area and he told you about that
9 later. He said that was the quickest route. Not
10 only was it the quickest route, but it's also up
11 the main road. After you just committed a
12 robbery, you probably don't want to be on the
13 main roads. It makes sense you want to take back
14 roads, which they did towards Steven Williams'
15 house.

16 What does Juan do? While this trial is
17 solely about Steven Williams and his actions,
18 let's talk a little about what Juan did. First
19 thing he did, remember, he ran out as you saw on
20 the video and tried to get help. Tried to flag
21 somebody down to get help. On Fair Street, and
22 we know it was around here because Stephanie
23 Bishop, another completely -- person that's
24 minding her own business on Fair Street in her
25 yard said there came this speeding black

1 Mercedes down Fair Street. She identified it.

2 There was a silver Mustang right behind it.

3 The Mustang came to a quick stop. There was
4 a Mexican in there. He said, please help me.

5 Call 911. This is before there's even a bump.

6 Before there's even a bump on Old Buncombe, Juan
7 is asking someone to call 911 and trying to get
8 help for the second time. If he's out to run
9 somebody off the road, why do you call 911
10 before? That makes no sense. That's because he
11 wasn't trying to do that. He was robbed. He
12 didn't have his phone on him and he needed
13 someone to call 911.

14 Remember, Stephanie Bishop told you this
15 was a residential neighborhood. It was a 20-
16 mile-per-hour speed limit. They were going, she
17 thinks, 45 to 50 as best she can remember. Why
18 in the world would you drive 45, over the speed
19 limit, on a residential neighborhood where there
20 could be families and kids, people on the road?
21 Other than you are trying to escape something.
22 They are escaping the scene of the crime they
23 just committed and trying to get away. What else
24 did she see? She sees Juan.

25 At this point in time, I'm going to pause

1 for a second. Let's talk about the charges and
2 what's already been done and what Mr. Williams
3 is already guilty of. He already used the gun to
4 rob money from Juan. He already used that gun to
5 hit Juan on the head and crack him against the
6 head. He's also guilty for the actions of the
7 stun gun and the other assault. He's already
8 committed an armed robbery, assault and battery
9 in the first degree and possessing a weapon
10 during the commission of a violent crime. He's
11 already guilty of those three.

12 Now, let's talk about the attempted murder.
13 Come down Kerns going to Old Buncombe. He says
14 the driver, Juan told you the driver, and we
15 know who the driver was from the video, too.
16 That was Steven Williams. He said the driver
17 shot. He did. Common sense and life experience.
18 Why would you leave an empty casing in a gun?
19 Why would you leave a misfired round in a gun?
20 You wouldn't. So common sense and life
21 experience tells you he shot that day. He shot
22 at him.

23 Juan didn't go away after they beat him up.
24 After they took his money, he didn't -- they
25 thought they intimidated him. They thought he

1 was gone. But he wasn't. They have to make him
2 gone. Attempted murder, that's going to require
3 me to prove a specific intent to kill. You can
4 kill somebody by shooting at them. You can
5 certainly cause great bodily injury. And when
6 you shoot a gun at somebody, there's one reason
7 you're doing it. That's to kill someone. He's
8 trying to kill Juan because he won't go away. He
9 was trying to escape. And the guy he just robbed
10 isn't letting him escape. That's what that was.

11 So what happens? Mr. Steele wants you to
12 believe that he couldn't shoot and drive. He was
13 just driving. Well, I think it's reasonable to
14 think he tried to shoot and then he tried to
15 shoot again and the gun misfired and now the
16 gun's not working. I don't think the gun's
17 working. So now, how do I get away? Make a turn.
18 Going too fast for the turn and he hit a pole.

19 Now, who comes into play? Robert Cullum and
20 Karen Brown. Let's talk about Karen Brown real
21 quick. Karen Brown walks outside on her porch.
22 They told you they are right there. Sees a big
23 black male in a white t-shirt, who we saw on the
24 video, running down the road with blood on his
25 shirt. Common sense, it had to be blood from

1 Juan's head. They were fighting in a close spot.
2 And he had a gun in his hand. First off, in
3 stressful situations, especially when you're not
4 focused on everything around you, you might not
5 hear, you might misremember the exact number of
6 gunshots you hear in any other situation. But
7 there's a concern. Karen Brown told you there's
8 another gun. So there's two guns in that car.
9 One is recovered. But Leviticus Young ran off
10 with the other one. We'll talk about him running
11 in just a second.

12 Robert Cullum was a completely unbiased
13 witness as well. This is kind of where it gets
14 important. I think this is where we can get a
15 look at what's going on here as to why we hear
16 the 911 that said Steven Williams said I just
17 run into a pole. What does Robert Cullum tell
18 you? And he says he got out there quick.
19 Remember, I believe it was on the other map.
20 Joey Smith told you about this too. Where was
21 that fire department? Old Buncombe and Morris is
22 here. Fire department where Joey Smith came from
23 is here. Said it took about 45 seconds to get
24 there. Then he went lights and sirens.

25 Robbert Cullum runs up there. Call 911.

1 Help's on the way. Then you hear lights and
2 sirens. He didn't run. Why didn't he run? Why
3 not run? Well, you have a completely unbiased
4 witness there who just saw one person run,
5 Leviticus Young. Leviticus Young could run and
6 not leave something behind that wouldn't say he
7 was on the scene. What's this? This is Steven
8 Williams' car with this in the car. Right there.
9 In the car. Steven Williams knows.

10 Juan isn't giving up. I just wrecked my
11 car. This is in the car. The license tag is
12 there. It's his car. Law enforcement is going to
13 eventually at one point or another find out the
14 name Steven Williams. They will go talk to him.
15 Also, because the air bag has gone off, he got a
16 little dazed too. Then you have Robert Cullum
17 right there. Robert Cullum said Leviticus Young
18 was running down that street by the time he got
19 there. He was running down the street. He even
20 asked him to stop and he didn't stop. So he ran.

21 Why did he run? Why not? Maybe a guilty
22 conscience, guilty mind. Another thing that
23 everybody's testified about, too, about Steven
24 Williams condition when he was out there at the
25 scene. He's sweating a lot, breathing heavily.

1 He was wearing this hat. Joey Smith told you he
2 was wearing this hat. Life experience tells you
3 when you wear a hat and you sweat in the hat,
4 there will be a white salt ring around there.
5 But there's not. That's because Steven Williams
6 worked up a sweat in fighting Juan and robbing
7 him. Again, more evidence that when you look at
8 it, corroborate what Juan told you.

9 It's not just Chris McAlmont got to the
10 scene. Everything else adds up to this. When
11 things add up, they make sense because they are
12 true. Now, what does Juan do? He says he pauses
13 for 10 seconds. Did he get out of the car trying
14 to fight him? No, he went to get help again. He
15 went and stopped somebody and asked them to call
16 911.

17 After that, he went and found law
18 enforcement and told them what happened. If Juan
19 has a guilty conscience or a guilty mind, why
20 would you go find law enforcement? Why not just
21 call 911? He had his phone. But sees a marked
22 car, sees a deputy in uniform and goes up to
23 him. He's on another call. He went and found
24 someone in person. He wasn't avoiding law
25 enforcement. He was seeking them out. Everything

1 points to that.

2 Then he goes back and he finds Deputy Husk.
3 Let's talk about Deputy Husk's testimony for a
4 second. When Juan spoke to him, you heard Deputy
5 Husk say, he told me it was a revolver. Deputy
6 Husk told you, I didn't know a gun was involved
7 yet. So Juan tells him a revolver. Law
8 enforcement didn't even know a gun was involved
9 yet.

10 Then what? Steven Williams was placed into
11 handcuffs on the road. Juan is driven by and
12 identifies Steven Williams as one of the guys
13 that robbed him. Not maybe. Not pretty sure. 100
14 percent. He did again today. 100 percent. No
15 doubt about that. So if there's anything that is
16 100 percent in this case is that Juan knows
17 Steven Williams held him at gunpoint. Hit him on
18 the head with that gun.

19 After a positive identification, Deputy
20 Belding -- let's talk about Deputy Belding for a
21 second. He was a month in, out of the Academy.
22 One month in. Keep that in mind as we go through
23 this. He takes Steven Williams to book him in.
24 You heard Dana Lewis talk about all procedures
25 and how that works. What did Steven Williams

1 have on him? Right there. \$130 in cash. Cash. No
2 wallet. That's where the money went. You want me
3 to show you the money? There it is. I can't fan
4 it out for you. I wish I could. If Deputy
5 Belding seized it, yes. Did he? No. It's
6 considered personal property. I can still show
7 it to you that way. I show you the money there.

8 So what do we know? The actions of Steven
9 Williams. Went to the tire shop that was Cash
10 Only. Walked out with Leviticus Young. Planned
11 it out. Scoped it out. Wasn't just hey, let's
12 stop by and do this. They sat there for a little
13 bit. Went to the shop. Pointed the gun at Juan.
14 Told him to give him his fucking money at
15 gunpoint. Picks up the money. Probably put it in
16 his pocket. Beats Juan on the head with that
17 gun. Then leaves. Then he tries to kill Juan
18 later after he bumps him. He crashes his car.
19 His gun misfired. He can't use the gun to get
20 away. He's got to use the car to get away.

21 Steven Williams is guilty of attempted
22 murder. He is guilty of assault and battery in
23 the first degree. He is guilty of an armed
24 robbery. He is guilty of possession of a weapon
25 during the commission of a violent crime. We ask

1 you to return a verdict that reflects that.

2 **THE COURT:** All right. Ladies and
3 Gentlemen, if anybody needs a break at this
4 time, I'm happy to do it. I'll take a break now.
5 My instructions on the law may be about 30
6 minutes. So if anybody needs a break, you just
7 let me know. Okay. Let's take a break. No, I'm
8 glad. Let's be in recess for about 10 minutes.
9 All right. The case is not quite to you yet. I
10 do have to say one more time please don't
11 discuss it. All right. Thank you.

12 **(WHEREUPON,** the jury exits at approximately
13 1:44 p.m.)

14 **(WHEREUPON,** a recess is taken.)

15 **THE COURT:** All right. Y'all ready to
16 bring the jury back in? All right. All right.
17 We're ready to go.

18 **(WHEREUPON,** the jury enters at approximately
19 2:06 p.m.)

20 **THE COURT:** All right. Ladies and
21 Gentlemen, we've now gotten to the portion where
22 I'm going to charge you on the law applicable to
23 this case. I want to tell you that, uh, I read
24 my charge, and I'm going to tell you why I do
25 it. I read it to you because, first of all, I

1 don't want to forget anything. I want to make
2 sure I get it all right. That's probably the
3 most important reason. The second reason is
4 these attorneys graciously agreed to let you
5 have the written charge back in the jury room to
6 help guide you in your deliberations. So I don't
7 want to charge you any differently than what the
8 written charge will be. But I do want to let you
9 know you will have these written instructions.
10 I'm going to send back one copy.

11 If, at any point, Madam Foreperson, we need
12 to have any more copies of it, I am happy to do
13 that. All right?

14 All right. Madam Foreperson, Ladies and
15 Gentlemen of the jury, you have seen and heard
16 the evidence presented as well as the arguments
17 of counsel. It now, therefore, becomes my duty
18 and obligation to instruct you on the law that
19 is applicable in this case. It will then be your
20 duty and obligation to begin your deliberations,
21 through which process you will decide the facts,
22 apply the law as instructed by the Court and
23 render fair and impartial decisions.

24 It is your exclusive duty to determine what
25 the facts are. You do that based on your own

1 common sense examination and evaluation of the
2 testimony and other evidence received during the
3 trial of this case.

4 You 12 jurors alone will decide what
5 weight, value and effect that is to be given to
6 any particular testimony or other evidence
7 received. Your ultimate goal is to simply reach
8 the truth in this matter. And by doing so, you
9 will have fulfilled your obligations as jurors
10 and that is to give both the State and the
11 defendant a fair and impartial trial based upon
12 the evidence presented and the law applicable to
13 this case.

14 In this case, the State of South Carolina,
15 through the circuit Solicitor, has charged the
16 defendant with the criminal offenses known as
17 Armed Robbery and Possession of a Weapon During
18 the Commission of a Violent Crime, Assault and
19 Battery in the First Degree and Attempted
20 Murder. The allegations charging the defendant
21 with these crimes are set forth in the
22 indictments that have been previously explained
23 to you. As I have previously explained, the
24 indictments are not evidence in this case and
25 may not be considered by you as evidence against

1 the defendant. The indictments will be in the
2 jury room with you, but serve only one purpose
3 and that is to serve as the verdict forms on
4 which the jury's unanimous decisions will be
5 written.

6 As to the charges set forth in the
7 indictments, the defendant has entered a plea of
8 not guilty. That plea of not guilty has
9 therefore placed upon the State the burden of
10 proving the allegations that are set forth in
11 the indictments; the burden of proving each of
12 the essential elements of any crimes charged;
13 and therefore, the burden of proving the guilt
14 of the defendant to the satisfaction of you 12
15 jurors beyond a reasonable doubt before a
16 verdict of guilty could be returned as to any
17 indictment.

18 The burden is never upon a defendant to
19 prove that is not guilty or to prove that he is
20 innocent, because, in some cases, that might not
21 be possible. The burden is always upon the State
22 because they have made the allegations to prove
23 that the defendant -- to prove the defendant
24 guilty beyond a reasonable doubt.

25 You are further instructed that it is a

1 vital, important, and cardinal rule of law that
2 ever different in a criminal trial, no matter
3 how serious the offenses might be for which he
4 stands charged, the defendant shall always be
5 presumed innocent of those charges, and that
6 presumption of innocence shall be with the
7 defendant from the moment of his arrest, and
8 through the course of the criminal process, and
9 even throughout the course of the actual trial.

10 The presumption of innocence shall be with
11 the defendant even as you go into the jury room
12 to begin your deliberations, and that
13 presumption of innocence shall be with him there
14 and be with him forever, unless you twelve
15 jurors determine that he is no longer entitled
16 to that presumption of innocence. It is only if,
17 unless, and until you are satisfied of the
18 defendant's guilt beyond a reasonable doubt, a
19 reasonable doubt that he would no longer be
20 entitled to the presumption of innocence.

21 I remind you that, during this trial, you
22 and I have certain duties to perform. As the
23 trial judge, it is my responsibility to preside
24 over the trial of this case, and I also have the
25 duty to rule on the admissibility of the

1 evidence offered during this trial. You are to
2 consider only the competent evidence before you.
3 If there was any testimony ordered stricken from
4 the record in this case during this trial, you
5 must disregard that testimony. You are to
6 consider only the testimony which has been
7 presented from this witness stand, any exhibits
8 which have been made a part of the record in
9 this case, and any stipulations of counsel.

10 I have the additional duty to charge you
11 the law applicable to this case. As the
12 presiding judge, I am the sole judge of the law
13 in this case, and it is your duty as jurors to
14 accept and apply the law as I now state it to
15 you. If you already have any idea as to what the
16 law is or what the law ought to be and it does
17 not agree with what I now tell you the law is,
18 you must abandon this idea because you are sworn
19 to accept the law and apply the law exactly as I
20 state it to you.

21 In every case tried in this court before a
22 jury, the jury becomes the sole and exclusive
23 judge of the facts in a case. A trial judge
24 cannot intimate, state, comment on, or make any
25 statement to a trial jury about the facts in a

1 case. Since you, the jury, are the sole judge of
2 the facts in this case, you are not to infer
3 from what I have said during the progress of
4 this trial in ruling upon the admissibility of
5 evidence, or otherwise, or anything that I say
6 now during the course of this instruction to
7 you, that I have any opinion about the facts in
8 this case. I do not. The law does allow me to
9 have an opinion about the facts in this case.
10 This is a matter solely for you, the jury, to
11 determine. As jurors, it is your duty to
12 determine the effect, value, weight, and truth
13 of the evidence presented during this trial.

14 The State has the burden of proving the
15 defendant guilty beyond a reasonable doubt. Some
16 of you may have served as jurors in civil cases,
17 where you were told that it is only necessary to
18 prove that a fact is more likely true than not
19 true, such as by the greater weight or
20 preponderance of the evidence. In criminal
21 cases, the State's proof must be more powerful
22 than that. It must be beyond a reasonable doubt.
23 Reasonable doubt is the kind of doubt that would
24 make a reasonable person hesitate to act.

25 Proof beyond a reasonable doubt is proof

1 that leaves you firmly convinced of the
2 defendant's guilt. There are very few things in
3 this world that we know with absolute certainty.
4 And in criminal cases, the law does not require
5 proof that overcomes every possible doubt. If,
6 based on your consideration of the evidence, you
7 are firmly convinced that the defendant is
8 guilty of the crimes charged, you must find the
9 defendant guilty.

10 If, on the other hand, you think there is a
11 real possibility that the defendant is not
12 guilty, you must give the defendant the benefit
13 of the doubt and find him not guilty. Facts and
14 circumstances that merely place upon the
15 defendant a grave suspicion of the crime charged
16 or that merely raise a speculation or conjecture
17 of the defendant's guilt are not sufficient to
18 authorize a conviction of the accused.

19 There are two types of evidence which are
20 generally presented during a trial -- direct
21 evidence and circumstantial evidence. Direct
22 evidence is the testimony of a person who claims
23 to have actual knowledge of a fact, such as an
24 eyewitness. It is evidence which immediately
25 establishes the main fact to be proved.

1 Circumstantial evidence is proof of a chain
2 of facts and circumstances indicating the
3 existence of a fact. It is evidence which
4 immediately establishes collateral facts from
5 which the main fact may be inferred.

6 Circumstantial evidence is based on inference
7 and not on personal knowledge or observation.

8 The law makes absolutely no distinction
9 between the weight or value to be given to
10 either direct or circumstantial evidence. Nor is
11 a greater degree of certainty required of
12 circumstantial evidence than of direct evidence.
13 You should weigh all of the evidence in the
14 case. After weighing all the evidence, if you
15 are not convinced of the guilt of the defendant
16 beyond a reasonable doubt, you must find the
17 defendant not guilty.

18 Necessarily, you must determine the
19 credibility of witnesses who have testified in
20 this case. Credibility simply means
21 believability. It becomes your duty as jurors to
22 analyze and to evaluate the evidence and to
23 determine which evidence convinces you of its
24 truth.

25 In determining the believability of

1 witnesses who have testified in this case, you
2 may believe one witness over several witnesses
3 or several witnesses over one witness. You may
4 believe a part of the testimony of a witness and
5 reject the remaining part of the testimony of
6 that same witness. You may believe the testimony
7 of a witness in its entirety or reject the
8 testimony of a witness in its entirety. You may
9 consider whether any witness has exhibited to
10 you any interest, bias, prejudice or other
11 motive in this case. You may also consider the
12 appearance and manner of a witness while on the
13 witness stand. In other words, you are to judge
14 a witness' credibility in the same way you would
15 judge a person's credibility in your daily life.

16 In order to establish criminal liability,
17 criminal intent is required. For example, the
18 mental state required to be proven by the State
19 for a particular crime might be purpose, intent,
20 knowledge, recklessness or criminal negligence.
21 Criminal intent must be proven by the State
22 beyond a reasonable doubt. Criminal intent is
23 always a matter that must be determined by the
24 jury from the circumstances surrounding the
25 situation.

1 There is no way to prove criminal intent to
2 a mathematical certainty. So the law says that
3 criminal intent may be inferred from the
4 circumstances shown to have existed. This is how
5 you make a determination of whether or not the
6 element requiring intent was present. It is not
7 necessary to establish intent by direct
8 evidence, but intent may be established by
9 inference in the same way as any other fact, by
10 taking into consideration the acts of the
11 parties and all the facts and circumstances of
12 the case.

13 Criminal intent is a mental state of
14 conscious wrongdoing. It is up to you to
15 determine what the defendant intended to do
16 based on the circumstances shown to have
17 existed. Criminal intent can arise from action
18 or a failure to act. It may arise from
19 negligence, recklessness, or an indifference to
20 duty or to consequences that is considered by
21 the law to be the equivalent of criminal intent.

22 I instruct you and emphasize that the fact
23 that the defendant did not testify is not a
24 factor to be considered by you in any way in
25 your deliberation and in your consideration on

1 the question of the guilt or innocence of the
2 defendant. It must not be considered by you in
3 any manner whatsoever. A defendant has a
4 constitutional right to remain silent, and the
5 assertion of this right must not be considered
6 by you in your deliberations.

7 I repeat. Under your oath, you are to draw
8 no conclusion whatsoever from the fact that the
9 defendant in this case did not testify. The fact
10 that the defendant did not testify should not
11 even be discussed in the jury room. The burden
12 of proof, as I have stated to you, is on the
13 state. The defendant is not required to prove
14 guilt beyond a reasonable doubt.

15 If a crime is committed by two or more
16 people who are acting together in committing a
17 crime, the act of one is the act of all. A
18 person who joins with another to commit an
19 unlawful act is criminally responsible for
20 everything done by the other person which
21 happens as a probable or natural consequence of
22 the acts done in carrying out the common plan
23 and purpose. For example, two people can be
24 guilty of killing another person when only one
25 of the two had a gun. There is only one bullet,

1 and only one of the two fired the shot that
2 caused the death. If two or more people are
3 together, acting together, assisting each other
4 in committing the offense, the act of one is the
5 act of all or, as it sometimes said, the hand of
6 one is the hand of all.

7 A principal in a crime is one who either
8 actually commits the crime or who is present
9 aiding, abetting, or assisting in committing the
10 crime. Prior knowledge that a crime is going to
11 be committed, without more, is not sufficient to
12 make a person guilty of that crime. Mere
13 knowledge that another person is going to commit
14 a crime, even if the defendant is present when
15 the crime is committed, is not sufficient to
16 convict the defendant as a principal. Guilt as a
17 principal is shown by actual or constructive
18 presence at the scene as result of prior
19 arrangement. Therefore, a finding of a prior
20 arranged plan or common scheme is necessary for
21 a finding of guilt as a principal. The State
22 must prove beyond a reasonable doubt by
23 competent evidence that the theory -- excuse me
24 -- must -- the state must prove beyond a
25 reasonable doubt by competent evidence the

1 theory of the hand of one is the hand of all.

2 When a person does an act in the presence
3 of and with the assistance of another, the act
4 is done by both. Where two or more, acting with
5 a common plan or intent, are present at the
6 commission of a crime, it does not matter who
7 actually commits the crime. All are guilty. The
8 hand of one is the hand of all. Present at the
9 commission of a crime means to be sufficiently
10 near to aid and abet and assist in the
11 commission of the crime.

12 However, mere presence at the scene of a
13 crime is not sufficient to convict one as a
14 principal on the theory of aiding and abetting.
15 Intent is also a necessary element, for there
16 must have been a common design or intent to
17 commit the crime and the crime must have been
18 committed pursuant thereto with the person
19 aiding and abetting by some overt act.

20 Intent means intending the result which
21 actually occurred, not accidentally or
22 involuntary. Intent may be shown by acts or
23 conduct of the defendant and other circumstances
24 from which you may naturally and reasonably
25 infer intent. The State must prove these

1 elements beyond a reasonable doubt.

2 An issue in this case is the identification
3 of the defendant as the person who committed the
4 crime charged. The State has the burden of
5 proving identity beyond a reasonable doubt. You
6 must be satisfied beyond a reasonable doubt of
7 the accuracy of the identification of the
8 defendant before you may convict the defendant.

9 Identification testimony is an expression
10 of belief or impression by a witness. You must
11 determine the accuracy of the identification of
12 the defendant. You must consider the
13 believability of each identification witness in
14 the same way as any other witness. You may
15 consider whether the witness had an adequate
16 opportunity to observe the offender at the time
17 of offense. This will be affected by things
18 like, how long or short the time was available,
19 how far or close the witness was, the lighting
20 conditions, and whether the witness had the
21 chance to see or know the person in the past.

22 Once again, I instruct you, the burden of
23 proof on the State extends to every element of
24 the crime charged, and this specifically
25 includes the burden of proving beyond a

1 reasonable doubt the identity of the defendant
2 as the person who committed the crime. If, after
3 examining the testimony, you have a reasonable
4 doubt as to the accuracy of that identification,
5 you must find the defendant not guilty.

6 The defendant is charged with armed
7 robbery. In order to prove this offense, the
8 state must first prove beyond a reasonable doubt
9 that the defendant took personal property from
10 the person or presence of another person.

11 Property is in the presence of a person if
12 it is within the person's reach, inspection,
13 observation, or control so that the person
14 could, if not overcome with violence or
15 prevented by fear, keep possession of the
16 property.

17 The State must also prove beyond a
18 reasonable doubt that the defendant carried the
19 property away intending to permanently deprive
20 the owner of the property and to keep the
21 property for the defendant's own use. The
22 slightest removal of the property or the
23 complete possession of the property, even for an
24 instant, by the defendant is sufficient to show
25 taking and carrying away of the property. The

1 taking and carrying away of the property must
2 have been done with violence or by putting the
3 owner of the property in fear of violence.

4 Finally, the State must prove beyond a
5 reasonable doubt that the defendant was armed
6 with a deadly weapon during the robbery. A
7 deadly weapon is any article, instrument, or
8 substance which is likely to cause death or
9 great bodily harm. Whether an instrument has
10 been used as a deadly weapon depends on the
11 facts and circumstances of each case.

12 The following are examples of instruments
13 which may be deadly weapons: a pistol, a
14 shotgun, a rifle, a dirk, a dagger, a knife, a
15 slingshot, metal knuckles, a razor, gasoline, a
16 fire bomb or Molotov cocktail, and lighter
17 fluid. A gun may be a deadly weapon even if it
18 is not operating.

19 The defendant is charged with possession of
20 a weapon during the commission of a violent
21 crime. The State must prove beyond a reasonable
22 doubt the defendant was in possession of a
23 firearm or visibly displayed what appeared to be
24 a firearm during the commission of a violent
25 crime or the attempt to commit a violent crime.

1 A firearm means any machine gun, automatic
2 rifle, revolver, pistol, or any weapon which
3 will, is designed to, or may be readily
4 converted to expel a projectile.

5 In order to find the defendant guilty of
6 possession of a weapon during the commission of
7 a violent crime or an attempt to commit a
8 violent crime, you must first find the defendant
9 guilty of either committing a violent crime or
10 attempting to commit a violent crime. Attempted
11 murder or armed robbery is a violent crime and
12 the State must prove beyond a reasonable doubt
13 that the weapon furthered, advanced, or helped
14 in the commission of the crime.

15 The defendant is charged with assault and
16 battery in the first degree. In order to prove
17 this offense, the State must first prove beyond
18 a reasonable doubt that the defendant injured
19 another person, and the act occurred during the
20 commission of a robbery, burglary, kidnapping or
21 theft.

22 A person may also commit the offense of
23 assault and battery in the first degree if the
24 person unlawfully offers or attempts to injure
25 another person with the present ability to do

1 so, and the act either is accompanied by means
2 likely to produce death or great bodily injury,
3 or occurred during the commission of a robbery,
4 burglary, kidnapping or theft.

5 Great bodily injury means bodily injury
6 which causes a substantial risk of death or
7 which causes serious, permanent disfigurement or
8 protracted loss or impairment of the function of
9 a bodily member or organ.

10 The defendant is also charged with
11 attempted murder. In order to prove this crime,
12 the State must prove the defendant attempted to
13 kill another person with malice aforethought,
14 either express or implied. Malice is hatred, ill
15 will, or hostility towards another person. It is
16 the intentional doing of a wrongful act without
17 just cause or excuse and with an intent to
18 inflict an injury or under circumstances that
19 the law will infer an evil intent.

20 Malice aforethought does not require that
21 malice exists for any particular time before the
22 act is committed, but malice must exist in the
23 mind of the defendant just before and at the
24 time the act -- that the act is committed.

25 Therefore, there must be a combination of the

1 previous evil intent and the act.

2 Malice aforethought may be express or
3 inferred. These terms, express and inferred do
4 not mean different kinds of malice, but merely
5 the manner in which malice may be shown to
6 exist. That is either by direct evidence or by
7 inference from the facts and circumstances which
8 are proved.

9 Express malice is shown when a person
10 speaks words which express hatred or ill will
11 for another or when the person prepared
12 beforehand to do the act which was later
13 accomplished; for example, lying in wait for a
14 person or any other acts of preparation going to
15 show that the deed was within the defendant's
16 mind would be express malice.

17 Malice may be inferred from conduct showing
18 a total disregard for human life. Inferred
19 malice may also arise when the deed is done with
20 a deadly weapon. A deadly weapon is any article,
21 instrument, or substance which is likely to
22 cause death or great bodily harm. Whether an
23 instrument has been used as a deadly weapon
24 depends on the facts and circumstances of each
25 case.

1 Again, the following are examples of
2 instruments which may be deadly weapons: a
3 pistol, a shotgun, a rifle, a dirk, a dagger, a
4 knife, a slingshot, metal knuckles, a razor,
5 gasoline, a fire bomb or Molotov cocktail, and
6 lighter fluid. A gun may be a deadly weapon even
7 if it is not operating.

8 If facts are proved beyond a reasonable
9 doubt sufficient to raise an inference of malice
10 to your satisfaction, this inference would be
11 simply an evidence fact to be considered by you,
12 the jury, along with the other evidence in the
13 case, and you may give it the weight you decide
14 it should receive.

15 A specific intent to kill is not an element
16 of attempted murder, but there must be a general
17 intent to commit serious bodily injury. Intent
18 means intending the result which actually
19 occurs, not accidentally or involuntary.

20 Intent may be shown by acts and conduct of
21 the defendant and other circumstances from which
22 you may naturally and reasonably infer intent.
23 Evidence of the character of the act, the
24 character of the instrument used, the manner in
25 which it was used, the purpose to be

1 accomplished, and the resulting wounds or
2 injuries may be considered in determining the
3 intent with which the act was committed. Intent
4 may also be inferred when it is demonstrated
5 that the defendant voluntarily and willfully
6 commits an act, the natural tendency of which is
7 to destroy another's life.

8 I will give each of you a copy of these
9 instructions in written form. During your
10 deliberations, you may refer to the instructions
11 to guide your decision-making. You must consider
12 the instructions as a whole and not follow some
13 and ignore others. Please return the copy of the
14 instructions to the court at the time your
15 verdict is rendered.

16 Ladies and Gentlemen, your verdict must be
17 a unanimous one.

18 Madam Foreperson, when the jury agrees on
19 the verdict, you will write the verdict on the
20 back of the indictments and sign your name and
21 date it as the foreperson.

22 Now, I think you all could figure this out,
23 but we'll go through it nonetheless. There is a
24 section marked verdict on each of these three
25 indictments. There are four charges. One

1 indictment contains two counts on it. Two
2 counts. So if -- when writing your verdict, you
3 must on the two count indictment write Count 1
4 and your verdict and then Count 2 and your
5 verdict. And then sign and date as the
6 foreperson.

7 Then you'll knock on the jury room door and
8 inform the bailiff that you have reached a
9 verdict. At that time, we will receive you back
10 into the courtroom.

11 I ask that you now return to your jury
12 deliberation room, but do not begin deliberating
13 until you are told to do so. There are some
14 short matters which I must discuss with the
15 attorneys before you begin your deliberations.
16 Thank you again for your service so much.

17 **(WHEREUPON,** the jury exits at approximately
18 2:30 p.m.)

19 **THE COURT:** All right. Any objection to my
20 charge on the law from the State?

21 **MR. MOYER:** No, Your Honor.

22 **THE COURT:** Any from the defense?

23 **MR. STEELE:** No, Your Honor.

24 **THE COURT:** All right then. I've got these
25 indictments. I've got my instructions. Will

1 y'all take a look and make sure all the exhibits
2 are together? You know, one thing I forgot to
3 tell them was -- I forgot to tell them that we
4 would not have the stun gun back there, or the
5 taser I think is what's called, the taser there
6 with them.

7 When you take the exhibits back to them,
8 would you let them know that if they want to
9 hear, uh, any of these recordings or view
10 anything, that they can -- we can bring them
11 back in the courtroom and if they want to see
12 the taser for any reason, we'd need to bring
13 them back in the courtroom for that too.

14 **THE BAILIFF:** Yes, ma'am.

15 **THE COURT:** Thank you very much.

16 **(WHEREUPON, there is a pause.)**

17 **THE COURT:** I want to take just a minute
18 to say what an excellent job I thought everybody
19 in this case did. I -- I told them that y'all
20 were outstanding attorneys and y'all did not --
21 no one disappointed in any way.

22 And Mr. Williams, I know you were hoping
23 for a particular outcome. I don't know what the
24 outcome will be. But I will say you should have
25 at least some satisfaction in knowing that your

1 attorney has literally put on one of the best
2 cases that I have seen tried of this nature. I
3 will also -- I want to thank you for how cordial
4 you have been throughout this whole experience.
5 I thank you for how nice you have been
6 throughout.

7 **MR. STEELE:** Yes, ma'am.

8 **THE COURT:** All right. We're in recess
9 pending a verdict.

10 **MR. STEELE:** Thank you, Judge.

11 **(WHEREUPON, deliberation of the jury begins at**
12 **approximately 2:36 p.m.)**

13 **THE COURT:** All right. It's my
14 understanding that the jury has reached a
15 verdict. Anything we need to take up before we
16 bring the jury back in?

17 **MR. STEELE:** No, Your Honor.

18 **THE COURT:** From either side?

19 **MR. MILLER:** Nothing from the State, Your
20 Honor.

21 **THE COURT:** All right. Let me just say I
22 know we've got a couple of different parties in
23 the courtroom. I just want to let everybody know
24 that there can't be any outbursts. There can't
25 be anything like that. This jury didn't ask to

1 be involved in this case. There's going to be
2 absolutely no outbursts or anything whatsoever
3 positively or negatively in any way.

4 All right. Let's bring them in.

5 (WHEREUPON, the jury enters at approximately
6 3:18 p.m.)

7 THE COURT: Madam Foreperson, it's my
8 understanding that the jury's reached a verdict.
9 Is that correct?

10 THE JUROR: Yes, Your Honor.

11 THE COURT: Do you -- would you hand the
12 indictments to the bailiff please.

13 (WHEREUPON, the indictments are passed up to the
14 Court.)

15 THE COURT: The verdict forms all appear
16 to be in order.

17 THE CLERK: Your Honor, in the case of
18 2015-GS-23-0238, the State of South Carolina
19 versus Steven Levon Williams, as to the
20 indictment for Armed Robbery and Possession of a
21 Weapon during the Commission of a Violent Crime,
22 guilty on Count 1, Armed Robbery; guilty of
23 Count 2, Possession of a Weapon during the
24 Commission of a Violent Crime. On the case of
25 2015-GS-23-0241, Mr. Williams is indicted for

1 Assault and Battery in the First Degree. The
2 verdict is guilty. On the count of 2015-GS-23-
3 0239, Mr. Williams is indicted for Attempted
4 Murder. The verdict is not guilty. These are all
5 signed by our foreperson, Ms. Morlock.

6 Ladies and Gentlemen, if you agree these
7 are the verdicts you reached in your
8 deliberation room, would you please raise your
9 right hand.

10 (WHEREUPON, each juror responds.)

11 THE COURT: Anything from the State before
12 I release the jury?

13 MR. MILLER: Nothing from the State, Your
14 Honor.

15 THE COURT: All right. From the defense?

16 MR. STEELE: No, Your Honor.

17 THE COURT: All right. Thank you.

18 Ladies and Gentlemen, I think I speak for
19 all the attorneys involved in this. Thank you so
20 much for your service. I'm going to step back
21 here and say goodbye to you before you leave. If
22 you would, please return to your jury
23 deliberation room so you can get your cell
24 phones back and all that. I'll see you in just a
25 moment. All right. Thank you.

1 **(WHEREUPON,** the jury exits at approximately
2 3:20 p.m.)

3 **(WHEREUPON,** there is a short recess.)

4 **THE COURT:** All right. You may come on up.

5
6 **THE CLERK:** Are you speaking to the
7 gentleman in the back?

8 **THE COURT:** The gentleman in the back.
9 Yes, sir.

10 And y'all too. You can come on up here too.

11 **(WHEREUPON,** a bench conference is held off the
12 record.)

13 **THE COURT:** All right. Anything from the
14 State?

15 **MR. MOYER:** Your Honor, we do have his --
16 first off, I will say the victim would like to
17 address the Court ---

18 **THE COURT:** Sure.

19 **MR. MOYER:** --- regarding sentencing. We
20 also have, uh, -- as we told you at the
21 beginning of this case, the defendant was served
22 with Notice of Intent to Seek Life without
23 Parole. I have documents related to that if we
24 could have those made as a court exhibit.

25 **THE COURT:** Certainly.

1 **MR. MOYER:** Just to tell the Court, we
2 filed the Notice of Intent to Seek Life without
3 Parole on January 26th, 2015. I have an
4 affidavit of service where it was served on the
5 defendant February 2nd of 2015 and where it was
6 served on Mr. Steele on March the 23rd of 2016.
7 I will say that it was served -- Mr. Williams
8 had a lawyer previous to Mr. Steele. And the
9 notice was served on him around the same time it
10 was served on the defendant, but then we served
11 it on Mr. Steele also. That's why it's at a
12 later date.

13 **THE COURT:** Okay.

14 **MR. MOYER:** So if we could have that made
15 as a Court's Exhibit.

16 **(WHEREUPON,** Court's Exhibit 2 is marked for
17 identification.)

18 **MR. MOYER:** So his record consists -- I'm
19 sorry. (Pause.)

20 That would be Court's Exhibit Number 2. His
21 record consists in 1989 of convictions of
22 Burglary Second degree, three counts. He got 15
23 years suspended on 8 years for those. And then
24 in 2004, he was convicted of Armed Robbery,
25 Burglary First degree and Assault and Battery

1 with Intent to Kill. All three of those are most
2 serious offenses which are what qualified him
3 for life without parole in this case.

4 **THE COURT:** All right. And is there
5 anything else from the State? You said the
6 victim wanted to address the Court?

7 **MR. MOYER:** Yes.

8 **THE COURT:** All right. Yes, sir?

9 **MR. CABRERA:** Juan Ivan Cabrera.

10 **THE COURT:** Yes, sir.

11 **MR. CABRERA:** Yes, I want to say I fear
12 for my life. I want this man right here to stay
13 in jail and pay for what he did to me. I want
14 him to stay inside in jail to prevent from doing
15 the same thing to somebody else.

16 **THE COURT:** Thank you, sir. I appreciate
17 it.

18 All right. Anything else from the State?

19 **MR. STEELE:** Your Honor, procedurally, I
20 have a couple of objections.

21 **THE COURT:** Yes, sir.

22 **MR. STEELE:** I have in my hand Notice of
23 Intent to Seek Life without Parole. I have to
24 concede that was served on me. But I don't think
25 we just rely on a RAP sheet to show the

1 requisite number of convictions. I think they
2 need something certified from the Court to show
3 you.

4 **THE COURT:** I think they've got it.

5 **MR. STEELE:** Okay. Well, I didn't see it.
6 They never mentioned it. That's why I'm bringing
7 it up.

8 **THE COURT:** Yes, sir. No, I appreciate it.

9 **MR. MOYER:** If it please the Court, we
10 also do -- we do have certified convictions of
11 these three charges that we can make court's
12 exhibits also. It's indictment number 2003-5222,
13 he was convicted of Burglary First degree.
14 Again, in 2004, he received a sentence of 15
15 years suspended on 12 years. He was also
16 convicted of Assault and Battery with Intent to
17 Kill, 2003-5245 and then indictment number 2003-
18 5246, he was also convicted of Armed Robbery on
19 that date as well. He received a sentence of 15
20 years suspended on 12 years concurrent on each
21 of those charges.

22 **MR. STEELE:** If Your Honor please, I
23 would, uh, -- I would note that, uh, -- I think
24 I'm right. If I'm not, I know the government
25 would point it out. These would all appear to be

1 on the same day. I would respectfully ask you to
2 treat this as one conviction and not three. It
3 looks like to me the sentencing date as to all
4 three is September 16th, 2004. I am, uh, for the
5 record, objecting to this as being the requisite
6 number of separate convictions. I would
7 respectfully ask the Court to strike the motion
8 -- excuse me, strike the notice to seek life
9 without parole on that basis.

10 **MR. MOYER:** Your Honor, these are the most
11 serious. It only takes one previous conviction.
12 We have three, but it would only require one
13 previous.

14 **THE COURT:** All right.

15 **MR. MOYER:** So for that reason, I don't
16 think it matters. But if we could have these
17 marked as Court's Exhibit Numbers 3, 4 and 5.

18 **THE COURT:** All right.

19 **MR. STEELE:** And Mr. Williams wants me to
20 point out that they are over 10 years old, which
21 I do for the record.

22 **THE COURT:** All right.

23 **(WHEREUPON, Court's Exhibits 3, 4 and 5 are**
24 **marked for identification purposes.)**

25 **THE COURT:** All right. And I do note that.

1 Anything else from the defense?

2 **MR. STEELE:** Well, I would, uh, sometimes
3 in mitigation and under these circumstances, it
4 sort of doesn't amount to much, but I want the
5 Court to know, on his behalf, and he wants me to
6 thank the Court. The Court's been so gracious
7 and kind to him in a very bad set of
8 circumstances. And on his behalf, I thank the
9 Court.

10 **THE COURT:** I appreciate that.

11 **MR. STEELE:** I point out that he's
12 actually stayed out of trouble for 12 years. I
13 guess that's all I've got to say, Your Honor.

14 **THE COURT:** Well, Mr. Williams, I will say
15 to you I complimented you at the end of this
16 trial about how kind you've been throughout.
17 This is one of those unusual circumstances where
18 the person before me doesn't match the record
19 and doesn't match the circumstances you find
20 yourself in today. It's not about -- it's just
21 not without a lot of regret that, uh, I have to
22 sentence you under the law and based on your
23 record of the armed robbery to life in prison.
24 I, of course, run everything concurrent. And the
25 other charges, five years on the possession of

1 weapon; on the assault and battery first degree,
2 ten years, but concurrent with that; and five
3 years on the possession of a firearm by a person
4 convicted of a violent crime. Also I will run
5 that concurrent.

6 You know, I don't know that it makes any
7 difference, but you said he spent how long in
8 jail?

9 **MR. MOYER:** It was 15 suspended on 12
10 years.

11 **THE COURT:** Oh, I'm sorry.

12 **MR. MOYER:** Oh, for this particular case.

13 **MR. STEELE:** He's been in jail --

14 **MR. MILLER:** Since June 6th, 2014.

15 **MR. STEELE:** June 6th -- 16?

16 **THE COURT:** Mr. Williams, seems like you
17 remembered the number. Seems like you told me
18 the number earlier about how long you had been
19 over at the Law Enforcement Center. Do you
20 remember it?

21 **MR. WILLIAMS:** About two years.

22 **THE COURT:** About two years?

23 **MR. STEELE:** June of 2014. June 16th.

24 **MR. MILLER:** June 6th.

25 **THE COURT:** You know, with the nature of

1 the sentence, I don't know that it makes any
2 difference, but I'll give you credit for two
3 years time served. I'll just write that on there
4 in the event that something were to happen. I
5 wish you the best of luck. (Pause.)

6 I wish you the best of luck.

7 **MR. STEELE:** Thank you, Your Honor.

8 **THE COURT:** Yes, sir. Good luck to you.

9 **MR. MILLER:** Thank you.

10 **MR. MOYER:** Thank you, Judge.

11 **(WHEREUPON,** the proceedings conclude at
12 approximately 3:36 p.m.)

13

14

15

16

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 6th day of September, 2016.

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

Teresa B. Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA)

County of Greenville)Hester Leron Williams 157166)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

APPLICATION FOR

POST-CONVICTION RELIEF

2019-CP-23- 00485

FEB - 1 PM 2:02

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional Institution
990 Wilsack Highway, Bishopville, S.C. 29010
2. Name and location of Court which imposed sentence Greenville County
General Sessions Court Greenville S.C.
3. Name(s) of co-defendant(s) (if any) Leviticus Young
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2014A2330205177, 2014A2330205171,
(b) 2014A2330205173, 2014A2330205287

424 (c) 2014 A 2330265286

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) May, 12 2016 Armed Robbery - Life without
(b) Parole, Possession of weapon, 5 years Concurrent,
(c) Assault & Battery 1st degree 10 years Concurrent

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
(b) after a plea of not guilty ✓ _____
(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

- i. South Carolina Court of Appeals
ii. _____
iii. _____

(b) the result in each such Court to which you appealed:

- i. Affirmed
ii. _____
iii. _____

(c) the date of each such result:

- i. April 12, 2018
ii. _____
iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

- i. Unpublished Opinion No. 2018-WP-151
ii. _____
iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

- (a) N/A
(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Illegal Search and Seizure
- (b) Due Process
- (c) ineffective assistance of counsel
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) See Attachment
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. ✓
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. N/A
- ii. _____
- iii. ✓
- iv. _____

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

ii.

iii.

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) My appeal lawyer don't bring up
 (b) due process on my direct appeal
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? N/A
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
No

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:
 i. C. Carlyle Steele / 16 Whitstt St. Greenville,
SC 29601
 ii. John Strom / Laura R. Baer
P.O. Box 11589 Columbia, SC 29211
 iii. _____
 (b) the proceedings at which each such attorney represented you:
 i. C. Carlyle Steele / Trial and Sentencing
 ii. John Strom / Laura R. Baer / Direct
Appeal
 iii. _____

19. State clearly the relief you seek in filing this application:

Vacate Conviction and Remand for a new
Trial

20. Are you now under sentence from any other court that you have not challenged?

No

STATE OF SOUTH CAROLINA)

County of Greenville)

VERIFICATION

I, Steven L. Williams, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Steven Williams

SWORN to and subscribed before me this 17
day of Dec. 2018.

Dana Eastridge (L.S.)
Notary Public

My Commission Expires: 3/3/2021

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Steven L. Williams, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Steven Williams
Applicant

SWORN or affirmed to and subscribed before me this

17 day of Dec., 2018.

Debra E. Carls
Notary Public

My Commission Expires: 3/3/2026

11. state⁴³⁰ concisely and in the same order the facts which (1044) support each of the grounds set out in (10)

Illegal Search and Seizure

The trial Court erred in failing to suppress the gun which was obtained in violation of the 4th amendment of the U.S. Constitution and article I, § 10 of the S.C. Constitution.

Relevant Facts

Following a Auto Accident, The Parker District Fire Department was called to the location. Joey Smith who was a Parker District Fireman arrived at the scene first and so as matter of protocol, since there was a wreck he approached ~~applicant~~ applicant to provide medical care. ROA. 61 L. 4-10. Smith testified that he didn't notice anything when he first approached the vehicle. ROA 61, L. 11-13. However, Smith testified that after applicant was removed from the vehicle he went back to make sure the vehicle was in park, cut it off, and make sure he brakes up ROA. 62. Smith testified that as he reached inside just to make sure the vehicle was ~~turned~~ off he notices pistol, revolver under the seat. ROA. 62-63. The State presented pictures of the gun to Smith, ROA. ~~64~~ 65. Smith agreed that it was a pictures of the gun, but the pictures show the gun under the seat, and when Smith first saw the gun he said "it was under the seat in a compartment." ROA 65 L. 17-23. During cross Counsel established that the gun was "under the seat." ROA 66-67. And Smith testified several times that he had to stuck his head in the car in order to see the gun ROA. 67 L. 6-179 L. 20, and 180 L. 5. Smith testified that once he saw the gun he told his Lieutenant on the scene, and the lieutenant told the police. A Chris Acalmont (the officer that was told about the gun), approached the vehicle and pulled Applicant out of the vehicle at gun point and placed applicant in handcuffs without a positive identification, the so-called victim came after the fact." He testified that he was alerted by the fire

Department that there was a gun in the car. ROA 194 43-22. (2d) He also testified that he approached the car, with the fire-
fighter that was there walk with him ROA 195 26-7. He also
testified that he could see the gun kind of sticking
out from under the seat. ROA 195 47. The gun wasn't
in plain sight, but he know where to look because the
fire man told him where it was. He also testified that
the gun was in a compartment, leaning up against the
bottom of it... ROA 197 2-3-8. Malmont testified that
when he walked over to the vehicle he could see what
appeared to be the handle of a gun sticking out from
underneath the seat ROA 71 4-11-13. Specifically, "most of
the gun would have been under the seat, But I could see part
of it sticking out from under it." ROA 71, 2. 15-17. During my
hearing to suppress the gun, The judge said that the gun
was first discovered by a fire man acting pursuant to
established policy, had to be leaning over the seat, he
certainly would have seen the gun. ROA 76 2. 14-21. She
denied my motion on one basis of the plain view, but she
just said that you had to be leaning over the seat
to see it, also the the basis of inevitable discovery. But
the 4th amendment does not permit police to raise the
ventrory search banner in an after the fact attempt to
justify what was purely and simply a search of an
automobile for incriminating evidence. USCA Const. Amend. 4.
The gun should have been suppressed.

Due Process

The Supreme Court of the United States has held the the
4th Amendment applies to the states and, with it, the federal
doctrine forbidding the admission of evidence obtained by
unreasonable search and seizure. The Due Process Clause

* the 4th Amendment of the United State Constitution embodied and makes enforceable to State Courts, the right guaranteed by the 4th Amendment to the Constitution of the United States and, further, make evidence obtained by police officers in violations of the 4th Amendment inadmissible.

The Trial Judge erred in failing to exclude evidence of a gun on the ground that said gun was seized in violation of the 4th and 14th Amendment of the United States Constitution and Article 1 section 16 of the South Carolina Constitution, and failing to direct verdict of not guilty, the said contraband being the only evidence of Guilt offered by the State.

If the gun had been suppressed, there wouldn't have been any thing to support armed robbery. Armed Robbery is defined as robbery while with a gun, knife, slingshot, metal knuckles, razor, or other deadly weapon. Couldn't support possession of weapon, or possession of a firearm by a person convicted of a violent crime.

(3 of 4)

Ineffective assistance of counsel

433

Counsel failed to offer additional witness favorable to the Applicant. If the witness was at the trial, testimony at ~~the~~ trial would have went different.

Failed to give proper Rule 5 pictures.
If Applicant would have had proper pictures testimony would have went different at suppression hearing.

Failed to get a deal, plea-bargain before trial, while facing LWOP.

Steven L. Williams #15766
Lee County Correctional Institute
F-3B1239

990 Wisacky Hwy.
Bishopville, S.C. 29010



2019-CP-23-00485

Mr. Paul B. Wiskensimer
Clerk of Court
305 E. North Street (Suite 125)
Greenville, S.C.

Legal Mail

29601-2185

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	IN THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Steven L. Williams, #157166,	)	Case No.: 2019-CP-23-0485
Applicant,	)	
	)	
v.	)	RETURN
	)	
State of South Carolina,	)	
Respondent.	)	
_____	)	

The State (Respondent), making its Return to the Application for Post-Conviction relief filed on February 1, 2019, would respectfully show this Court:

I. Procedural History

Steven Williams (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its March of 2015 term, the Greenville County Grand Jury indicted Applicant for armed robbery (2015-GS-23-00238), first-degree assault and battery (2015-GS-23-00241), possession of a weapon during the commission of a violent crime (2015-GS-23-00238), and possession of a firearm by a person convicted of a violent crime (2015-GS-23-00240). Applicant was represented by C. Carlyle Steele, Esquire, and L. Mark Moyer, Esquire, and Edward Walker Miller, Esquire, prosecuted the cases on behalf of the State. On May 11-12, 2016, Applicant proceeded to a jury trial with the Honorable Letitia H. Verdin presiding. At the conclusion of trial, Applicant was convicted as indicted on the four offenses. Judge Verdin sentenced Applicant to imprisonment for life for armed robbery, ten years for first-degree assault and battery, five years for possession of a weapon during the commission of a violent crime, five years for possession of a firearm by a person convicted of a violent crime, with all sentences running concurrently, and with credit for

time served. On May 16, 2016, the solicitor dismissed an additional charge of criminal conspiracy based on prosecutorial discretion.

Counsel filed a notice of appeal on May 18, 2016. Appellate Defender John H. Strom filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), on March 15, 2017. Applicant filed a pro se brief on May 2, 2017. The Court of Appeals affirmed in an unpublished opinion. State v. Williams, No. 18-UP-151 (S.C. Ct. App., filed on April 11, 2018). The Remittitur was issued on April 30, 2018.

II. Current Application

In his Application for Post-Conviction Relief, Applicant presents grounds upon which he claims he is being held in custody unlawfully, which Respondent interprets as follows:

1. Trial court error
 - a. The trial court erred in denying Applicant's pre-trial motion to suppress the gun
2. Ineffective assistance of trial counsel
 - a. Counsel failed to call witnesses who would have provided testimony favorable to Applicant's defense
 - b. Counsel failed "to give proper Rule 5 pictures. If Applicant would have had proper pictures testimony would have went different at suppression hearing."
 - c. Counsel failed to secure a plea deal before trial

Applicant requests relief in the form of a new trial. Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's trial and direct appeal, and the Application for Post-Conviction Relief. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Ineffective Assistance of Counsel

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. See Strickland v. Washington,

466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625. Second, counsel’s deficient performance must have prejudiced Petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel’s performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466

U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove “counsel made errors so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.” Id. at 697. Therefore, the function of the post-conviction relief court is to determine if “in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance” required of a criminal defense attorney. Id. at 690.

Respondent submits that Applicant cannot demonstrate that he is entitled to relief. However, the allegations of ineffective assistance of counsel probably raise questions of fact the record does not conclusively refute. Accordingly, Respondent requests an evidentiary hearing to fully resolve these issues. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. Motion for Summary Dismissal

Applicant alleges in his Application that the trial court should have suppressed the evidence of the firearm, and Respondent interprets this allegations as a claim of trial court error. Respondent submits that this claim should be summarily dismissed for failing to state a cognizable claim upon which relief can be based. An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;
or
6. That the conviction or sentence is otherwise subject to collateral attack upon any

ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

Because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the overwhelming majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment to the Constitution of the United States. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (“Allegations of trial court error are not cognizable on PCR.”); State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494 499 (2005) (“Circuit courts obviously have subject matter jurisdiction to try criminal matters.”). Applicant’s claim of trial court error does not support a cognizable claim for post-conviction relief under any of the statutory grounds. Post-conviction relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Therefore, Respondent moves for summary dismissal of this allegation pursuant to S.C. Code Ann. § 17-27-70(c) (2003).

V. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant’s allegations. Applicant fails to set forth with specificity the facts and circumstances upon which his claims are based. For example, Applicant fails to provide any supporting or identifying information about what witnesses he wanted at trial whom Counsel did not call and what sort of testimony they could have provided and fails to give details about what he expected of or directed Counsel during plea negotiations. Additionally, the undersigned respectfully submits that he is unable to understand the allegations made with regards to the pictures or plea negotiations, and asks that Applicant be required to amend the Application so as to provide more and clearer information on these grounds

so that Respondent can effectively respond. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . **specifically** set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976) (emphasis added). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.”

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRPC, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise to his claims. Additionally, his claims are not supported by any other additional information in the Application. Respondent moves pursuant to Rule 12(e), SCRPC, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended or supplemental application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended or supplemental application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application

or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11, SCRCPP. Pro se filings will not be considered at the post-conviction relief hearing.

VII. Conclusion

WHEREFORE, Respondent requests that an evidentiary hearing be held on the allegations of ineffective assistance of counsel, that the claim of trial court error be dismissed with prejudice, and that the Applicant be required to provide a more definite statement as requested herein.

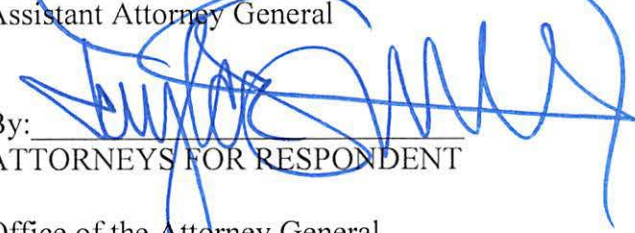
Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

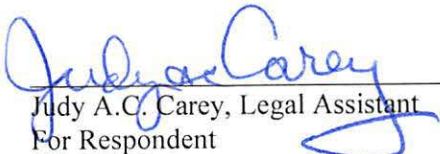
September 11, 2019

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
	)	2019-CP-23-0485
	)	
STEVEN L. WILLIAMS, 157166	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
_____	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

R. Mills Ariail, Jr., Esquire
11 North Irvine Street; Suite 11
Greenville, SC 29601

DATED this 11th day of September, 2019.



 Judy A.C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	IN THE THIRTEENTH JUDICIAL CIRCUIT
	)	
Steven L. Williams, #157166,	)	Case No.: 2019-CP-23-0485
Applicant,	)	
	)	
v.	)	AMENDED RETURN
	)	
State of South Carolina,	)	
Respondent.	)	
	)	

The State (Respondent), making its Return to the Application for Post-Conviction relief filed on February 1, 2019, would respectfully show this Court:

I. Procedural History

Steven Williams (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its March of 2015 term, the Greenville County Grand Jury indicted Applicant for armed robbery (2015-GS-23-00238), first-degree assault and battery (2015-GS-23-00241), possession of a weapon during the commission of a violent crime (2015-GS-23-00238), and possession of a firearm by a person convicted of a violent crime (2015-GS-23-00240). Applicant was also indicted for attempted murder (2015-GS-23-0239). Applicant was represented by C. Carlyle Steele, Esquire, and L. Mark Moyer, Esquire, and Edward Walker Miller, Esquire, prosecuted the cases on behalf of the State. On May 11-12, 2016, Applicant proceeded to a jury trial with the Honorable Letitia H. Verdin presiding. During the course of trial, Applicant pleaded guilty only to possession of a firearm by a person convicted of a violent crime (2015-GS-23-00240), and his sentencing was deferred until the conclusion of trial. At the conclusion of trial, Applicant was convicted as indicted of armed robbery, first-degree assault and battery, and possession of a weapon during the commission of a violent crime. He was found not guilty of attempted murder. Judge Verdin

sentenced Applicant to imprisonment for life for armed robbery, ten years for first-degree assault and battery, five years for possession of a weapon during the commission of a violent crime, five years for possession of a firearm by a person convicted of a violent crime, with all sentences running concurrently, and with credit for time served. On May 16, 2016, the solicitor dismissed an additional charge of criminal conspiracy based on prosecutorial discretion.

Counsel filed a notice of appeal on May 18, 2016. Appellate Defender John H. Strom filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), on March 15, 2017. Applicant filed a pro se brief on May 2, 2017. The Court of Appeals affirmed in an unpublished opinion. State v. Williams, No. 18-UP-151 (S.C. Ct. App., filed on April 11, 2018). The Remittitur was issued on April 30, 2018.

II. Current Application

In his Application for Post-Conviction Relief, Applicant presents grounds upon which he claims he is being held in custody unlawfully, which Respondent interprets as follows:

1. Trial court error
 - a. The trial court erred in denying Applicant's pre-trial motion to suppress the gun
2. Ineffective assistance of trial counsel
 - a. Counsel failed to call witnesses who would have provided testimony favorable to Applicant's defense
 - b. Counsel failed "to give proper Rule 5 pictures. If Applicant would have had proper pictures testimony would have went different at suppression hearing."
 - c. Counsel failed to secure a plea deal before trial

Applicant requests relief in the form of a new trial. Attached to this Return and incorporated by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, Applicant's records from the South Carolina Department of Corrections, the records from Applicant's trial and direct appeal, and the Application for Post-Conviction Relief. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

III. Ineffective Assistance of Counsel

Applicant, like all other defendants, has a right to the assistance of effective counsel as provided by the Sixth Amendment to the United States Constitution. See Strickland v. Washington, 466 U.S. 668 (1984); Lomax v. State, 379 S.C. 93, 665 S.E.2d 164 (2008). Applicant has the burden of proving the allegations in his post-conviction relief action, and when alleging that trial counsel was constitutionally ineffective, he must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that it cannot be relied upon as having produced a just result.” Strickland, 466 U.S. at 686. In evaluating allegations of ineffective assistance of counsel, the reviewing court applies the two-pronged test outlined in Strickland, 466 U.S. 668. First, Applicant must prove that counsel’s performance was deficient. Id.; Cherry v. State, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). Under this prong, the court measures an attorney’s performance by its “reasonableness under prevailing professional norms.” Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 690). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985). “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption to receive relief. Cherry, 300 S.C. at 118, 386 S.E.2d at 625.

Second, counsel’s deficient performance must have prejudiced Petitioner such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. This version of the second prong applies to any claim of ineffective assistance of counsel being made by Applicant regarding his convictions for armed robbery, possession of a weapon during the commission of a

violent crime, and first-degree assault and battery, since he asserted his right to a trial as to these offenses. To satisfy the second prong with respect to Applicant's guilty plea to possession of a weapon by a person convicted of a crime of violence, to which Applicant pleaded guilty during the course of his trial, Applicant must show that there is a reasonable probability that, but for counsel's alleged errors, he would not have pleaded guilty and would have insisted on going to trial. Hill v. Lockhart, 474 U.S. 52 (1985). The "prejudice prong ordinarily requires more than simply a defendant's assertion that but for counsel's deficient performance he would not have pled but would have gone to trial." Stalk v. State, 383 S.C. 559, 563, 681 S.E.2d 592, 595 (2009).

The standards do not establish mechanical rules; the ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose result is being challenged. A court need not first determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies. If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed. Strickland, 466 U.S. 668.

Moreover, Strickland does not require a finding of ineffectiveness merely for deviation from some rigid rule of representation. Rather, Strickland requires the post-conviction relief applicant to prove "counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Id. at 697. Therefore, the function of the post-conviction relief court is to determine if "in light of all the circumstances, the identified acts or omissions were outside the wide range of professional competent assistance" required of a criminal defense attorney. Id. at 690.

Applicant likely cannot be successful on his claim that Counsel was ineffective in failing to call witnesses at trial. A defense attorney has a duty to undertake reasonable investigations or

to make a decision that renders a particular investigation unnecessary. *Id.* at 691. Thus, “[a] criminal defense attorney has the duty to conduct a reasonable investigation to discover all reasonably available mitigation evidence and all reasonably available evidence tending to rebut any aggravating evidence introduced by the State.” McKnight v. State, 378 S.C. 33, 46, 661 S.E.2d 354, 360 (2008). A defense attorney’s “[f]ailure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to the result.” Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998) (citing Kibler v. State, 267 S.C. 250, 227 S.E.2d 199 (1976)). Moreover, counsel’s decision not to investigate should be assessed for reasonableness under all the circumstances with heavy deference to counsel’s judgment. Simpson v. Moore, 367 S.C. 587, 597, 627 S.E.2d 701, 706 (2006). “[C]ounsel’s conversations with the defendant may be critical to a proper assessment of counsel’s investigation decisions. . .” Strickland, 466 U.S. at 691. “[A] court deciding an actual ineffectiveness claim must judge the reasonableness of counsel’s challenged conduct on the facts of the particular case, viewed as of the time of counsel’s conduct.” *Id.* at 690; Bagwell v. State, 410 S.C. 259, 265, 763 S.E.2d 630, 633-34 (Ct. App. 2014). An applicant alleging that his attorney failed to prepare for the case must show how additional preparation would have resulted in a different outcome. Skeen v. State, 325 S.C. 210, 214, 481 S.E.2d 129, 132 (1997). In his Application, Applicant has failed to identify these alleged witnesses by name or explain what favorable testimony he believes that they would have offered on his behalf at trial.

With respect to his allegation that Counsel was ineffective for failing to show photographs to Applicant in preparation for trial, Applicant likely cannot be successful on this claim. Counsel moved for the suppression of the revolver found in Applicant’s car after his arrest in a pre-trial hearing. Applicant testified at that hearing that the weapon was in a locked compartment under his

driver's seat at the time of his crash into a utility pole. The testimony of a firefighter and police officer was that, after Applicant had been arrested, they observed the revolver in plain view in an unlocked, open compartment under Applicant's driver's seat. The officer testified that it appeared that the compartment may have opened in the crash. Applicant fails to prove that Counsel failed to show the relevant photographs to him before trial, and Applicant fails to explain how his testimony would have been different had he seen the photographs before trial. Presumably, Applicant offered the whole and pure truth during the suppression hearing.

Respondent submits that Applicant likely cannot demonstrate that he is entitled to relief. Respondent requests an evidentiary hearing in order to address the questions of fact raised that the record may not conclusively refute. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (holding that an evidentiary hearing is required when an application for post-conviction relief alleges specific instances of ineffectiveness that are not conclusively refuted by the record) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV. Motion for Summary Dismissal

Applicant alleges in his Application that the trial court should have suppressed the evidence of the firearm, and Respondent interprets this allegations as a claim of trial court error. Respondent submits that this claim should be summarily dismissed for failing to state a cognizable claim upon which relief can be based. An applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint;

- or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy....

S.C. Code Ann. § 17-27-20(A).

Because an application for post-conviction relief is not a substitute for a direct appeal of trial court error, and because of the modern simplification of criminal jurisdiction jurisprudence in South Carolina, the overwhelming majority of cognizable claims fall under the broad umbrella of “ineffective assistance of counsel,” a contention under the Sixth Amendment to the Constitution of the United States. See Roscoe v. State, 345 S.C. 16, 20, 546 S.E.2d 417, 419 (2001) (applying the established principle that a post-conviction relief applicant cannot assert trial court error in a PCR action). Applicant’s claim of trial court error does not support a cognizable claim for post-conviction relief under any of the statutory grounds. Post-conviction relief is only proper when the application collaterally attacks the validity of the conviction or sentence. Al-Shabazz v. State, 338 S.C. 354, 527 S.E.2d 742 (2000). Furthermore, Applicant unsuccessfully raised this issue in his pro se brief to the South Carolina Court of Appeals. State v. Williams, No. 18-UP-151 (S.C. Ct. App., filed on April 11, 2018). Applicant should not be allowed to raise this issue again. Therefore, Respondent moves for summary dismissal of this allegation pursuant to S.C. Code Ann. § 17-27-70(c) (2003).

V. Motion for a More Definite Statement

Respondent moves for a more definite statement as to Applicant’s allegations. Applicant fails to set forth with specificity the facts and circumstances upon which his claims are based. For example, Applicant fails to provide any supporting or identifying information about what witnesses he wanted at trial whom Counsel did not call and what sort of testimony they could have provided and fails to give details about what he expected of or directed Counsel during plea

negotiations. Additionally, it is not clear if the allegations raised by Applicant are meant to be raised with regard to one or more of the offenses for which he was convicted on May 12, 2016, as Applicant pleaded guilty to one offense before the completion of trial but persisted in the trial for the remaining four offenses. The undersigned asks for more clarification as to this distinction so that the parties will argue the proper prejudice standard before the PCR court when this case is tried. The undersigned respectfully submits that he is unable to understand the allegations made with regards to the pictures or plea negotiations, and asks that Applicant be required to amend the Application so as to provide more and clearer information on these grounds so that Respondent can effectively respond. The Uniform Post-Conviction Procedure Act requires that the Applicant must “. . . **specifically** set forth the grounds upon which the application is based.” Section 17-27-50 of the Code of Laws of South Carolina (1976) (emphasis added). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.”

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise to his claims. Additionally, his claims are not supported by any other additional information in the Application.

Respondent moves pursuant to Rule 12(e), SCRCPP, to require Applicant to provide a more definite statement of his claims. Respondent moves to require Applicant to file an additional amended or supplemental application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended or supplemental application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

VI. Future Amendments and the Discovery Process

Applicant must specify any claims he intends to raise at the post-conviction relief evidentiary hearing. Any claims not specifically laid out in this post-conviction relief application or in amendments will be opposed by the State at an evidentiary hearing pursuant to §§ 17-27-10 to -160 of the South Carolina Code of Laws and Rule 71.1 of the South Carolina Rules of Civil Procedure. See also Rules 15(a)-(b), SCRCPP. All claims should be made well in advance of the evidentiary hearing. Respondent reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to Respondent. See Rule 15(a), SCRCPP. Because Applicant has been appointed an attorney, the attorney, and not Applicant, is the only individual authorized to file amendments to this application. Rule 11, SCRCPP. Pro se filings will not be considered at the post-conviction relief hearing.

VII. Conclusion

WHEREFORE, Respondent requests that an evidentiary hearing be held on the allegations of ineffective assistance of counsel, that the claim of trial court error be dismissed with prejudice, and that the Applicant be required to provide a more definite statement as requested herein.

Respectfully submitted,

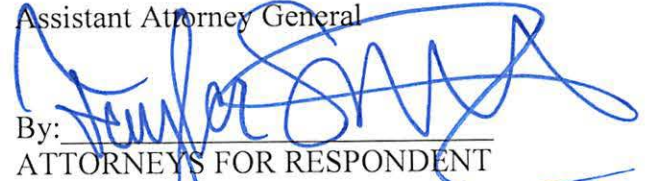
ALAN WILSON

Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

TAYLOR ZANE SMITH
Assistant Attorney General

By: 
ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

October 10, 2019

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STEVEN L. WILLIAMS, #157166

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2019-CP-23-0485

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Amended Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

R. Mills Ariail, Jr., Esquire
Law Office of R. Mills Ariail, Jr.
11 North Irvine Street, Suite 11
Greenville, South Carolina 29601

DATED this 10th day of October, 2019.



Camille Henry, Legal Assistant
 For Respondent



ALAN WILSON
ATTORNEY GENERAL

October 10, 2019

The Honorable Paul B. Wickensimer
Clerk of Court – Greenville County
305 East North Street; Room 224
Greenville, SC 29601-2121

**Re: Steven L. Williams, #157166 v. State of South Carolina
2019-CP-23-0485**

Dear Mr. Wickensimer:

Enclosed please find the Respondent's original **Amended Return**, in the above-captioned case for filing in your office.

Sincerely,

Taylor Z. Smith
Assistant Attorney General

TZS/ch
Enclosures

cc: R. Mills Ariail, Jr., Esquire

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Steven L. Williams, #157166,
Applicant,

v.

State of South Carolina,
Respondent.

IN THE COURT OF COMMON PLEAS
IN THE THIRTEENTH JUDICIAL CIRCUIT

Case No.: 2019-CP-23-0485

**MOTION FOR A MORE
DEFINITE STATEMENT**

ENTERED COMPUTER

2020 FEB 11 PM 3:43

The State (Respondent), moving for a more definite statement, would respectfully show this Court:

I. Procedural History

Steven Williams (Applicant) is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Greenville County Clerk of Court. During its March of 2015 term, the Greenville County Grand Jury indicted Applicant for armed robbery (2015-GS-23-00238), first-degree assault and battery (2015-GS-23-00241), possession of a weapon during the commission of a violent crime (2015-GS-23-00238), and possession of a firearm by a person convicted of a violent crime (2015-GS-23-00240). Applicant was also indicted for attempted murder (2015-GS-23-0239). Applicant was represented by C. Carlyle Steele, Esquire, and L. Mark Moyer, Esquire, and Edward Walker Miller, Esquire, prosecuted the cases on behalf of the State. On May 11-12, 2016, Applicant proceeded to a jury trial with the Honorable Letitia H. Verdin presiding. During the course of trial, Applicant pleaded guilty only to possession of a firearm by a person convicted of a violent crime (2015-GS-23-00240), and his sentencing was deferred until the conclusion of trial. At the conclusion of trial, Applicant was convicted as indicted of armed robbery, first-degree assault and battery, and possession of a weapon during the commission of a violent crime. He was found not guilty of attempted murder. Judge Verdin

sentenced Applicant to imprisonment for life for armed robbery, ten years for first-degree assault and battery, five years for possession of a weapon during the commission of a violent crime, five years for possession of a firearm by a person convicted of a violent crime, with all sentences running concurrently, and with credit for time served. On May 16, 2016, the solicitor dismissed an additional charge of criminal conspiracy based on prosecutorial discretion.

Counsel filed a notice of appeal on May 18, 2016. Appellate Defender John H. Strom filed a brief pursuant to Anders v. California, 386 U.S. 738 (1967), on March 15, 2017. Applicant filed a pro se brief on May 2, 2017. The Court of Appeals affirmed in an unpublished opinion. State v. Williams, No. 18-UP-151 (S.C. Ct. App., filed on April 11, 2018). The Remittitur was issued on April 30, 2018.

II. Motion for a More Definite Statement

Applicant filed an application for post-conviction relief on February 1, 2019. In an order of appointment filed on March 5, 2019, R. Mills Ariail, Esquire, was appointed to represent Applicant. In its return, filed on September 20, 2019, the undersigned moved for a more definite statement, arguing that Applicant had failed to set forth with specificity the facts and circumstances upon which his claims are based. After receiving additional records from the Greenville County Clerk of Court regarding the indictments of Applicant and his convictions, Respondent filed an amended return on October 16, 2019. The parties appeared before the Honorable Edward W. Miller at the Greenville County Courthouse during the PCR term of court beginning on October 21, 2019, so that Respondent could be heard on its motion for a more definite statement. Mr. Ariail stated that he agreed to file an amended application in order to satisfy Respondent's motion, and Judge Miller instructed him to do so and that the hearing should then be placed back upon the roster for a hearing. Judge Miller also notified the parties that he was not requesting a proposed order to sign.

On January 14, 2020, Applicant then filed an amended application. The amended application alleges that Applicant is being held in custody unlawfully based upon:

1. "Golden Rule Violation";
2. "Prosecutorial Misconduct"; and
3. "Trial Court Error in which the Judge a provision where she expressed her own opinion in the charge."

In the amended application, Applicant fails to set forth with specificity the facts and circumstances upon which his claims are based. For example, Applicant fails to provide any supporting or identifying information about how the State committed a Golden Rule violation, in what way the State committed prosecutorial misconduct, what the trial court did that constituted an expression of personal opinion, and the supporting facts and law upon which any of the allegations are based. Additionally, it is not clear if the allegations raised by Applicant are meant to be raised with regard to one or more of the offenses for which he was convicted on May 12, 2016, as Applicant pleaded guilty to one offense before the completion of trial but persisted in the trial for the remaining four offenses. The undersigned asks for more clarification as to this distinction so that the parties will argue the proper prejudice standard before the PCR court when this case is tried.

The Uniform Post-Conviction Procedure Act requires that the Applicant must "specifically set forth the grounds upon which the application is based." Section 17-27-50 of the Code of Laws of South Carolina (1976) (emphasis added). In an application for post-conviction relief, it is incumbent upon Applicant to make at least a prima facie showing which would entitle him to relief before an evidentiary hearing will be scheduled and held. Welch v. MacDougall, 246 S.C. 258, 143 S.E.2d 455 (1965); Blandshaw v. State, 245 S.C. 385, 140 S.E.2d 784 (1965). The Supreme Court of South Carolina has provided that:

[M]ere allegations of incompetency or ineffectiveness of counsel will not ordinarily suffice as grounds for a new trial under the Post-Conviction Procedure Act. The bare assertion by the appellant that he was deprived of counsel is insufficient.”

Coardes v. State, 262 S.C. 493, 497, 206 S.E.2d 264, 265 (1974).

Furthermore, Rule 8(a), SCRCP, requires all civil pleadings include “a short and plain statement of the facts showing that the pleader is entitled to relief.”

Applicant has failed to state with any specificity the specific facts giving rise to his claims. Additionally, his claims are not supported by any other additional information in the Application. The undersigned submits that the amended application does not comply with the terms of Judge Miller’s verbal order, which presumably incorporated the pleading and notice requirements laid out in Respondent’s original motion for a more definite statement. Respondent moves pursuant to Rule 12(e), SCRCP, to require Applicant to provide a more definite statement of his claims. Respondent moves anew to require Applicant to file an additional amended application well in advance of any evidentiary hearing scheduled in this matter. If Applicant fails to file a timely and responsive amended application setting forth specific allegations for relief, Respondent reserves the right to move to dismiss the application.

III. Rule 11 Statement

The undersigned certifies that he has not discussed this motion with Applicant before filing because, after having successfully moved for this relief at a previous hearing, he believes that further discussion on it would serve no useful purpose.

III. Conclusion

WHEREFORE, Respondent requests that the Applicant be required to provide a more definite statement as requested herein, as requested in Respondent's first motion for a more definite statement, and as ordered by Judge Miller.

Respectfully submitted,

ALAN WILSON
Attorney General

W. JEFFREY YOUNG
Chief Deputy Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General

for

TAYLOR ZANE SMITH
Assistant Attorney General

By:


ATTORNEYS FOR RESPONDENT

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
Telephone: (803) 734-3737

February 5, 2020

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

STEVEN L. WILLIAMS, 157166

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

2019-CP-23-0485

CERTIFICATE OF SERVICE BY MAIL

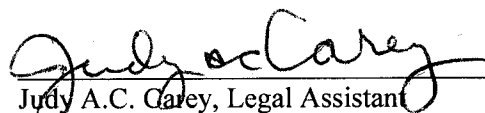
FILED-CERTIFICATE OF COURT
PAUL J. HARRIS
CLERK OF COURT

2020 FEB 1 PM 3:43

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Motion for a More Definite Statement** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

R. Mills Ariail, Jr., Esquire
11 North Irvine Street; Suite 11
Greenville, SC 29601

DATED this 5th day of February, 2020.

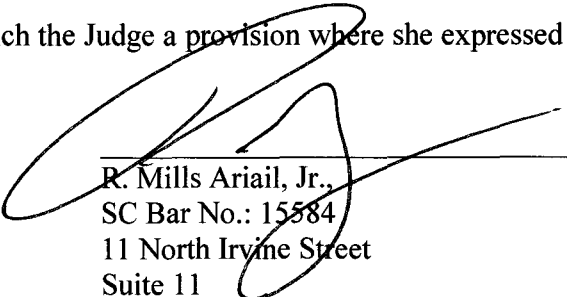

 Judy A.C. Carey, Legal Assistant
 For Respondent

STATE OF SOUTH CAROLINA COUNTY OF GREENVILLE	)))	IN THE COURT OF COMMON PLEAS FOR THE THIRTEENTH JUDICIAL CIRCUIT C.A. No.: 2019-CP-23-0485
STEVEN L. WILLIAMS #157166, APPLICANT, Vs. STATE OF SOUTH CAROLINA, Defendant.	))))))))	ENTERED COMPUTER AMENDED APPLICATION FOR POST CONVICTION RELIEF JAN 14 PM 1:23 CLERK OF COURT

This matter comes before the Court by way of Applicant's Post Conviction Relief Application which was originally filed on February 1, 2019. Applicant's Attorney is submitting this Amended Application for Post Conviction Relief on behalf of his client.

The Applicant's Amended Allegations are that he is being held in custody unlawfully as follows:

- I. Golden Rule Violation
- II. Prosecutorial Misconduct
- III. Trial Court Error in which the Judge a provision where she expressed her own opinion in the charge.


 R. Mills Ariail, Jr.,
 SC Bar No.: 15584
 11 North Irvine Street
 Suite 11
 Greenville, South Carolina 29601
 (864) 232-9390

Greenville, SC
 Date: 1/14/2020

Copy mailed to
 Attorney General/Ariail
 on 1 / 14 / 2020

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2019CP2300485

Steven Levon Williams

South Carolina State Of

ENTERED COMPUTER

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: RESPONDENT'S MOTION FOR A MORE DEFINITE STATEMENT

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

6/4/2021

Date

For Clerk of Court Office Use Only

This judgment was entered on 6-4-21 and a copy mailed first class or placed in the appropriate attorney's box on 6-4-21 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This matter was heard before the court via WebEx on June 4, 2021. This was respondent's motion for a more definite statement.

Applicant has 30 days for a more definite statement regarding the "Golden Rule".

This motion has been transferred to the September term of court.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2019CP2300485

Steven Levon Williams

South Carolina State Of

ENTERED COMPUTER

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: RESPONDENT'S MOTION FOR A MORE DEFINITE STATEMENT

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Debra R. McCaslin
Circuit Court Judge2769
Judge Code

6/4/2021

Date

For Clerk of Court Office Use Only

This judgment was entered on 6-22-21, and a copy mailed first class or placed in the appropriate attorney's box on 6-22-21, to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter *Cheryl Smith*

Paul B. Wickensimer

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

This matter was heard before the court via WebEx on June 4, 2021. This was respondent's motion for a more definite statement.

Applicant has 30 days for a more definite statement regarding the "Golden Rule".

This motion has been transferred to the September term of court.

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

STEVEN L. WILLIAMS,)
)
 APPLICANT,)
)
 -VS-)
)
 STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
 _____)

2019-CP-23-00485

TRANSCRIPT OF RECORD

SEPTEMBER 13, 2021
GREENVILLE, SOUTH CAROLINA
VIA WEBEX

B E F O R E:

THE HONORABLE R. LAWTON McINTOSH

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

ATTORNEY FOR APPLICANT:

R. MILLS ARIAIL, JR., ESQ.

ATTORNEY FOR RESPONDENT:

TAYLOR Z. SMITH
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

INDEX

<u>WITNESS</u>		<u>PAGE NO.</u>
STEVEN WILLIAMS		
DIRECT BY MR. ARIAIL	-----	4
CROSS BY MR. SMITH	-----	25
CARLYLE STEELE		
DIRECT BY MR. SMITH	-----	27
CROSS BY MR. ARIAIL	-----	36
REDIRECT BY MR. SMITH	-----	43
CERTIFICATE OF REPORTER	-----	49

EXHIBITS

<u>NO</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVIDENCE</u>
R-1	NOTE REJECTING PLEA DEAL -----	32	32

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

4

1 **THE COURT:** This is Steven L. Williams versus the State.
2 The trial attorneys were Carlyle Steele and Mark Moyer. Mills
3 Ariail is representing the Applicant. Mr. Taylor Smith is
4 representing the State.

5 According to what I've read, the grounds are -- Mr. Mills
6 [sic], I want you to clarify if I'm mistaken. There was
7 alleged violation of the Golden Rule, there's prosecutorial
8 misconduct, the judge impressed her personal opinion in the
9 final charge, the judge should have suppressed the gun, also
10 ineffective assistance of counsel for failing to call a
11 witness, failing to get proper Rule 5 pictures and failure to
12 secure a plea. Are there any other grounds other than those,
13 Mr. Mills [sic]?

14 **MR. ARIAIL:** That is my understanding of the grounds,
15 Your Honor.

16 **THE COURT:** All right. Would you call your first
17 witness.

18 **MR. ARIAIL:** I will, Your Honor. Mr. Williams, who is
19 appearing by video, I'll call him.

20 **THE COURT:** Okay. Mr. Williams, would you raise your
21 right hand, please, sir. Do you swear or affirm to tell the
22 truth, the whole truth and nothing but the truth?

23 **MR. WILLIAMS:** Yes, sir.

24 **THE COURT:** Okay. Thank you, Mr. Williams.
25 Your witness, Mr. Ariail.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

5

1 **MR. ARIAIL:** Thank you. I'm having a little hard time
2 hearing Mr. Williams. If he could move a little closer, I
3 guess, to -- a little bit -- to communicate with him ---

4 **MR. SMITH:** Your Honor, I don't mean to jump in here, but
5 I would like to say that is not my understanding of the
6 grounds today.

7 **THE COURT:** What is your understanding of the grounds
8 today, Mr. Smith?

9 **MR. SMITH:** That there would be two issues; one of the
10 Golden Rule and the other of comments by Judge Verdin on the
11 case with prosecutorial misconduct being the same thing as the
12 Golden Rule.

13 **THE COURT:** Okay. Well, according to what I have, those
14 were the grounds expressed in the submissions I have. So I'm
15 going to err on the side of the Applicant, and you just hang
16 in there with us. All right. Mr. Ariail, go ahead.

17 **MR. ARIAIL:** Thank you, Your Honor. May it please the
18 Court?

19 **Direct Examination by Mr. Ariail:**

20 Q. Mr. Williams, can -- I'm going to go through a little
21 background. You were represented by Carlyle Steele, is that
22 correct?

23 A. Yes, sir.

24 Q. Okay. And he represented you. I think we stood -- part
25 of this -- there were numerous charges; armed robbery, first

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

6

1 degree, assault and battery, possession of a weapon during a
2 violent crime, possession of a firearm by a person convicted
3 of a violent crime. Do you remember that?

4 A. Yes, sir.

5 Q. Okay. And it appears you went to -- I guess you were
6 also indicted on a attempted murder charge. Do you remember
7 that?

8 A. Yes, sir.

9 Q. Okay. Now you went to trial at some point on these
10 charges, is that correct?

11 A. Yes, sir, I did.

12 Q. And you pled guilty during the trial to one charge of
13 firearm by a person convicted of a violent crime. Do you
14 remember that?

15 A. Yes, sir.

16 Q. Okay. Now you went to trial and the jury came back and
17 found you guilty of the other charge, is that right, and not
18 guilty of the attempted murder?

19 A. Yes, sir.

20 Q. Okay. So as a part of that you received a sentence from
21 Judge Verdin, and it was -- one of those was life for armed
22 robbery, is that correct?

23 A. Yes, sir.

24 Q. Okay. Now you filed this PCR application expressing some
25 things about Mr. Steele. And I want to go through them a

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

7

1 little bit about you. We've had some discussions. During
2 your representation by Mr. Steele did you -- were you able to
3 talk to him and, I guess, have communications with him about
4 your case?

5 A. Yes, sir. I talked to him right -- right before the
6 trial started.

7 Q. How many times do you think you talked to him before the
8 trial started?

9 A. I talked to him, I think, like two or three times.

10 Q. Two or three times. Did you get the -- did he answer
11 your questions that you needed?

12 A. He tried. At first he had -- at first I had a attorney
13 before Mr. Steele.

14 **MADAME COURT REPORTER:** Excuse me a minute. Judge, I
15 need for him to move closer so I can hear him better, please.

16 **THE COURT:** Okay. Mr. Williams, do you mind moving
17 closer once again, please? And let me say this for the
18 record, if anyone cannot hear what's being said, please speak
19 up so we can stop and have it repeated.

20 Q. Mr. Williams, I think you can continue. Who was your
21 attorney before Mr. Steele?

22 A. I had a attorney before Mr. Steele named Symmes
23 Culbertson.

24 Q. Okay.

25 A. And I ended up -- I had to get him terminated because he

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

8

1 told my people that if I had a little money that my case would
2 go a little quicker. So I got him terminated just for that
3 fact. And after that I've been kind of like a year and a half
4 til I got Mr. Steele.

5 Q. Okay. You got Mr. Steele. And how far into the case did
6 you get Mr. Steele, you think? Year and a half?

7 A. Yeah, I was -- I was in the County at least a good year,
8 over a year before I got Mr. Steele.

9 Q. Okay. And how -- after you got Mr. Steele you said you
10 met with him two to three times?

11 A. Yes, sir.

12 Q. Did y'all discuss the case and all the evidence that was
13 going to be presented against you?

14 A. Yeah, we just -- we discussed the case. And he put in a
15 motion to suppress the gun, you know what I'm saying? That
16 was right before my trial.

17 Q. Okay. From my understanding that was denied by the
18 judge, is that correct?

19 A. Yes, sir.

20 Q. Okay. So prior to going to trial you discussed your
21 case. And I guess Mr. Steele knew enough about it to be able
22 to make a motion to suppress, is that correct?

23 A. Yes, sir, 'cause I had explained to him what happened.

24 Q. Okay.

25 A. And he put in a motion to suppress the gun.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

9

1 Q. Okay. So as part of that, when you discussed the case
2 with him, did he answer your questions and give you his legal
3 advice in regards to how you should handle the case?

4 A. I mean, I don't -- I don't think so, you know what I'm
5 saying, because he didn't want me -- he didn't want me to
6 testify on my behalf. He didn't -- he didn't get my witness.
7 I told him about a witness that was going to testify --
8 testify for me. He didn't get the witness, you know what I'm
9 saying? So I'd say, no, he really didn't help me -- help me
10 out like he was supposed to help me.

11 Q. Okay. Let's go through that a little bit. That was one
12 of your issues was -- there was a witness that you had asked
13 him to be able to go and, I guess, interview or talk to, is
14 that correct?

15 A. Yes, sir.

16 Q. Who was that individual?

17 A. It was a female. Name was Brittany Bryant.

18 Q. Okay. What would Brittany be able to do or what did you
19 tell ---

20 A. She ---

21 Q. --- could testify to?

22 A. Like my statement -- like I told them in my statement,
23 the incident that happened, it was no armed robbery, period.
24 It was -- it was my nephew going to this -- going to this
25 man's place of business, the fight that was behind this

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

10

1 female, you know what I'm saying? And then I told him who the
2 female was and what she going to testify to. I gave the
3 information and the phone number (unintelligible) for this
4 female. Ain't nobody ---

5 Q. That was ---

6 A. Ain't nobody but this female claim to see me at the
7 crime.

8 Q. And that was Brittany Bryant?

9 A. Yes, sir.

10 Q. And so I want to go back one more time so I understand
11 this. What would Brittany Bryant have testified to if she'd
12 come to trial?

13 A. She ---

14 **MR. SMITH:** Objection. Your Honor, that's calling for
15 hearsay.

16 **THE COURT:** That's sustained.

17 Q. Okay. What did you tell Mr. Steele that Ms. Bryant would
18 testify to?

19 A. I told -- I told him there wasn't no armed robbery.
20 There were two grown men fighting in the shop, you know what
21 I'm saying? I told him straight up that I ain't had nothing
22 to do with it. I was standing around watching these two grown
23 men fighting over this female. Ain't nobody -- ain't nobody
24 bring this female to my trial to get her testimony.

25 Q. Did you tell Mr. Steele that Ms. Bryant witnessed the

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

11

1 fight?

2 A. Yes, sir. I told him -- I told him all that. I told him
3 all that. Plus, I -- plus, that my co-defendant, so-called
4 co-defendant, was going to testify to the same thing.

5 Q. Okay.

6 A. Pushed me to trial and ain't had my co-defendant -- they
7 don't know what he -- they don't know what he going to say.
8 They just had me and Mr. Cabrera there and his word against
9 mine.

10 Q. Okay.

11 A. They tried to charge me with hands of one, hands of all,
12 but they put it in trial and they didn't even have my co-
13 defendant. My co-defendant was still on the run.

14 Q. Okay. Did he -- did you and him discuss other aspects of
15 your case like the elements of the crimes that you had -- they
16 had to prove?

17 A. I told him -- I told him everything that was going on.
18 They went -- I told him about how they went in my car and
19 found the gun, you know what I'm saying? The fireman went in
20 the car and found the gun.

21 Like I said, Mr. Cabrera hit me in the back and ran me
22 off the road. The fireman said he went in the car to secure
23 the car. I told him that they went in my car, but the fireman
24 said he went in the car to secure the car and he seen the gun
25 up under the seat.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

12

1 So he told -- he went and told the officer about the gun
2 being up under the seat. The officer go in the car and get
3 the gun from under the seat. I told Mr. Carlyle Steele that
4 this was illegal search and seizure because the gun -- the gun
5 was not in plain sight.

6 The fireman got in the -- the fireman went in the car to
7 secure the car. I don't know -- I don't know why he seen the
8 gun. He told the officer about the gun. The officer ---

9 **MR. SMITH:** Objection ---

10 A. --- went in the car to get the gun with no search
11 warrant.

12 **MR. SMITH:** Objection to relevance, Your Honor. What
13 does this have to do with alibi witnesses, or closing argument
14 or jury instruction?

15 **MR. ARIAIL:** I think we can go on, Your Honor. I'm just
16 going to move on to another point with him.

17 **THE COURT:** Okay.

18 Q. In regards to another issue you had, there were some
19 pictures that you had discussed that -- I guess with Mr.
20 Steele. Do you -- what's your issue in regards to the
21 pictures?

22 A. I mean, you can look at the pictures -- I can't see the
23 pictures, period. They blurred all the way through. These
24 are improper Rule 5 pictures. All of these pictures show --
25 these pictures are black and white. They ain't showing

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

13

1 nothing.

2 Q. And what were the pictures of that you wanted to be able
3 to see a better picture of them?

4 A. Well, these -- these pictures of the inside of the car
5 and pictures of the outside of the car, which I forgot what
6 the relevancy of these pictures to my case, you see what I'm
7 saying? These show the outside of the car.

8 Q. Okay. Did you discuss that with Mr. Steele about the
9 relevance of those pictures?

10 A. I'm trying to figure out what -- yeah, I asked Mr. Steele
11 what the relevance was of these pictures. He couldn't tell me
12 himself because he ain't had no proper pictures. He sent me
13 these pictures with no -- you can't even -- you can't even see
14 the pictures.

15 If you charged me for armed robbery inside this shop,
16 what is the relevancy of these pictures, you know what I'm
17 saying? You show the car ---

18 **MADAM COURT REPORTER:** Judge, ---

19 A. --- inside the car ---

20 **MADAM COURT REPORTER:** Judge, ---

21 **THE COURT:** Just one second. Ms. Hudgins, you having a
22 hard time hearing?

23 **MADAM COURT REPORTER:** I am. If he could move forward
24 and stop moving around ---

25 **THE COURT:** You're muted.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

14

1 **MADAM COURT REPORTER:** Okay. If he can move forward and
2 stop moving around, it'll help with being so much
3 interference.

4 **THE COURT:** Okay.

5 A. I can't move no closer. If I get any further, I'm going
6 to be on top of the desk.

7 **THE COURT:** Okay. Just do the best you can. And speak
8 loud -- speak up if you can, Mr. Williams.

9 **Direct Examination by Mr. Ariail Continued:**

10 Q. Now the pictures, I just want to understand, were there
11 any -- did they come into evidence or did Mr. Steele and you
12 have a discussion about how to keep them out?

13 A. I didn't understand what you -- I didn't understand what
14 you're saying.

15 Q. That's what I'm trying to -- you said there was an issue
16 in regards to these pictures. Are you concerned about you
17 couldn't view the pictures or that they came into evidence and
18 that they were blurred for the jury?

19 A. I mean, all -- they were all -- they were blurred for me,
20 see what I'm saying? I don't know if they came -- they did
21 not come to the jury.

22 Q. Okay. You're just saying you couldn't see them and ---

23 A. And I was trying ---

24 Q. --- pictures? Okay.

25 A. --- the relevancy of these pictures.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

15

1 Q. Okay.

2 A. In my motion, my Rule 5, what is the relevancy of these
3 pictures?

4 Q. Okay. Now as part of this, too, you had indicated that
5 you did not get or were not told about a plea deal that was
6 given to you by the State.

7 A. No, sir.

8 Q. Okay.

9 **MR. SMITH:** I'm going to object to that again, Judge. I
10 have no notice of that argument being raised today. And I do
11 not have a solicitor here who can testify about that. And if
12 you have questions about the lack of notice, I'd be happy to
13 explain why I don't have notice.

14 **THE COURT:** Well, you can go ahead and explain.

15 **MR. SMITH:** Yes, Your Honor. After Mr. Williams filed
16 his application, the State filed a motion for a more definite
17 statement. Mr. Ariail and I went to court on this twice.
18 Most recently Judge Verdin issued an order saying he had to
19 provide a more definite statement within a certain time
20 period. He did that to me.

21 And from my understanding of that conversation, the only
22 two issues that would be before the Court today was the Golden
23 Rule argument/prosecutorial misconduct and the issue of Judge
24 Verdin's jury instruction about giving an improper opinion.
25 So none of the rest of this I have not prepared for nor have I

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

16

1 discussed it with my witness or the solicitor.

2 A. Excuse me, Your Honor. Excuse me, Your Honor. I got
3 something ---

4 **THE COURT:** No, sir, Mr. Williams. You have a counsel.
5 He needs to speak. Mr. Ariail.

6 **MR. ARIAIL:** Yes, Your Honor. And I'm trying to go back
7 and remember when we were in court in regards to this. My
8 understanding ---

9 **THE COURT:** Hang on. Let me stop you. I'm looking at
10 your -- there's a motion for more definite certain statement.

11 **MR. ARIAIL:** Right.

12 **THE COURT:** And then your amended return -- no, that's
13 the State's. What did -- what issues did you raise in your
14 amended application?

15 **MR. ARIAIL:** My amended application were the Golden Rule
16 violation, prosecutorial misconduct and trial court error in
17 which a judge -- where the judge provided her -- where she
18 expressed her own opinion in the charge. I filed that -- that
19 was my amended application that I filed on behalf of him.

20 And my understanding, Your Honor, maybe just for
21 clarification, I was under the impression -- I amended to add
22 these as part of his previous application ---

23 **THE COURT:** Does your application say these are in
24 addition to the previous grounds?

25 **MR. ARIAIL:** Your Honor, it does not. It says comes

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

17

1 before the court, which was originally filed -- attorney
2 submitting this amended application for Post Conviction Relief
3 on behalf of his client. The Applicant's amended allegations
4 are that he is being held in custody unlawfully. It does not,
5 Your Honor.

6 **THE COURT:** All right.

7 **MR. SMITH:** And, Judge, I'll throw in I'm not trying to
8 restrict Mr. Williams or Mr. Ariail from bringing claims
9 before the Court. I would say that I either need a
10 continuance to go over these and more clarification about what
11 they are or to hold the record open or something because I'm
12 just ---

13 **THE COURT:** Here -- Mr. Smith, excuse me. What I'm going
14 to do is I'm going to let him proceed. I think that the rules
15 are I need to err on the side of the Applicant's issues being
16 heard. If we feel like we need the record held open, bring it
17 up at the end of the hearing, and we'll discuss it then, okay,
18 sir?

19 **MR. SMITH:** Okay. Thank you, Judge.

20 **THE COURT:** Yes, sir.

21 **MR. ARIAIL:** Thank you, Your Honor. Thank you.

22 **Direct Examination by Mr. Ariail Continued:**

23 Q. And, Mr. Williams, just in regards to the plea deal, I
24 want to go through that. Did you have or receive any type of
25 plea deal from Mr. Steele?

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

18

1 A. No, sir. The only plea deal -- the only plea deal Mr.
2 Steele told me -- he come to me about four days before the
3 trial. He said, look what I found in your records. It was a
4 plea deal for Mr. Culbertson, my lawyer before him, for ten to
5 30, you know what I'm saying?

6 He said you want to accept all -- he want to tie up all
7 the loose ends, you know what I'm saying? I was like, you
8 haven't -- you haven't -- you haven't gave me a plea deal on
9 your behalf yet, Mr. Steele. So I went to trial with no plea
10 deal. But the plea deal Mr. Culbertson had was ten to 30 ---

11 Q. Okay. Let me ask a couple of questions. You didn't --
12 you don't have anything to you or showing you that Mr. Steele
13 received a plea deal on your behalf and, I guess, during this
14 time?

15 A. No, sir.

16 Q. Okay. So you're not saying that he withheld some type of
17 plea deal from you at that time?

18 A. He never did get one.

19 Q. Okay. And Mr. Culbertson -- did you ever hear that you
20 had the ten to 30 from Mr. Culbertson? Ten years to 30 years?

21 A. Yeah, after -- this after I got Mr. Culbertson
22 terminated. Like I said, Mr. Steele came to -- came to me in
23 the County jail. This is about -- this is about a year and a
24 half after I been in the County jail, about four or five days
25 before we was -- before I was going to trial.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

19

1 Mr. Steele said, look what I found in these records of
2 Mr. Culbertson. There was a plea deal for ten to 30 years.
3 And that plea deal was a year and a half -- year and a half
4 old for Mr. Culbertson. I never did get no plea deal from Mr.
5 Steele, period.

6 Q. Okay. Do you recall getting the plea deal from Mr.
7 Culbertson, I guess?

8 A. No, sir. That's what I'm telling you, Mr. Steele brought
9 this up a year and a half later. Like I said, I got Mr.
10 Culbertson terminated. He never did show me no plea deal
11 either.

12 Q. Okay. Now as we go forward, I want to make sure -- I've
13 got a couple of other issues here. There's some allegation,
14 and I think you've cited to some information as part of the
15 transcript, and I can provide that if you don't have it in
16 front of you, that the trial court erred when Judge Verdin
17 stated her personal opinion in her charge. Do you remember
18 stating that?

19 A. Yes, sir.

20 Q. Okay. And what is your position in regards to that as to
21 what she did that was her personal opinions?

22 A. I'm fixin -- I'm fixin to read it to you.

23 Q. Okay.

24 A. I got -- I got my transcript right here.

25 **THE COURT:** One second. What page in the transcript?

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

20

1 A. First page is 403.

2 **THE COURT:** 03?

3 A. 403.

4 Q. 403?

5 A. Yes, sir.

6 Q. Okay.

7 **MR. SMITH:** And, Judge, I'll throw in I object to Mr.
8 Williams giving any legal opinion about it. Mr. Ariail is
9 free to make a legal argument.

10 **MR. ARIAIL:** Sure.

11 **THE COURT:** All right. Go ahead.

12 A. The following are examples of a instrument which may be
13 deadly weapons; a pistol, a shotgun, a rifle, a dagger, a
14 knife, slingshot, metal knuckles, a razor, gasoline, firebomb
15 or a Molotov cocktail, and lighter fluid. A gun is a deadly
16 weapon even if it is not operational.

17 Q. Okay. So what are you saying in that is her personal
18 opinion?

19 A. Yes, sir. Because if I'm -- if I'm on trial fighting for
20 my life, you've got me charged with attempted murder, you've
21 got me charged with armed robbery, you don't win my part
22 fighting this pistol. All this -- all this right here are
23 examples for a deadly weapon for the jury. That had no
24 business being in her charge.

25 Q. Okay.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

21

1 A. She didn't only say that one time, she said this several
2 times.

3 Q. Okay. So that's -- it deals with the weapons that you're
4 saying that she referenced?

5 A. Yeah, in my charge. All my case is centered around this
6 one weapon, is centered around -- centered around this pistol.

7 Q. Okay.

8 A. Now you look at 407, she said it again. Again, the
9 following examples of a instrument would be a deadly weapon; a
10 pistol, a shotgun, a rifle, a dagger, a knife, a slingshot,
11 metal knuckles, razor, gasoline, firebomb, Molotov cocktail.

12 Q. Okay.

13 A. She said this -- she used these examples several times
14 ---

15 Q. Okay.

16 A. --- in front of the jury.

17 Q. So you're saying that is misconduct based upon citing and
18 stating the types of weapons?

19 A. Yes, sir. How can -- how can -- how can you even say
20 these is deadly weapons? If you telling the jury that these
21 deadly weapons, you already charged me with assault and
22 battery with intent to kill or you charged me with assault and
23 battery, first degree. You charged me with armed robbery.
24 You said you got this pistol. Now you can use me as a example
25 from the judge in your charge. You biasing the jury already.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

22

1 Q. Okay. Now you go into -- and I want to make sure we talk
2 about this, the Golden Rule violation. You cite numerous
3 transcript cites as to how that -- there's a violation there.
4 I want to go through if you've got them, you've probably
5 marked them, if you can tell the Court those transcript cites
6 as to how you think there's a violation or where you think
7 there's a violation.

8 A. Well, I'm going to give it to you right now. I got that
9 -- I got them marked down, too.

10 Q. Okay. Well, tell us the pages and the line numbers, if
11 you can.

12 A. 370.

13 Q. Okay.

14 A. Line number 4.

15 (Pause)

16 A. Y'all ready?

17 Q. Yes.

18 **THE COURT:** Yes, sir.

19 A. Something else I don't know if you notice in this picture
20 brought up a -- you go up and rob a place like this, has
21 money, it don't necessarily have to be a lot of money, but you
22 going to -- want a easy target right there inside the
23 building, what does that say? Cash -- cash only. You know
24 there's cash. You know there's money. To -- again, you had a
25 gun and a stun-gun. What are the odds? You put yourself --

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

23

1 you putting the -- you putting yourself in the place of the
2 jury.

3 Q. So you're stating by the word you throughout there that
4 he is putting ---

5 A. He did -- he did this several times. He did it all over
6 the course of this whole -- whole argument.

7 Q. Okay. Give me other cites you -- I think you had one on
8 page 371, too?

9 A. 371. Page 15, I mean, line 15. I ain't trying -- I'm
10 trying to break this down into the simplest term I can for you
11 in that if you cause injury to another person during the
12 commission of a crime, you have committed assault and battery
13 in the first degree.

14 On down, armed robbery, everyone has an idea of what a
15 armed robbery is. You use force, intimidation, threatening a
16 weapon to take something of somebody else and keep -- not give
17 it back, it becomes an armed robbery when you use a weapon.

18 Q. Okay.

19 A. Again, 375 -- 375, line number 5. Someone said, give me
20 your money, I am not just going to hand over my money, but you
21 pull out the gun, out the stun-gun, which you're not going to
22 bring out -- you point a gun in my face and you say give me
23 your fucking money, excuse my language, you know it's serious.
24 You know it's real. And it's two against one in this little
25 space.

STEVEN WILLIAMS - DIRECT EXAMINATION BY MR. ARIAIL

24

1 Q. You have another cite you want to give?

2 A. Yeah, I got one -- 378.

3 Q. Okay.

4 A. Line number 11. After you just committed a robbery, you
5 probably don't want to be on the main road. It makes sense
6 you want to take back roads, which they did toward Mr. Will's
7 house.

8 Q. Okay. Are those the citations for the Golden Rule that
9 you'd like to put on the record?

10 A. Yes, sir.

11 Q. Okay. Are there any other ones?

12 A. Yeah, I got -- hold on. Bear with me for a minute,
13 please, sir.

14 (Pause)

15 A. Yes, sir. I got this right here from the -- also from
16 the judge's charge. It's 406, line number 9.

17 (Pause)

18 A. Y'all ready?

19 Q. Yes.

20 A. Express malice is shown when a person speaks words which
21 express hatred or ill will for another or when the person
22 prepared beforehand to do the act which was later
23 accomplished, for example, lying in wait for a person or any
24 other acts of preparation going to show that the deed was
25 within the defendant's mind would be express malice.

STEVEN WILLIAMS - CROSS-EXAMINATION BY MR. SMITH

25

1 Q. Okay. And those are all your Golden Rule violation
2 cites, is that correct?

3 A. And the judge's charge.

4 Q. Okay. I've gone through items that me and you have
5 discussed and the things we have raised in regards to this.
6 Are there other items surrounding these different issues that
7 you want to raise for the Judge before I conclude your
8 testimony?

9 A. Please say that again, sir. I didn't understand what you
10 were saying.

11 Q. What I'm basically trying to ask is we've raised these
12 issues, are there other things regarding these issues that you
13 want to tell the Court about or have you stated what you want
14 the Court to hear today?

15 A. Yeah, I think you stated what I wanted the Court to hear
16 today, Mr. Ariail.

17 Q. Okay.

18 **MR. ARIAIL:** Your Honor, I have no further questions
19 based on that.

20 **THE COURT:** All right. Cross-examination, Mr. Taylor
21 [sic].

22 **MR. SMITH:** Yes, Your Honor. Thank you.

23 **Cross-examination by Mr. Smith:**

24 Q. Mr. Williams, when Mr. Steele represented you did he tell
25 you that the State made plea offers where they would take life

STEVEN WILLIAMS - CROSS-EXAMINATION BY MR. SMITH

26

1 without parole off the table if you would take the deal and
2 plead guilty?

3 A. Like I -- Like I said, Mr. -- what your name is again?
4 Mr. Taylor?

5 Q. That's right. Taylor Smith.

6 A. Like I said, Mr. Smith, only paper that Mr. Steele
7 brought me for a plea was from Symmes Culbertson, which Mr.
8 Steele ain't brought me no plea hisself, period.

9 Q. Okay. Isn't it also true that during trial that Mr.
10 Steele tried to get you another plea offer during the middle
11 of trial?

12 A. I mean, if he tried to get me a plea deal -- he tried to
13 get me a plea offer, he ain't never bring it to me. I ain't
14 never signed no plea agreement. He ain't never brought no
15 plea agreement to me, period.

16 Q. After the jury found you guilty what did you tell -- you
17 told Mr. Steele to thank Judge Verdin for being so courteous
18 to you, didn't you?

19 A. Sir?

20 Q. Before you were sentenced you asked Mr. Steele to thank
21 Judge Verdin for being courteous to you. Didn't you do that?

22 A. Being courteous to me? How was she courteous to me? She
23 gave me life without parole?

24 Q. Before you were sentenced.

25 A. I mean, I don't -- I mean, I don't understand how --

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

27

1 where this is going. I mean, I ...

2 Q. Will you answer the question, please? Did you do that?

3 A. Did I tell Mr. Steele to thank the judge for being
4 courteous to me? Yes, sir, I did that.

5 Q. Okay. Thank you.

6 **MR. SMITH:** No more questions, Your Honor.

7 **THE COURT:** Any redirect?

8 **MR. ARIAIL:** No, Your Honor. Thank you. That is our
9 only witness, and that is our case.

10 **THE COURT:** All right. Mr. Taylor [sic], are you ready
11 to proceed with your witness?

12 **MR. SMITH:** I am, Your Honor.

13 **THE COURT:** You may call your first witness.

14 **MR. SMITH:** Okay. Your Honor, I'd call Mr. Carlyle
15 Steele.

16 **THE COURT:** Okay. Mr. Steele, I cannot see you. Can you
17 hear me?

18 (Pause)

19 **THE COURT:** Mr. Steele, are you there?

20 **MR. STEELE:** Yes, I'm here, but I'm apparently not being
21 heard.

22 **THE COURT:** Okay. You're being heard now. Would you
23 raise your right hand and tell me when it's in the air.

24 (Pause)

25 **THE COURT:** Do you have your hand raised, Mr. Steele?

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

28

1 **MR. ARIAIL:** Your Honor, I think he's muted again.

2 **THE COURT:** Yeah.

3 **MR. STEELE:** Can you hear me now?

4 **THE COURT:** Yes, sir, we can.

5 **MR. STEELE:** I have my hand raised, Your Honor. And I've
6 been here -- I'm sorry.

7 **THE COURT:** Okay. That's great. Do you swear or affirm
8 to tell the truth, the whole truth and nothing but the truth?

9 **MR. STEELE:** I do.

10 **THE COURT:** Okay. Your witness, Mr. Taylor [sic].

11 **Direct Examination by Mr. Smith:**

12 Q. Mr. Steele, do you -- do you have access to the record on
13 appeal in this case?

14 A. Yes, sir.

15 Q. Okay. Do you have access to your file or notes from
16 representing Mr. Williams?

17 A. Yes, sir.

18 Q. Okay. Can you tell me when you were admitted to practice
19 law?

20 A. November 14th, 1974.

21 Q. Okay. Can you give me a brief summary of your
22 professional experience in the legal field?

23 A. I tried cases from that date in 1974 until the same date
24 in 2020 when I retired.

25 Q. Okay. What portion of your practice has been devoted to

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

29

1 the field of criminal law?

2 A. Sixty percent.

3 Q. Okay. How did you come to be involved in Mr. Williams'
4 criminal case?

5 A. I was appointed under the 608 procedure.

6 Q. Okay. You remember how many times you met with Mr.
7 Williams while you represented him?

8 A. I'm going to count them for you. Hold on just a minute.
9 I'm looking at that right now.

10 Q. Okay.

11 A. Give me just one second to count them.

12 (Pause)

13 A. Eighteen times.

14 Q. Okay. Other than those 18 meetings did you discuss the
15 case with him by phone, or mail or email?

16 A. He wrote me some letters, and I answered them all.
17 Sometimes rather than answer it by mail, I'd go see him in
18 response to the letter, but I answered his letters. He didn't
19 talk to me on the phone, though. He's -- he was in jail the
20 whole time. I don't think we talked by phone.

21 Q. Okay. Can you tell me has he ever asked you to have a
22 witness at trial, somebody by the name of Bridgette Bryant?

23 A. I have no recollection of that.

24 Q. Okay. Do you have anything in your file referencing a
25 Bridgette Bryant?

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

30

1 A. No, sir.

2 Q. Okay. Did you and Mr. Williams ever discuss alibi
3 witnesses?

4 A. No, sir.

5 Q. Okay. And when you say you didn't discuss that, do you
6 mean you never brought it up with him, or that he never
7 brought it up with you or both?

8 A. I have no recollection of either one of us ever bringing
9 it up to the other.

10 Q. Okay. If Mr. Williams had -- when criminal defense
11 clients tell you about alibi witnesses, what is your practice
12 regarding those people?

13 A. Well, we would have -- I would have followed up.

14 Q. Okay. And in this case isn't it true that -- isn't it
15 true that Mr. Williams was actually found in the driver's seat
16 of the crashed get-away vehicle?

17 A. Yes, sir.

18 Q. Okay. I'd like to move on now to talk about plea deals.
19 When you were representing Mr. Williams did he ever ask you to
20 enter into plea negotiations for him?

21 A. He wanted me to, I'm sure. And I would have done it
22 whether he wanted me to or not.

23 Q. Okay. Do you remember getting any formal plea offer from
24 the State in this case?

25 A. I'm a hundred percent sure they agreed to take life

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

31

1 without parole off the sentencing. I do not remember the
2 specifics of any of the rest of it. However, that would have
3 been a good thing to do.

4 And I told him I didn't think he ought to run this risk.
5 He insisted that he hadn't done anything and, therefore, he
6 wanted to go to trial. So I got him to sign a little piece of
7 paper that I have here in my file that says, quote, we decline
8 the offer and want to go to trial. And his name is signed
9 under it.

10 Q. Mr. Steele, do you have a way to send that particular
11 piece of paper to me, and Mr. Ariail, and the Judge and the
12 court reporter? Is it ---

13 A. That's a good question. I've undone a lot of my stuff.
14 I don't even have a copy machine anymore, but I guess I could
15 -- I know I could send it by United States mail. Is that
16 satisfactory or you need it ...

17 **MR. SMITH:** Well, Your Honor, I would like to offer this
18 into evidence. Of course, I have not seen it. Again, I'll
19 say that, again, that this was a surprise issue for me today.
20 It's not something I've looked into. I would like to know if
21 Mr. Ariail would have any objection to that because I would
22 guess Mr. Williams [sic] could mail or email it to us and we
23 could admit it that way.

24 **MR. ARIAIL:** I have no objection to that, Your Honor, as
25 long as I get a copy of it. It sounds like Mr. Steele is

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

32

1 saying it's just a standard letter where he has -- he's read
2 everything on the page. So I have no objection to that so
3 long as my client's signature's on there.

4 **THE COURT:** All right. I'll admit that. And, Mr.
5 Steele, I'm going to let you mail that to Mr. Smith. Mr.
6 Smith, from then on you need to make sure you get it to Ms.
7 Hudgins and Mr. Ariail, and copy me.

8 **MR. SMITH:** I'll do that, Judge. Thank you.

9 **THE COURT:** All right.

10 (Whereupon Respondent's exhibit 1 was admitted into
11 evidence and will be mailed)

12 A. The reason I haven't mentioned that previously was I
13 discovered it looking through the file last night.

14 Q. Okay. Thank you. Mr. Steele, is that piece of paper
15 dated or does it have any other writing on it that would be
16 identifiable?

17 A. I've read everything on it. There's no -- there's no
18 date on it.

19 Q. Okay.

20 A. We declined the offer and wanted to go to trial. I wrote
21 that, by the way, he didn't. And then he signed it under it.

22 Q. Okay. Did you attempt to get another plea deal for Mr.
23 Williams during -- once trial had begun?

24 A. During the trial Mr. Williams asked me could we get back
25 to a plea without life without parole. I went and asked Mark

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

33

1 Moyer, one of two assistant solicitors trying the case for the
2 State, if he would do that. Mark Moyer said it was up to
3 Walker Miller, who was trying it with him. I asked Walker
4 Miller, and he said no.

5 Q. Okay. Did you inform Mr. Williams of that?

6 A. Yes.

7 Q. Okay. So at this point I would like to move on to ask
8 you about some jury instructions from Judge Verdin at trial.
9 If you would, turn there in the transcript to page -- oh, I'm
10 sorry, to page 35.

11 A. Yes, sir. I'm on page 35.

12 Q. Okay. And that's where Judge Verdin begins her
13 preliminary remarks to the jury, is that correct?

14 A. Yes, sir.

15 Q. Okay. And then if we look on page 36 at lines 15 through
16 24, what did Judge Verdin tell the jury about her ability to
17 have an opinion on the facts of the case?

18 A. Are you on page 36?

19 Q. Page 36, lines ---

20 A. And you're at line 15?

21 Q. That's correct. And you don't necessarily have to read
22 it. Just tell me generally.

23 A. It says it's going to be your job, ladies and gentlemen,
24 to determine whether or not the State has met that burden.
25 Your purpose as jurors is to find and determine the facts in

CARLYLE STEELE - DIRECT EXAMINATION BY MR. SMITH

34

1 this case. You are the sole judge of the facts in this case.

2 If I make a comment about anything regarding the facts of
3 this case, please disregard it. The law does not allow me to
4 have an opinion on the facts in this case. And I do not have
5 an opinion on the facts in this case. Is that where I'm to
6 stop reading?

7 Q. That's correct. And so I'd like to ask you to turn to
8 page 388.

9 A. All right, sir.

10 Q. Okay. And beginning on line 24 does Judge Verdin repeat
11 that same instruction about the jury's role is the sole
12 decider of facts?

13 A. Yes, sir, she does.

14 Q. Okay. At the time of Mr. Williams' trial did you feel
15 you had any reason to object to Judge Verdin's jury
16 instructions on the basis that the judge had given an improper
17 opinion on the facts of the case?

18 A. I didn't then or now. But if the Judge feels
19 differently, then I made a mistake.

20 Q. If you had heard something you thought was objectionable
21 on that basis would you have objected?

22 A. Yes, sir.

23 Q. Okay. Looking at page 410, ---

24 A. All right, sir.

25 Q. --- what did Mr. Williams tell you to relay to Judge