

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Hampton County

Honorable Roger M. Young, Circuit Court Judge

JOEY DEAN COLEMAN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2024-000311

APPENDIX

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S.C. SUPREME COURT

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1 STATE OF SOUTH CAROLINA) GENERAL SESSIONS COURT
 2 COUNTY OF HAMPTON) CASE NO.
 3) 2018-GS-25-00440-445
 4 STATE OF SOUTH)
 4 CAROLINA,)
 5 Plaintiff,) Transcript of Record
 6 vs.)
 7 JOEY DEAN COLEMAN,) Date: February 3, 2020
 8 Defendant.)

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11 B E F O R E:

12 The Honorable Carmen T. Mullen

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17 Denise J. Lauder, RPR

18 Ninth Judicial Circuit

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1 A P P E A R A N C E S

2

3 REPRESENTING THE STATE OF SOUTH CAROLINA:

4

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16 E X H I B I T S

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1 (The following proceedings were had
2 Hampton County General Sessions, 12:54 p.m., Judge
3 Mullen, State v. Joey Coleman.)

4 THE COURT: Afternoon, ladies and
5 gentlemen.

6 THE JURY PANEL: Afternoon.

7 THE COURT: It is a pleasure to see you
8 all. My name is Carmen Mullen, and I'm one of two
9 resident circuit court judges here in Hampton
10 County. My main chambers is out of Beaufort,
11 ladies and gentlemen, but I cover Allendale,
12 Colleton, Jasper, Hampton and Beaufort Counties.

13 It is my pleasure to be here in Hampton
14 holding a term of criminal court. Ladies and
15 gentlemen you've been summoned as potential jurors
16 during the trial of this first case.

17 Mr. Evans, again, how long do you
18 expect the case to last?

19 MR. EVANS: Judge, I think we'll be
20 done midday Wednesday.

21 THE COURT: All right. Thank you.

22 Ladies and gentlemen, I say that
23 because I want you to know what your service is
24 likely to entail. To begin with, right now I am
25 going to pull this first jury. If you are chosen

1 on this jury, ladies and gentlemen, after I pull
2 you, I'm going to send you home for the remainder
3 of the day. We're going to start the trial
4 tomorrow morning. As you heard the solicitor, he
5 just stated that we are going to finish by
6 Wednesday. The good news, ladies and gentlemen, is
7 that your service will be complete by Wednesday.
8 That's just to let you know.

9 All right. So even if you are chosen
10 or not chosen, everyone is going home after I
11 finish today because there are other matters I need
12 to take up before the jury returns back tomorrow
13 morning.

14 All right. So with that said, I'm
15 going to go ahead and ask you a number of questions
16 regarding jury service. If you need to respond to
17 these questions, ladies and gentlemen, simply stand
18 and give me your name and juror number and
19 response. All right?

20 Okay. If you're ready to go -- I know
21 it's getting close to 1:00, and some people are
22 probably hungry. So I would like to get started as
23 soon as possible, if anyone has any concerns or
24 issues. If not, I would like to go ahead and start
25 asking questions.

1 So, ladies and gentlemen, do I have any
2 member of the panel who is not a citizen of the
3 United States? If so, please stand.

4 There any member of the jury panel who
5 is not a resident and citizen of Hampton County?
6 If so, please stand.

7 Do I have anyone who is unable to read,
8 write, speak, or understand the English language?

9 Yes, ma'am.

10 PROSPECTIVE JUROR: I stopped going to
11 school last fifth grade. (Inaudible) reading.

12 THE COURT: Okay. I'm sorry, you were
13 concerned about maybe reading, is that --

14 PROSPECTIVE JUROR: Uh-huh.

15 THE COURT: Let me ask you, do you
16 drive?

17 PROSPECTIVE JUROR: No.

18 THE COURT: You do not drive. Okay.
19 Can you pretty much write your bills and pay for
20 things or --

21 PROSPECTIVE JUROR: No.

22 THE COURT: No?

23 All right, ma'am. I'm going to go
24 ahead and excuse you from jury service, but I
25 appreciate you being here.

1 What number was she?

2 THE CLERK: 110.

3 THE COURT: All right, ma'am. I'm
4 going to go ahead and excuse you.

5 PROSPECTIVE JUROR: Thank you.

6 THE COURT: Thank you. You may be
7 excused.

8 Anyone else?

9 Ladies and gentlemen of the jury, do we
10 have anyone with less than a sixth grade education
11 or its equivalent? And, ladies and gentlemen, if
12 you have paid your bills, raised a family, you have
13 more than a sixth grade education, but I want to
14 make sure that you feel comfortable sitting as a
15 juror in the trial of this case.

16 Anyone concerned about this? If so,
17 please stand. Very good.

18 Ladies and gentlemen, is there any
19 member of the jury panel who is unable because of
20 mental or physical infirmities to render efficient
21 jury was. Let me tell you what that means, ladies
22 and gentlemen. If you get chosen on this jury
23 tomorrow, you are probably going to appear tomorrow
24 at 10:00 a.m., you're going to be sitting in the
25 jury box and you're going to be sitting there for

1 roughly about an hour at a time.

2 In between we're going to have breaks
3 where you're going to go back to your jury room and
4 you're going to have coffee and Coke and snacks and
5 whatever you need to keep going. We're going to
6 run until roughly 1:00; we're going to break for an
7 hour for lunch, hour and a half or so. You're
8 going to be able to grab a bite to eat, come back
9 and we'll run until probably about the end of the
10 day.

11 Ladies and gentlemen, again, this is
12 not an endurance contest, but I do need to tell you
13 that you are going to be sitting in the box for
14 roughly an hour at a time. This question is for
15 people who absolutely because of some health
16 problem just cannot sit in that box for an hour at
17 a time.

18 I will tell you if you need to stand up
19 and take stretches, if you have a bad back or bad
20 legs, you can do that in my courtroom. Also, if
21 you are diabetic and worried about maybe having
22 some kind of insulin problem, we have juice, candy,
23 whatever you need to keep going. And I can take
24 all the breaks you need.

25 I'm, ladies and gentlemen, concerned

1 about anyone who has a health condition that would
2 require us to continually have to take breaks.
3 Anyone in that situation? If so, please stand.

4 Very good.

5 Ladies and gentlemen, do I have anyone
6 here who has been convicted by guilty plea or trial
7 in a State or Federal Court of record for a crime
8 punishable by imprisonment for more than one year
9 and your civil rights have not been restored by
10 pardon or amnesty? If so, please stand.

11 Yes, sir.

12 PROSPECTIVE JUROR: I have.

13 THE COURT: Give me your number.

14 PROSPECTIVE JUROR: 91.

15 THE COURT: Give me a moment, sir.

16 Do you know what it was for?

17 PROSPECTIVE JUROR: A forgery.

18 THE COURT: How long ago was it?

19 PROSPECTIVE JUROR: Twenty-five years
20 ago.

21 THE COURT: Twenty-five years ago. A
22 long time ago. And you weren't a juvenile, were
23 you?

24 PROSPECTIVE JUROR: No.

25 THE COURT: All right, sir. I will

1 excuse you. I appreciate your candor and thank
2 you, sir.

3 Anyone else?

4 Ladies and gentlemen, is any person
5 here a clerk or deputy clerk or court, constable,
6 sheriff or other commissioned law enforcement
7 officer, probate judge, county commissioner,
8 magistrate, or other county officer employed within
9 the walls of any courthouse? If so, please stand.

10 THE COURT: Yes, ma'am.

11 PROSPECTIVE JUROR: I'm a federal
12 correctional officer at the -- correctional
13 counselor at the prison in Estill.

14 THE COURT: I can tell you that that is
15 an exemption. Do you want to be exempted from
16 service?

17 PROSPECTIVE JUROR: Yes, ma'am.

18 THE COURT: All right. Ma'am, give me
19 your number again.

20 PROSPECTIVE JUROR: 24.

21 THE COURT: No. 24, you are excused.
22 Thank you for being here.

23 All right. Do I have anyone that has
24 served up here in circuit court, not city court or
25 magistrate's court or federal court, during the

1 last calendar year? If so, please stand.

2 Do I have anyone that served on the
3 Hampton County Grand Jury during the past several
4 years? If so, please stand.

5 Yes, ma'am, give me your number.

6 PROSPECTIVE JUROR: 107.

7 THE COURT: When did you serve?

8 PROSPECTIVE JUROR: Last year grand
9 jury.

10 THE COURT: All right, ma'am. I'm
11 going to excuse you as well. Thank you for being
12 here.

13 PROSPECTIVE JUROR: Thank you.

14 THE COURT: Anyone else?

15 Ladies and gentlemen, we will now move
16 to jury exemption. State law provides for several
17 exemptions to jury service. An exemption does not
18 mean you are not qualified to serve. It means you
19 may choose not to serve; however, I would love to
20 have you stay with us if you are inclined to.

21 Do I have anyone here who is 65 years
22 of age, or older, who does not wish to serve with
23 me this week? If so, please stand.

24 Ma'am, you will have to show me some ID
25 because I do not believe that you are 65. Oh, my

1 goodness. Do you want to be excused?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: All right. I will have the
4 deputies check it on the way out. You look
5 fabulous. You are excused, ma'am.

6 Anyone else?

7 THE CLERK: We need to get her name.

8 THE COURT: Can we get her number?

9 THE CLERK: Ms. Henderson, No. 75.

10 THE COURT: Thank you, Mrs. Henderson.

11 PROSPECTIVE JUROR: You're welcome.

12 THE COURT: All right. Ladies and
13 gentlemen, no person is required to serve as a
14 juror more often than once every three calendar
15 years up here in circuit court.

16 Do I have anyone who has served during
17 the last two years who doesn't wish to serve this
18 week? And I have to tell you, we're going to look
19 you up because our time lines are stretched.

20 Sir, give me your name and number.

21 PROSPECTIVE JUROR: Nicholas Harriet,
22 No. 73.

23 THE COURT: No. 73. When did you
24 serve?

25 PROSPECTIVE JUROR: I think it was like

1 just over a year ago.

2 THE COURT: Okay. Did you get put on a
3 jury?

4 PROSPECTIVE JUROR: I did.

5 THE COURT: Who was the judge, do you
6 remember?

7 PROSPECTIVE JUROR: You were.

8 THE COURT: It was me. Actually, it's
9 funny; you look familiar to me as well. Okay. I
10 will excuse you. All right. Thank you for being
11 here. Okay.

12 All right. Ladies and gentlemen, do I
13 have anyone who has served as a grand juror here in
14 Hampton County during the last five calendar years?
15 If so, please stand.

16 Next exemption deals with those of you
17 that have legal custody of young children. And I
18 respectfully ask that you listen carefully to this
19 question. It has four parts, all of which must
20 apply for you to claim the exemption.

21 You may be exempted from jury service
22 if you have a small child or small children under
23 the age of seven for which you have legal custody
24 of that child or children, and you stay home and
25 take care of that child or children, and, lastly,

1 you have no one else to cover you while you are
2 here.

3 I don't want anyone's babies to go
4 unattended, but if you do take your children to
5 daycare or you take them to school, it's presumed
6 that you can do the same thing while you are here.
7 Understanding, ladies and gentlemen, that you
8 should be able to meet any bus. That should not be
9 a problem today; I'm going to get you out of here.

10 Secondly, we're only talking about
11 Tuesday and Wednesday being a concern; but, ladies
12 and gentlemen, again, I'm going to make sure that
13 our children are covered.

14 Who do I have that is not able to serve
15 with me tomorrow and Wednesday because they have to
16 stay home and take care of children? I'm going to
17 start, ma'am, with you in the front. Give me your
18 number.

19 PROSPECTIVE JUROR: No. 74.

20 THE COURT: How old are your children?

21 PROSPECTIVE JUROR: She's six.

22 THE COURT: She's six. And you don't
23 have anyone to cover her?

24 PROSPECTIVE JUROR: I wouldn't on
25 Tuesday, but on Wednesdays she only stays with her

1 grandparents if I can't watch her, and he pastors
2 on Wednesdays.

3 THE COURT: I will excuse you. I look
4 forward to seeing you next year. I'm sure you will
5 be called back.

6 Yes, ma'am, in the maroon sweater. How
7 old are your children?

8 PROSPECTIVE JUROR: She's two months.

9 THE COURT: Two months.

10 PROSPECTIVE JUROR: Yes, ma'am.

11 THE COURT: All right. Give me your
12 number.

13 PROSPECTIVE JUROR: 103.

14 THE COURT: 103. Who has the baby
15 right now?

16 PROSPECTIVE JUROR: Her dad.

17 THE COURT: Can he help the next two
18 days?

19 PROSPECTIVE JUROR: No; he works.

20 THE COURT: All right. I will go ahead
21 and excuse you. We will see you in another six
22 plus years. Okay? Thank you.

23 THE COURT: Yes, ma'am.

24 Give me your number.

25 PROSPECTIVE JUROR: 79.

1 THE COURT: How old are your children?

2 PROSPECTIVE JUROR: I have
3 11-month-old, that's my grandchild, and I keep her
4 all the time.

5 THE COURT: Do you have custody of her?

6 PROSPECTIVE JUROR: No.

7 THE COURT: All right. I can't excuse
8 you if you don't have custody of her.

9 PROSPECTIVE JUROR: Okay.

10 THE COURT: Who has got her right now?

11 PROSPECTIVE JUROR: My son. He goes to
12 work at three.

13 THE COURT: And he'll be at work the
14 next two days as well?

15 PROSPECTIVE JUROR: They got different
16 shifts. I don't know how it's going to be
17 tomorrow.

18 THE COURT: This is what I can do. I
19 can't excuse you, but what I can do is transfer
20 your service which means the next time you get a
21 notice, you have to make arrangements for somebody
22 to take care of that baby. Is that okay?

23 PROSPECTIVE JUROR: That's fine.

24 THE COURT: I will excuse you today.
25 No. 79 is excused. The next time you get notice,

1 obviously you'll have to make sure that you have
2 coverage.

3 PROSPECTIVE JUROR: Thank you.

4 THE COURT: Thank you.

5 Anyone else?

6 Ladies and gentlemen, do I have anyone
7 here who is the primary caretaker of a person who
8 is elderly or a special needs person who it is
9 extremely difficult for you to get coverage for?
10 If so, please stand. Very good.

11 The next exemption involves those of
12 you who may be attending school at this time or
13 working in some capacity with the school. Now, I
14 would hope that you could get a substitute teacher
15 or someone to fill in for you, but I know that
16 certain jobs at school just aren't replaceable.

17 So do I have anyone here who is a
18 student, a schoolteacher, or works in some capacity
19 with a school like a school bus driver, who
20 absolutely has no coverage for Tuesday or Wednesday
21 of this week? If so, please stand.

22 And, again, if I have a student, I
23 don't want you missing class. So do I have any
24 students here that are attending school and you
25 will miss school if you are put on the jury? Very

1 good.

2 Ladies and gentlemen, is there anyone
3 here who is left who is employed with the
4 Department of Corrections at a penitentiary? If
5 so, please stand.

6 Ladies and gentlemen, lastly, is there
7 any juror here who performs services for a
8 business, commercial, or agricultural enterprise,
9 ladies and gentlemen, that if you are required to
10 work here and sit on a jury Tuesday and Wednesday
11 that business or enterprise would have to close its
12 doors or shut down?

13 I want everyone to make their bills and
14 I understand that a lot of people don't get paid
15 unless they work. I will tell you that I can't
16 excuse a qualified juror for work purposes. If
17 this is the worst week you ever could have been
18 summoned, ladies and gentlemen, I can transfer your
19 service.

20 But, ladies and gentlemen, I will tell
21 you, in my experience, there are good weeks and
22 there are better weeks to perform jury service.
23 And I can tell you a two-day trial is a very good
24 week to serve. Okay. So I will tell you that even
25 if it's a tough work week, if you can stay with me,

1 I would suggest doing that.

2 If you are found qualified, even if you
3 aren't put on a jury, you are going to have earned
4 your exemption for the next three years. So you
5 will be covered for that amount of time; however,
6 ladies and gentlemen, I do understand that certain
7 people have things going on that they absolutely
8 cannot miss work.

9 Anyone who wants me to transfer their
10 service to a term of court that maybe isn't so busy
11 or that you can get better coverage at work, if so,
12 please stand.

13 Oh, you listened to me well. That's
14 great.

15 Ladies and gentlemen, that concludes
16 the statutory list of qualifications and exemptions
17 for jury service. It may be that you are qualified
18 to serve and no exemption applies to you, but this
19 is the absolute worst three days in the year that
20 you could have been summoned.

21 Ladies and gentlemen, I can transfer
22 your service if necessary, as long as I have enough
23 people, but, again, if at all possible, I really
24 encourage you ladies and gentlemen to stay.

25 Does anybody or would anyone like me to

1 entertain a transfer for you? If so, please stand.

2 No? All right.

3 Juror No. 26, Mr. Clark. Mr. Clark,
4 come see me for a moment.

5 (Proceedings held out of hearing of
6 venire.)

7 THE COURT: How are you, sir? I'm not
8 going to shake your hand. Everybody has flu right
9 now. Is that your date of birth? (Indicating)

10 PROSPECTIVE JUROR: Yes.

11 THE COURT: Is that you?

12 PROSPECTIVE JUROR: Yes.

13 THE COURT: Way back then, did you have
14 a conviction for grand larceny?

15 PROSPECTIVE JUROR: Yes.

16 THE COURT: Way back then?

17 PROSPECTIVE JUROR: Yeah. Yeah.

18 THE COURT: Okay. I have to excuse
19 you, but I appreciate you being here.

20 PROSPECTIVE JUROR: Thank you so much.

21 THE COURT: Sorry. Thank you.

22 (Proceedings held in open court.)

23 THE COURT: No. 26 is excused.

24 Does anyone need to talk to me at all
25 about a transfer? After this I will ask you

1 questions specifically about the case we are going
2 to try, and if you are found qualified, you are
3 potentially going to serve as a juror. Do I have
4 anyone who has any problem?

5 All right. And I probably needed to
6 tell you, ladies and gentlemen, typically during
7 jury service we will run until maybe 5:00 if we
8 have enough witnesses, maybe not. Okay. I just
9 wanted to let you know for planning purposes.

10 I don't know what you have going on
11 this week, but I'll do my very best to let you get
12 to your evening obligations, whatever that is.

13 Okay.

14 So I want to make sure that everybody
15 is fine with that. Roughly, we're going to start
16 at 10:00 and probably end before 5:00, if not at
17 5:00.

18 Anyone else need to talk to me? Very
19 good. All right. I find our panel is qualified.

20 Mr. Evans, if you will call your case,
21 sir.

22 MR. EVANS: Thank you, Your Honor.

23 The State is ready in the State of
24 South Carolina v Joey Dean Coleman. Those are
25 Indictments 2018-GS-25-00440, 441, 442, 443, 444

1 and 445 which are for respectively armed robbery,
2 kidnapping, kidnapping, possession of a weapon
3 during a violent crime, assault and battery, first
4 degree, and assault and battery, first degree.

5 May I approach?

6 THE COURT: You may.

7 Ladies and gentlemen, as you just
8 heard, the State has called the case that they are
9 prepared to try and, again, this morning entitled
10 the State of South Carolina v Joey Dean Coleman who
11 was charged by Bill of Indictments with armed
12 robbery, two counts of kidnapping, two counts of
13 assault and battery in the first degree, and
14 possession of a weapon during the commission of a
15 violent crime.

16 Ladies and gentlemen, to begin with,
17 the State is represented by Reed Evans here. And
18 would you also, Mr. Evans, introduce who is at
19 counsel table and who may be sitting with you as
20 well.

21 MR. EVANS: Good afternoon, everybody.
22 My name is Reed Evans; I work for the solicitor's
23 office in Hampton and also Allendale County. This
24 is Bruce Davis who is an investigator with my
25 office who will be helping me during the trial.

1 This is Sam Bailey who may or may not
2 be the whole time. He is one of our newer
3 attorneys. Here we have potential witnesses --

4 THE COURT: Actually, I will go through
5 the potential witness list. Gentlemen, when I do
6 call your name and you are on the potential witness
7 list, I'm going to have you stand and face the
8 panel so they can see you.

9 Additionally, if I have anyone else
10 that's on that list, if you would face the panel as
11 well.

12 MR. EVANS: Thank you, Judge.

13 THE COURT: Additionally, Ms. DeWitt, I
14 would like you to introduce your client and
15 yourself.

16 MS. DEWITT: Thank you, Your Honor.

17 I'm Diane DeWitt here as a public
18 defender. I represent Mr. Joey Coleman.

19 THE COURT: Thank you.

20 MS. DEWITT: Thank you.

21 THE COURT: All right. Ladies and
22 gentlemen, my first question to you and under the
23 oath you took earlier, is anyone here related by
24 blood or connected by marriage to the defendant in
25 this case, Mr. Joey Dean Coleman? If so, please

1 stand.

2 Is anyone here close personal friends
3 or have a special or professional relationship with
4 the defendant in this case, Mr. Coleman? If so,
5 please stand.

6 Additionally, ladies and gentlemen, you
7 have been introduced to the attorneys and
8 investigator on behalf of the State, as well as the
9 defense attorney Ms. DeWitt. My question to you
10 is, is there anyone related by blood or connected
11 by marriage or have a close personal friendship or
12 special relationship with any of these people
13 sitting at counsel table? If so, please stand.

14 Ladies and gentlemen, additionally,
15 anyone here ever worked in any of their offices,
16 either the public defender's office or the
17 solicitor's office either in Hampton County or
18 elsewhere in the 14th Judicial Circuit?

19 Very good.

20 Ladies and gentlemen, the following is
21 a list of potential witnesses in this case, and
22 again I ask that those persons who are here if they
23 would please stand when their name is called.

24 They are Gregory Alexander, Yemassee
25 Police Department. Thank you, sir.

1 Tonya Coats, Hampton County Sheriff's
2 Office; Damian Fennell, Yemassee, South Carolina;
3 Tim French of the Beaufort County Sheriff's Office;
4 Joe Loadholt, Yemassee Police Department.

5 Thank you, sir.

6 Dell Patel, Yemassee, South Carolina;
7 Josh Kumar Patel, Florence, South Carolina; Derrick
8 Pendergrass, Yemassee Police Department; Fiddleston
9 Sulanky (phonetic) of New York; Mike Straus of
10 Yemassee Police Department.

11 Thank you, officer.

12 Samuel Watson of Yemassee Police
13 Department; Karen Wilcox of Yemassee, South
14 Carolina; and Brian Varnado of Colleton County
15 Sheriff's Office.

16 Ladies and gentlemen, my question is,
17 is there anyone here related by blood, connected by
18 marriage, or have a close personal relationship or
19 special friendship with any -- or professional, for
20 that matter, of any of these potential witnesses in
21 this case? If so, please stand.

22 And, ma'am, give me your number and
23 name.

24 PROSPECTIVE JUROR: Wendy Buchanan,
25 Juror No. 21.

1 THE COURT: Who do you know?

2 PROSPECTIVE JUROR: Mr. Alexander.

3 THE COURT: How do you know him?

4 PROSPECTIVE JUROR: His son kept my son
5 or would pick him up from school for me.

6 THE COURT: All right. Ma'am, was that
7 in the past?

8 PROSPECTIVE JUROR: Yes, that was in
9 the past. He's off at college now.

10 THE COURT: Very good. The question
11 is, can you be fair and impartial in the trial of
12 this case understanding that Mr. Alexander may be a
13 witness in the trial of this case?

14 PROSPECTIVE JUROR: Yes, ma'am, I would
15 be fine. I just wanted to let you know.

16 THE COURT: And I appreciate that.
17 Thank you. You may be seated.

18 Yes, ma'am, who do you know?

19 PROSPECTIVE JUROR: Me?

20 THE COURT: Yes.

21 PROSPECTIVE JUROR: Chief Alexander.

22 THE COURT: How do you know him?

23 THE WITNESS: My mom used to work with
24 him.

25 THE COURT: Your mom used to work for

1 him?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: Was it with the Yemassee
4 Police Department or the sheriff's office or where?

5 PROSPECTIVE JUROR: Yeah, town hall.

6 THE COURT: The town hall. Okay. Does
7 she still work for him?

8 PROSPECTIVE JUROR: No.

9 THE COURT: How long did she stop
10 working at town hall; do you know?

11 PROSPECTIVE JUROR: About seven years
12 ago.

13 THE COURT: About seven years ago.
14 Okay. My question is, can you be fair and
15 impartial in the trial of this case?

16 PROSPECTIVE JUROR: Sorry?

17 THE COURT: Can you be fair and
18 impartial in the trial of this case?

19 PROSPECTIVE JUROR: Yes.

20 THE COURT: Okay. Give me your number
21 again?

22 PROSPECTIVE JUROR: 119.

23 THE COURT: All right. Thank you.

24 Ma'am. Yes.

25 PROSPECTIVE JUROR: Juror No. 97. I

1 know Mr. Joe Loadholt. We're all from Estill.

2 THE COURT: From Estill. All right.

3 Would you say that you are acquaintances or --

4 PROSPECTIVE JUROR: We're
5 acquaintances.

6 THE COURT: Ma'am, can you be fair and
7 impartial in the trial of this case understanding
8 that he is a potential witness?

9 PROSPECTIVE JUROR: Yes.

10 THE COURT: Are you sure?

11 PROSPECTIVE JUROR: Yes.

12 THE COURT: Thank you, ma'am. You may
13 be seated.

14 Sir.

15 PROSPECTIVE JUROR: Juror 160. I know
16 Karen Wilcox, I know Loadholt, I know Alexander, I
17 know Damian Fennell.

18 THE COURT: Okay. How do you know all
19 of these law enforcement officers?

20 PROSPECTIVE JUROR: I live in Yemassee.

21 THE COURT: Okay. Sir, my question is,
22 can you be fair and impartial in the trial of this
23 case?

24 PROSPECTIVE JUROR: To be honest, no.
25 I know too many people.

1 THE COURT: That's all right. I'm
2 going to go ahead and excuse you, but I appreciate
3 it. Thank you, sir.

4 That was No. 160.

5 Yes, ma'am, give me your number.

6 PROSPECTIVE JUROR: 161.

7 THE COURT: Yes, ma'am, who do you
8 know?

9 PROSPECTIVE JUROR: I know all of the
10 officers up front: Damian Fennell, Karen Wilcox.

11 THE COURT: How do you know all of
12 them?

13 PROSPECTIVE JUROR: I, too, live in
14 Yemassee.

15 THE COURT: Okay. My question is, can
16 you be fair and impartial in the trial of this
17 case?

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Are you sure?

20 PROSPECTIVE JUROR: Maybe not. I think
21 I can.

22 THE COURT: You have to be sure. You
23 have to be absolutely sure.

24 PROSPECTIVE JUROR: No.

25 THE COURT: You have to be fair.

1 PROSPECTIVE JUROR: No.
2 THE COURT: Okay. I will excuse you.
3 Thank you.
4 No. 161 is excused.
5 Sir, give me your number, please.
6 PROSPECTIVE JUROR: 64.
7 THE COURT: Who do you know?
8 PROSPECTIVE JUROR: Mr. Loadholt.
9 THE COURT: How do you know Mr.
10 Loadholt?
11 PROSPECTIVE JUROR: Through school.
12 THE COURT: Did you go to school
13 together?
14 PROSPECTIVE JUROR: Yes, ma'am.
15 THE COURT: Sir, can you be fair and
16 impartial in the trial of this case?
17 PROSPECTIVE JUROR: No, ma'am.
18 THE COURT: You're excused as well.
19 Thank you.
20 Juror, back in the red shirt number.
21 Give me your number, please.
22 PROSPECTIVE JUROR: 174.
23 THE COURT: Who do you know, sir?
24 PROSPECTIVE JUROR: I know just about
25 everybody.

1 THE COURT: Okay. Can you be fair and
2 impartial?

3 PROSPECTIVE JUROR: No, ma'am.

4 THE COURT: All right. Sir, you're
5 excused.

6 Yes, sir.

7 PROSPECTIVE JUROR: 155.

8 THE COURT: Who do you know?

9 PROSPECTIVE JUROR: Mr. Alexander.

10 THE COURT: How do you know him?

11 PROSPECTIVE JUROR: His son is my
12 nephew.

13 PROSPECTIVE JUROR: (Nodding head.)

14 THE COURT: I'm going to excuse you
15 from the trial of this case because you are kin.

16 All right. Sir?

17 PROSPECTIVE JUROR: Ms. (Inaudible) son
18 is a member of my church, sings on the praise team.

19 THE COURT: You are a pastor. You can
20 be fair and impartial, can't you?

21 PROSPECTIVE JUROR: I'll do the best I
22 can.

23 (Laughter)

24 THE COURT: Sir, stand up now. I need
25 to talk to you.

1 PROSPECTIVE JUROR: Yes, ma'am.

2 THE COURT: I have to tell you, this is
3 very serious. And I know we're all being very
4 lighthearted --

5 PROSPECTIVE JUROR: But you need to
6 know --

7 THE COURT: I do need to know.

8 PROSPECTIVE JUROR: -- gave me my CWP.

9 THE COURT: Okay. Okay. And I
10 appreciate that, and I need to make sure that you
11 can decide the facts of this case based on the
12 evidence that's presented and not because of any
13 friendship that you may have with the chief. My
14 question is, can you be fair and impartial?

15 PROSPECTIVE JUROR: I can do that.

16 THE COURT: Are you sure?

17 PROSPECTIVE JUROR: Yes, ma'am, you
18 just need to know the truth.

19 THE COURT: And I appreciate that.

20 MS. DEWITT: What was his number?

21 THE COURT: Sir, give me your number
22 again.

23 PROSPECTIVE JUROR: No. 88.

24 THE COURT: Okay. Sir?

25 PROSPECTIVE JUROR: No. 50.

1 THE COURT: Who do you know?

2 PROSPECTIVE JUROR: I know all three of
3 the officers. I have done pest control for all
4 three.

5 THE COURT: For their personal houses
6 or for work --

7 PROSPECTIVE JUROR: Yeah.

8 THE COURT: Personal houses. All
9 right. Sir, my question to you, can you be fair
10 and impartial in the trial of this case?

11 PROSPECTIVE JUROR: Yes, ma'am.

12 THE COURT: You're not worried about
13 missing any contracts or anything like that?

14 PROSPECTIVE JUROR: Well, I could, but
15 I can do two days.

16 THE COURT: Are you sure?

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: Okay. Thank you, sir. You
19 may be seated.

20 I'm going to go to the lady behind you
21 first.

22 Yes, ma'am.

23 PROSPECTIVE JUROR: I'm Juror No. 76
24 and I know Brian Varnado. He's a personal friend
25 and acquaintance forever.

1 THE COURT: All right. I don't even
2 know what Mr. Varnado has testified to in this
3 case.

4 Come and tell me. Come on up.

5 (Bench conference)

6 THE COURT: I will excuse you. That's
7 No. 76?

8 PROSPECTIVE JUROR: Yes.

9 THE COURT: Yes, ma'am.

10 PROSPECTIVE JUROR: I believe I'm
11 No. 42.

12 THE COURT: What's your last name?

13 PROSPECTIVE JUROR: Davis.

14 THE COURT: Ms. Davis. Yes, ma'am.

15 PROSPECTIVE JUROR: I know
16 Mr. Alexander because I worked with his father. I
17 also know Mr. Davis through customer service.

18 THE COURT: Okay. Ma'am, can you be
19 fair and impartial in the trial of this case?

20 PROSPECTIVE JUROR: Yes, ma'am.

21 THE COURT: I appreciate that. Thank
22 you.

23 Anybody else? Yes.

24 PROSPECTIVE JUROR: No. 19. I know Joe
25 Loadholt.

1 THE COURT: No. 19?

2 PROSPECTIVE JUROR: Yes.

3 THE COURT: How do you know him?

4 PROSPECTIVE JUROR: Friends.

5 THE COURT: Okay. My question is, can
6 you be fair and impartial in the trial of this
7 case?

8 PROSPECTIVE JUROR: Yes, ma'am.

9 THE COURT: Are you sure?

10 PROSPECTIVE JUROR: Yes, ma'am.

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

13 Yes, ma'am.

14 PROSPECTIVE JUROR: I'm Juror No. 116,
15 Mary Orr. I know Greg Alexander.

16 THE COURT: What's the nature of your
17 relationship?

18 PROSPECTIVE JUROR: We have been
19 neighbors about 40 years.

20 THE COURT: Forty?

21 PROSPECTIVE JUROR: Yes.

22 THE COURT: How close of neighbors are
23 you?

24 PROSPECTIVE JUROR: Very close.

25 THE COURT: Next door?

1 PROSPECTIVE JUROR: Right across the
2 street.

3 THE COURT: Right across the street.

4 PROSPECTIVE JUROR: Our children grew
5 up together.

6 THE COURT: Ma'am, I'm going to excuse
7 you. Thank you for being here.

8 All right. Anybody else?

9 Do I have anyone here who is a member
10 of law enforcement or a member of your immediate
11 family is in law enforcement or previously was in
12 law enforcement? It doesn't get you out of jury
13 service; it's just for us to know. Okay? We want
14 to know.

15 Ma'am, give me your number.

16 PROSPECTIVE JUROR: No. 5.

17 THE COURT: Ma'am, was it you or
18 someone in your family?

19 PROSPECTIVE JUROR: My brother-in-law
20 is a Varnville police officer.

21 THE COURT: Currently?

22 PROSPECTIVE JUROR: Currently.

23 THE COURT: What's his last name?

24 PROSPECTIVE JUROR: Anderson.

25 THE COURT: Okay. Thank you, ma'am.

1 You may be seated.

2 Yes, ma'am.

3 PROSPECTIVE JUROR: 130. My uncle is
4 in the Varnville Police Department.

5 THE COURT: Varnville. Who is your
6 uncle?

7 PROSPECTIVE JUROR: And I have a first
8 cousin in -- I think he's in Estill.

9 THE COURT: Who is your uncle?

10 THE WITNESS: Michael Smith.

11 THE COURT: And you said you also have
12 a first cousin that's in Estill?

13 PROSPECTIVE JUROR: Yes, ma'am.

14 THE COURT: Estill PD?

15 PROSPECTIVE JUROR: I think he's in
16 Estill.

17 THE COURT: What's his name?

18 PROSPECTIVE JUROR: Quincy Smith.

19 THE COURT: Okay. All right. Thank
20 you, ma'am. You may be seated.

21 Yes, ma'am.

22 PROSPECTIVE JUROR: I was a counselor
23 at the Federal Bureau of Prisons in Estill for
24 20 years.

25 THE COURT: Okay. Are you retired,

1 ma'am?

2 PROSPECTIVE JUROR: I am.

3 THE COURT: Okay. Can you be fair and
4 impartial in the trial of this case?

5 PROSPECTIVE JUROR: Yes, I can.

6 THE COURT: Thank you. I appreciate
7 it.

8 Yes.

9 PROSPECTIVE JUROR: Juror 114. I was a
10 military police officer.

11 THE COURT: Thank you. How long was
12 that?

13 PROSPECTIVE JUROR: Twenty years ago.

14 THE COURT: Okay. Thank you. I
15 appreciate that.

16 Yes, ma'am. Over here.

17 PROSPECTIVE JUROR: Juror 47, Makailah
18 Edwards. My cousin works for Hampton County.

19 THE COURT: This is a Yemassee case,
20 correct?

21 MR. EVANS: Yes, ma'am.

22 THE COURT: Ma'am, give me the name of
23 your family member.

24 PROSPECTIVE JUROR: Chester Edwards.

25 THE COURT: Thank you. You may be

1 seated.

2 THE COURT: Sir?

3 PROSPECTIVE JUROR: My wife's uncles
4 are both law enforcement in Columbia.

5 THE COURT: Okay. Sir, give me your
6 number.

7 PROSPECTIVE JUROR: No. 49.

8 THE COURT: What's your name?

9 PROSPECTIVE JUROR: Doyell Feaster.

10 THE COURT: Yes, ma'am, finally.

11 PROSPECTIVE JUROR: Kimika Cox, Juror
12 No. 34. My brother worked for Hampton County and
13 now he works for Colleton County.

14 THE COURT: What's your brother's name?

15 PROSPECTIVE JUROR: Theodore Cox.

16 THE COURT: Thank you. I appreciate
17 it.

18 Do I have anyone here whose family
19 member or themselves has worked at the solicitor's
20 office, the Fourteenth Circuit Solicitor's Office,
21 or any of the prosecutor's office such as the
22 Attorney General's Office, US Attorney's Office?
23 If so, please stand.

24 Any member of the jury panel a former
25 or present member, or a financial contributor to

1 Hoak Haven of the Lowcountry; CAPA, Children Abuse
2 Prevention Association; CODA, Citizens Opposed to
3 Domestic Abuse; MADD, Mothers Against Drunk
4 Driving; or any other victims rights organizations?
5 If so, please stand.

6 Is there any member here -- is there
7 any person here who he is a member of or financial
8 contributor to the National Rifle Association,
9 commonly known as the NRA? If so, please stand.

10 Ma'am, give me your number.

11 PROSPECTIVE JUROR: No. 52.

12 THE COURT: And are you a member of or
13 contributor to, or both?

14 PROSPECTIVE JUROR: Both.

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

17 Sir.

18 PROSPECTIVE JUROR: I'm a member of the
19 National Rifle Association.

20 THE COURT: Thank you, sir.

21 Your number, sir?

22 PROSPECTIVE JUROR: No. 88.

23 THE COURT: Ladies and gentlemen, is
24 any member of the jury panel ever been accused of
25 or a victim of a robbery, assault and battery, or

1 any type of property crime? If so, please stand.

2 Solicitor, can you tell me roughly
3 where this occurred? I don't have in the
4 indictment specifically. Obviously, it occurred in
5 Hampton County on or about November 15th of 2018.
6 Can you tell me where it was?

7 MR. EVANS: Yes, ma'am. Snappy Food,
8 which is 158 -- is that right, gentlemen --
9 Yemassee Highway in Yemassee.

10 THE COURT: Okay. And allegedly
11 occurred on November 15, 2018.

12 MR. EVANS: Yes, ma'am.

13 THE COURT: Ladies and gentlemen, has
14 any member of the jury panel seen anything or read
15 anything about this case? Again, it occurred
16 roughly November 15 of 2018 in Yemassee at the --

17 MR. EVANS: Snappy Foods.

18 THE COURT: -- Snappy Foods.

19 Do I have anyone here on this jury
20 panel, or a member of your immediate family, that
21 has ever been prosecuted for a violent crime? If
22 so, please stand.

23 Do I have anyone here who is a member
24 of or a financial contributor to the Innocence
25 Project, the Equal Justice Initiative, or any

1 organization that has as its primary concern the
2 promotion of criminal defendants' rights? If so,
3 please stand.

4 Yes, ma'am, give me your number.

5 PROSPECTIVE JUROR: I think I'm 42,
6 Davis. I need to go back to the previous question.
7 My brother is awaiting trial for capital murder.

8 THE COURT: Okay. Where is that?

9 PROSPECTIVE JUROR: Colleton County.

10 THE COURT: Colleton County. Okay.

11 Thank you, ma'am. You may be seated.

12 Well, let me ask you this: Can you be
13 fair and impartial in the trial of this case
14 understanding obviously that one has nothing to do
15 with the other?

16 PROSPECTIVE JUROR: (Nodding)

17 THE COURT: You need to say yes.

18 PROSPECTIVE JUROR: Yes.

19 THE COURT: Are you sure?

20 PROSPECTIVE JUROR: I'm sure.

21 THE COURT: Okay. And No. 42, correct?

22 PROSPECTIVE JUROR: Yes, ma'am.

23 THE COURT: Okay. Ladies and
24 gentlemen, I know you know very little about this
25 case. It's an alleged armed robbery, kidnapping,

1 and possession of a weapon during the commission of
2 a violent crime, and two counts of assault and
3 battery in the first degree.

4 Ladies and gentlemen, does anyone know
5 of any reason whatsoever that you cannot be fair
6 and impartial in the trial of this case based on
7 the charges or the nature of the alleged offense?
8 If so, please stand.

9 Ladies and gentlemen, again, the
10 importance in a jury trial and the jury duty is
11 going to be to seek the truth. Does anyone know of
12 any reason whatsoever that you cannot follow my
13 instructions, based on the law that I give you, and
14 be fair to both the State of South Carolina and the
15 defendant, Mr. Coleman, in this matter? If so,
16 please stand.

17 Anything further requested from this
18 jury panel from the State?

19 MR. EVANS: Not from the State.

20 THE COURT: From the defense?

21 MS. DEWITT: No, Your Honor.

22 THE COURT: All right. Can I see the
23 attorneys very quickly?

24 (Bench conference)

25 THE COURT: So, ladies and gentlemen,

1 what is happening now is all of your names are
2 being placed into the computer. It's going to
3 draft a random list. What is going to happen when
4 your name is called, you're going to come forward
5 to the very front where the microphone is and
6 you're going to turn around. You're not going to
7 do or say anything.

8 Each side has an opportunity to
9 exercise strikes. So they are going to say, seat
10 the juror or please excuse the juror. If either
11 side excuses you, you can just go back to your seat
12 and sit tight. So that will take a quick few
13 moments.. Okay.

14 THE CLERK: When I call your name, if
15 you could just step forward.

16 No. 34, Kimika Cook. I'm sorry, Cox.

17 What says the State?

18 MR. EVANS: Present the juror.

19 THE CLERK: What says the defense?

20 MS. DEWITT: Swear the juror, please.

21 THE CLERK: Please have a seat in the
22 jury box.

23 No. 167, Angel Williams.

24 What says the State?

25 MR. EVANS: Present the juror.

1 THE CLERK: What says the defense?
2 MS. DEWITT: Number?
3 THE CLERK: 167.
4 MS. DEWITT: Swear the juror, please.
5 THE CLERK: Please have a seat in the
6 jury box.
7 Juror No. 156, Jamie Thames.
8 What says the State?
9 MR. EVANS: Present the juror.
10 THE CLERK: What says the defense?
11 MS. DEWITT: Which number?
12 THE CLERK: 156.
13 MS. DEWITT: Excuse the juror, please.
14 THE CLERK: You can have a seat.
15 Juror No. 19, Sam Brown.
16 What says the State?
17 MR. EVANS: Present the juror.
18 THE CLERK: What says the defense?
19 MS. DEWITT: Seat the juror.
20 THE CLERK: Okay. You can have a seat
21 in the jury box.
22 No. 115, Ted Naulder.
23 What says the State?
24 MR. EVANS: Please present the juror.
25 THE CLERK: What says the defense?

1 MS. DEWITT: His number was?
2 THE CLERK: 115.
3 MS. DEWITT: Seat the juror, please.
4 THE CLERK: Okay. Please have a seat
5 in the jury box.
6 No. 62, Kevin Ginn. What says the
7 State?
8 MR. EVANS: Present the juror.
9 THE CLERK: What says the defense?
10 MS. DEWITT: Dismiss the juror.
11 THE CLERK: Number 119, Elizabet
12 Paschal-Reynolds.
13 What says the State?
14 MR. EVANS: Present the juror.
15 THE CLERK: What says the defense?
16 MS. DEWITT: Accept the juror, please.
17 THE CLERK: You can have a seat in the
18 jury box.
19 No. 36, Walter Crittington.
20 What says the State?
21 MR. EVANS: Present the juror.
22 THE CLERK: What says the defense?
23 MS. DEWITT: Swear the juror, please.
24 THE CLERK: Please have a seat in the
25 jury box.

1 Juror No. 106, Thomas Mixon.
2 What says the State?
3 MR. EVANS: Present the juror.
4 THE CLERK: What says the defense?
5 MS. DEWITT: Excuse the juror, please.
6 THE CLERK: Please return to your seat.
7 No. 49, Doyell Feaster.
8 What says the State?
9 MR. EVANS: Present the juror.
10 THE CLERK: What says the defense?
11 MS. DEWITT: Excuse the juror, please.
12 THE CLERK: No. 32, Deann Cook.
13 What says the State?
14 MR. EVANS: Present the juror.
15 THE CLERK: What says the defense?
16 MS. DEWITT: Swear the juror, please.
17 THE CLERK: Please have a seat in the
18 jury box.
19 Number 50, Rodney Fennell.
20 What says the State?
21 MR. EVANS: Present the juror.
22 THE CLERK: What says the defense?
23 MS. DEWITT: Excuse the juror, please.
24 THE CLERK: No. 10, Diane Blake.
25 What says the State?

1 MR. EVANS: Present the juror.
2 THE CLERK: What says the defense?
3 MS. DEWITT: Seat the juror, please.
4 THE CLERK: Please have a seat in the
5 jury box.
6 No. 9, Karen Bittle.
7 What says the State?
8 MR. EVANS: Present the juror.
9 THE CLERK: What says the defense?
10 MS. DEWITT: Seat the juror, please.
11 THE CLERK: Please have a seat in the
12 jury box.
13 THE CLERK: No. 130, Rachel Rivers.
14 What says the State?
15 MR. EVANS: Present the juror.
16 THE CLERK: What says the defense?
17 MS. DEWITT: Excuse the juror, please.
18 THE CLERK: No. 52, Dawn Fleming.
19 What says the State?
20 MR. EVANS: Present the juror.
21 THE CLERK: What says the defense?
22 MS. DEWITT: Seat the juror, please.
23 THE CLERK: Please have a seat in the
24 jury box.
25 No. 118, Sydney Parker.

1 What says the State?

2 MR. EVANS: Present the juror.

3 THE CLERK: What says the defense?

4 MS. DEWITT: Seat the juror.

5 THE CLERK: Please have a seat in the
6 jury box.

7 No. 114, Ophelia Myers-McBride.

8 What say you for the State?

9 MR. EVANS: Present the juror.

10 THE CLERK: What says the defense?

11 MS. DEWITT: Excuse the juror, please.

12 THE CLERK: No. 58, Catherine Garvin.

13 What says the State?

14 MR. EVANS: Present the juror.

15 THE CLERK: What says the defense?

16 MS. DEWITT: Seat the juror.

17 THE CLERK: Please have a seat in the
18 jury box.

19 No. 31, Christine Cook.

20 What says the State?

21 MR. EVANS: Present the juror.

22 THE CLERK: What says the defense?

23 MS. DEWITT: Excuse the juror, please.

24 THE CLERK: No. 37, Angie Crosby.

25 What says the State?

1 MR. EVANS: Present the juror.

2 THE CLERK: What says the defense?

3 MS. DEWITT: Seat the juror, please.

4 THE COURT: Let's go ahead with the
5 first alternate, and I think we can probably do it.

6 THE CLERK: No. 96, Jacqueline Maxwell.

7 What says the State?

8 MR. EVANS: Please present the juror.

9 THE CLERK: What says the defense?

10 MS. DEWITT: Seat the juror.

11 THE CLERK: No. 5, Melissa Anderson.

12 What says the State?

13 MR. EVANS: Present the juror.

14 THE CLERK: What says the defense?

15 MS. DEWITT: Excuse the juror, please.

16 THE CLERK: No. 47, Makailah Edwards.

17 What says the State?

18 MR. EVANS: Excuse the juror for
19 challenge.

20 THE CLERK: You can have a seat.

21 No. 175, Shannon Youmans.

22 State have cause for strike?

23 MR. EVANS: No, ma'am.

24 THE COURT: What says the defense?

25 MS. DEWITT: Accept the juror, please.

1 THE CLERK: Please have a seat in the
2 jury box.

3 THE COURT: All right. Ladies and
4 gentlemen, is everyone in good health? Everyone
5 feeling well? Yès? I want to make sure. It's flu
6 season and I worry about losing jurors. I think
7 we're okay. I think two alternates are good.

8 Anything further?

9 MR. EVANS: Not from the State.

10 THE COURT: From the defense?

11 MS. DEWITT: No, Your Honor.

12 THE COURT: Okay. No matters of law we
13 need to take up?

14 MR. EVANS: No, ma'am.

15 MS. DEWITT: Correct.

16 THE COURT: Thank you.

17 Ladies and gentlemen, sit tight. I
18 will be with you in just a moment, but welcome.

19 Ladies and gentlemen, for those of you
20 back there --

21 Is there anything else on the roster
22 that we could be trying this week?

23 MR. EVANS: No, ma'am.

24 THE COURT: Ladies and gentlemen, for
25 those of you in the back, you are excused. We

1 appreciate you being here. If you need a work
2 excuse, go down to the clerk's office.

3 THE CLERK: Yes.

4 THE COURT: Go to the clerk of court's
5 office if you need a work excuse. Thank you.

6 (Jury panel out 2:00 p.m.)

7 THE COURT: All right. Ladies and
8 gentlemen, welcome. As you know, you are my jury
9 for the trial of this case and we are expected to
10 finish it on Wednesday. I would like to start
11 tomorrow at 10:00. Is that acceptable to everyone?

12 Anybody have a problem with 10:00 a.m.?

13 All right. We will run until roughly
14 five or so. You will have about an hour, or hour
15 15 minutes over the lunch hour to grab something.
16 I'd like to get you-all out of the courthouse to
17 see a little sunshine and feel better.

18 Ladies and gentlemen, I need to give
19 you a couple of ground rules before we part. If
20 you were able to get a cell phone in today while
21 you were performing jury duty, I need you to leave
22 that back in the car.

23 And the reason why is you can get so
24 much information off of a smart phone these days,
25 but I don't want anyone tempted. So I just tell

1 you to leave it at home.

2 If you need to use a phone while you
3 are here, simply ask the bailiff. They will take
4 you to a phone. Also, if you are worried about a
5 family member or friend or someone being able to
6 reach you emergently while you are performing jury
7 service, simply tell them to call the clerk of
8 courts office. Give them your name, tell them you
9 are a juror, and I will get you immediately.

10 Also, ladies and gentlemen, you must
11 not discuss this case with anyone. And that
12 includes each other until you've heard all of the
13 evidence, you've heard the closing arguments from
14 the lawyers and I have charged you on the law.

15 And the reason is this: Inevitably
16 somebody is going to tell you something about
17 something and they know nothing about this case.
18 You are going to have everything you need to decide
19 this case right here in this courtroom, and it
20 would be highly inappropriate for anyone to
21 influence you in your duty.

22 So, again, they are not to speak to you
23 and you are not to speak to anyone. If someone
24 asks when you go home tonight, what are you doing
25 up at the courthouse, the only thing you're

1 permitted to say, whether it's a colleague or a
2 husband or wife, whatever, is that you have been
3 chosen as a juror in the trial of a criminal case.
4 You can't say the parties involved, the lawyers
5 involved, the charges. Again, that would be
6 inappropriate.

7 Also, ladies and gentlemen, I don't
8 think there's going to be anything in the
9 newspapers or news about this case; but out of
10 abundance of caution, I need to tell you that you
11 are not to read anything, watch anything, or listen
12 to anything about this case.

13 You are not to do any independent
14 research on the computer. Again, you will have
15 everything that you need to decide this case right
16 here in the courtroom. All right. Don't do any
17 other outside research.

18 Ladies and gentlemen, lastly, the
19 attorneys, the parties, everyone in this case,
20 potential witnesses have been instructed that they
21 are not to speak to you in coming and going from
22 the courthouse during the trial. And the reason is
23 this: Even an innocent conversation of, my
24 goodness, it's finally warm out today is going to
25 be seen. It gets reported back and then I have to

1 ask you about it.

2 So as a precaution, don't say anything.
3 There are cameras all over the courthouse and in
4 parking lot, ladies and gentlemen. It's all being
5 recorded. And, again, I don't want to have to ask
6 you.

7 My suggestion to you is go home, get a
8 good night's sleep. See you-all 10:00 a.m. in the
9 morning. If anybody has any trouble getting here
10 tomorrow or falls ill over the evening, call in to
11 the clerk's office first thing. I will be looking
12 for you. Okay.

13 If anyone has any transportation
14 issues, let the bailiff know about it because we
15 can arrange that as well. Lastly, he's going to
16 take you back to your jury room right now so you
17 know where to come in the morning. You don't just
18 come straight in through here. You come in back
19 there.

20 He's also going to get good phone
21 numbers for you to make sure that we know how to
22 find you, make sure we have the right addresses for
23 you so we can find you if there are any issues.
24 Okay.

25 I look forward to seeing you. I

1 appreciate your service, ladies and gentlemen, in
2 resolving this case. Thank you. You are excused
3 back to the jury room.

4 (Jury out, 2:04 p.m.)

5 All right. If it's acceptable to
6 you-all, I am happy to go forward and start doing
7 testimony. I know we all had kind of a little bit
8 of a break. My witnesses are back there and they
9 probably have other places to go.

10 MR. EVANS: I wouldn't mind three
11 minutes.

12 THE COURT: Of course, three minutes.

13 Ms. DeWitt, are you okay?

14 MS. DEWITT: I wouldn't mind like five.

15 THE COURT: You can have five. All of
16 you can have five. After that, we're going to do
17 the Neil v. Biggers.

18 MR. EVANS: I suppose so, so we can get
19 the officers out of here.

20 THE COURT: Perfect. Okay. That will
21 be first. We'll do them, get them up here, and
22 release them.

23 Okay. Take five minutes then you-all.

24 (A recess transpired.)

25 JOE LOADHOLT,

1 being first duly sworn, testified as follows:

2 THE COURT: Biggers hearing?

3 MR. EVANS: Yes, ma'am, sorry.

4 THE COURT: That's okay.

5 DIRECT EXAMINATION

6 BY MR. EVANS:

7 Q. Officer, would you please identify
8 yourself for the record?

9 A. I'm captain Joe Loadholt with the
10 Yemassee Police Department.

11 Q. Captain, how did you become involved in
12 this case we're here about this week?

13 A. I assisted in the investigation in this
14 case.

15 Q. All right. And how did you assist?
16 What did you do?

17 A. Identified the subject as being --
18 identified one of the co-defendants in the case.

19 Q. You identified a co-defendant?

20 A. Yes, sir.

21 Q. Did you know who the individual was who
22 robbed the store?

23 A. No, not at first.

24 Q. You did not at first. Are you aware of
25 how the department became aware of who he was?

1 A. Yes, sir.

2 Q. How was that?

3 A. Through another agency.

4 Q. And which agency was that?

5 A. Walterboro.

6 Q. Through the Colleton County Sheriff's

7 Office?

8 A. Colleton County Sheriff's Office.

9 Q. Brian Varnado?

10 A. Yes, sir.

11 Q. How did he become involved? This all

12 happened in Yemassee, correct?

13 A. Yes, sir.

14 Q. All right.

15 A. When an officer reached out to him to

16 see if he could identify one of the subjects, I

17 showed him the video and he did.

18 Q. With a photograph of the video?

19 A. Yes, sir.

20 Q. And did Deputy Varnado have any idea

21 who that was?

22 A. Yes, sir. He ID'd him.

23 Q. As Joey Coleman?

24 A. As Joey Coleman.

25 Q. Was that the last thing you did before

1 you arrested him or did you look for something
2 else?

7 Q. How about any witnesses who were at the
8 scene? Did you talk to any of them?

10 Q. Who did you talk to?

13 Q. Could it be Miss Wilcox?

16 Q. All right. Did Mr. Fennell give you a
17 name?

19 Q. Did Miss Wilcox know Mr. Coleman by
20 name?

23 THE COURT: By what? I can't --

25 THE COURT: Oh, living over the bridge.

1 Okay.

2 BY MR. EVANS:

3 Q. And that's how Deputy Varnado became
4 involved because she indicated that Mr. Coleman
5 lived in Colleton County?

6 A. Right. And also the (inaudible).

7 Q. I'm sorry?

8 A. Also the video.

9 Q. What did you do when Miss Wilcox
10 confirmed that information?

11 A. Set a lineup -- photo lineup through
12 another agency, Beaufort County. And she ID'd him
13 as one of the suspects out of the photo lineup.

14 Q. And so that's what we're here to talk
15 about right now, the lineup. You said you asked
16 Beaufort County to do it?

17 A. Yes, sir.

18 Q. Who in Beaufort County?

19 A. I wasn't the one that requested it.

20 Q. The sheriff's office or --

21 A. Another officer, Officer Struts.

22 Q. Okay. And what did they send you back;
23 do you remember?

24 A. Well, we call it a six-pack with six
25 different photos.

1 Q. And did you present that to Miss
2 Wilcox?

3 A. We did.

4 Q. And when you say we, what does that
5 mean?

6 A. That means it was three officers in the
7 interrogation room.

8 Q. Who were the three officers that spoke
9 to Miss Wilcox?

10 A. It was Chief Alexander, Sergeant
11 Watson, and myself.

12 Q. And yourself. Do you recall which one
13 of you in particular handed the photo lineup to
14 Miss Wilcox?

15 A. I do not recall.

16 Q. Do you recall meeting with me last week
17 and taking a look at some of the documents I'm
18 going to hand to you?

19 A. Yes, sir.

20 Q. What did you learn from those
21 documents?

22 A. I learned that my initials are on that
23 document.

24 Q. Okay. Is there a way that you are
25 trained to present these lineups?

1 A. Not specifically trained to present
2 that document, but, you know, it's, I would say,
3 protocol.

4 Q. Tell us about the protocol.

5 A. Well, when we get the co-defendant or
6 whoever --

7 Q. Whoever the person is you want to show
8 it to?

9 A. Right, over in the interrogation room.
10 We bring them in, Mirandize them, and once we
11 Mirandize them they can identify the subject or the
12 party that's involved in whatever crime.

13 We got -- we already have a six-pack
14 there from whatever agency, maybe Beaufort, SLED,
15 wherever we get it from. And we present it to them
16 in the envelope that's already cut out with the six
17 pack. And we hand them the six-pack and ask them
18 to identify him.

19 Q. I think myself, the Judge, and Ms.
20 DeWitt know what a six pack is. Just for the
21 record, could you define that?

22 A. Yeah. A six-pack, again, is a sheet of
23 paper with six photos on it that looks identical --
24 well, looks similar to each other.

25 Q. Okay. And one of those is typically

1 the person that you're interested in?

2 A. Yes, sir.

3 Q. But not always?

4 A. Not always.

5 MR. EVANS: Very quickly.

6 THE COURT: Captain, do you also
7 instruct the person looking at the six-pack that
8 the alleged assailant may or may not be among the
9 six pictures?

10 THE WITNESS: We do.

11 THE COURT: Okay.

12 MR. EVANS: May I approach?

13 THE COURT: Yes.

14 BY MR. EVANS:

15 Q. I'm going to pass you two documents and
16 ask if you can identify those, please.

17 A. Yes, sir.

18 Q. What are those?

19 A. Six pack.

20 Q. That's the one that you used in this
21 case?

22 A. Yes, sir.

23 Q. Does it have Mr. Coleman's picture on
24 it?

25 A. It does.

1 Q. How about the second document, the one
2 that you are holding?

3 A. Yes, sir.

4 Q. What is that?

5 A. This is sort of the disclaimer
6 explaining to you photos of person who is ID'd in
7 the six-pack ID'ing the suspect in the six-pack
8 that, you know -- do you want me to read it?

9 Q. Let me enter it first and then I'm
10 going to ask you to read it.

11 MR. EVANS: Judge, I would move these
12 into evidence for this hearing as Court's 1.

13 THE COURT: Court's Exhibits. Okay.

14 MR. EVANS: Thank you.

15 BY MR. EVANS:

16 Q. Go ahead and read the instructions that
17 are on that second page.

18 A. All right, sir. You will be asked to
19 look at a group of photographs. The fact that the
20 photographs are shown to you should not influence
21 your judgment. You should not -- you should not
22 conclude or guess that the photographs contain a
23 picture of the person who committed the crime. You
24 are not obligated to identify anyone. It's just as
25 important to free innocent persons from suspicion

1 as to identify guilty parties. Please do not
2 discuss the case with the witness or indicate in
3 any way that you have identified somebody.

4 Q. And did you or Chief Alexander or
5 Officer Loadholt -- you're Officer Loadholt?

6 A. Yes, sir.

7 Q. -- or Officer Watson read that to Miss
8 Wilcox in that case?

9 A. Yes, sir. And she signed it.

10 Q. She indicated she understood?

11 A. With her signature.

12 Q. Was she able to make an identification?

13 A. Yes, sir.

14 Q. Who did she identify?

15 A. Joey Coleman.

16 Q. Is that the upper right in that
17 six-pack?

18 A. Yes, sir.

19 Q. How did she indicate on the piece of
20 paper that she could identify them?

21 A. With a circle and a signature.

22 Q. Her initials?

23 A. Initials.

24 Q. And then you initialed the warnings, I
25 guess we would call them, or instructions?

1 A. Yes, sir.

2 Q. Okay. Anything else about how you in
3 the Yemassee Police Department, you, yourself, or
4 any of the other officers present these six packs
5 to witnesses like Miss Wilcox that we need to know?

6 A. Nothing other than that I stated.

7 MR. EVANS: Those are the questions
8 that I have for Captain Loadholt.

9 THE COURT: Cross.

10 MS. DEWITT: Thank you, Your Honor.

11 CROSS-EXAMINATION

12 BY MS. DEWITT:

13 Q. Officer, were you -- in initially
14 investigating the robbery, were you given a
15 description of the robber?

16 A. No, ma'am, we didn't.

17 Q. What you had was simply the video from
18 the story?

19 A. Yes, ma'am.

20 Q. And could you tell from that individual
21 the height and weight of the -- of the person who
22 robbed the store?

23 A. Just about, not exact.

24 Q. Are you aware that your report
25 indicates the robber was 5, 10?

1 A. Well, that's not an exact weight or
2 height. That's about.

3 Q. All right. Where -- all right. Did
4 you obtain from Miss Wilcox a description of the
5 robber before showing her the photo lineup?

6 A. Did we get a description?

7 Q. Yes.

8 A. Yes, ma'am, we did.

9 Q. And did she tell you -- did she
10 identify the man as to his height and weight?

11 A. No, ma'am, she did not give a height
12 and weight.

13 Q. Now, according to Miss Wilcox's
14 statement that she gave to you-all, she didn't know
15 who he was, correct?

16 A. Right.

17 Q. And she didn't know who he was or his
18 name either; is that right?

19 A. That's correct.

20 Q. And she had only talked to him briefly
21 according to her testimony; is that correct?

22 A. Yes.

23 Q. Do you have any other information about
24 the robber at the time you showed the photographic
25 lineup to Miss Wilcox?

1 A. No, ma'am.

2 Q. Okay. At the time you showed it to
3 Miss Wilcox, had you already interviewed
4 Mr. Fennell?

5 A. I don't remember. I don't remember
6 whether we interviewed him first or interviewed her
7 first.

8 Q. Now, you were one of the investigating
9 officers who went to the scene of the store?

10 A. Correct.

11 Q. And you are the officer who, in fact,
12 gave the witness the photographic lineup?

13 A. Yes, ma'am.

14 Q. And was it your testimony that you did
15 not put the lineup together?

16 A. No, ma'am, I did not put it together.

17 Q. What was Beaufort County's role in
18 assisting you?

19 A. Well, any time we have a situation like
20 this, so we'll be neutral, do not -- and we don't
21 have the -- I mean, we did have the capability to
22 do it. We just get an outside agency to develop a
23 six-pack for us.

24 Q. Tell me how they develop the
25 photographs.

1 A. Well, they get -- we explain to them
2 what we have and give them the actual information
3 on the person that we're looking for. And they
4 will get somebody who look close like that person
5 and draw up a six-pack and send it back to us.

6 Q. Okay. So what information was given to
7 Beaufort County about your suspect?

8 A. After we -- after we had an ideal
9 suspect, we send them a photo of that person and
10 they develop a six-pack for it.

11 Q. Okay. So you actually sent the
12 photograph to Beaufort County? They didn't have to
13 locate it themselves?

14 A. Right.

15 Q. And then where did the other five
16 photographs come from?

17 A. I have no idea how they get these other
18 five photographs.

19 Q. Was it Beaufort County Sheriff's Office
20 who selected the other five?

21 A. Well, I think it's computer.

22 Q. You think it's a computer-generated
23 photographic lineup?

24 A. Yes, ma'am.

25 Q. Based on what, characteristics?

1 A. I have no idea.

2 Q. Okay. Do you know which officer in
3 Beaufort County assisted you?

4 A. No, ma'am, I don't know.

5 Q. Now, who was present when this
6 photographic lineup was shown to Miss Wilcox?

7 A. Myself, Chief Alexander and Sergeant
8 Watson.

9 Q. Okay. And all three of you have been
10 -- worked on this case as investigators, correct?

11 A. Yes.

12 Q. And what kind of room were you in?

13 A. We were in a courtroom.

14 Q. You were in the courtroom in Yemassee?

15 A. Yes, ma'am.

16 Q. Was anyone else present?

17 A. Miss Cannon. Other than that, no.

18 Q. Were you sitting at a conference table
19 or a desk?

20 A. We were at a table.

21 Q. And was it recorded in any way, the
22 conversation with Miss Wilcox?

23 A. I don't think we were recording.

24 Q. Okay. Did you or any of the other
25 officers who were present say -- what exactly did

1 you say to her before showing her this form that
2 you identified and the photographic lineup?

3 A. We were asking her did she know the
4 suspect. And she said that she could ID him. And
5 we asked her a bunch of other stuff that I can't
6 remember, but after I asked her that we read this
7 waiver to her and presented the six-pack so she
8 could ID him.

9 Q. To your knowledge, had she written her
10 statement before or after the lineup?

11 A. I don't know which it was.

12 Q. Do you recall whether or not she wrote
13 her written statement on the day of the robbery?

14 A. Without looking at the report -- it's
15 been a year ago so I couldn't answer that question.

16 Q. It's been a little bit over a year.
17 Okay. So do you know how long it took for Beaufort
18 County to get the photo lineup together for you?

19 A. They don't normally take long, so I
20 can't say. Probably been a couple of hours.

21 Q. All right. Now, let me -- okay. I
22 believe it's Miss Wilcox's story that she got into
23 a vehicle with some people at an apartment complex
24 in Yemassee and caught a ride to the store. Does
25 that sound right?

1 A. That sounds about right.

2 Q. And that ride would have taken, what,
3 five minutes, assuming no train?

4 A. From where to where?

5 Q. Well, if her story -- according to her
6 written statement, she went from the road from the
7 apartment complex to the store where the robbery
8 occurred?

9 A. Yes.

10 Q. So how long would it take for that
11 vehicle to drive there? About five minutes?

12 A. It depends on the traffic, road
13 conditions. Probably three or four minutes.

14 Q. Three or four minutes. And that's how
15 long -- that's how long she was in the vehicle with
16 this suspect, correct?

17 A. I think it was a little longer than
18 that.

19 Q. According to her statement, once they
20 arrived at the store she got out of the car; is
21 that correct?

22 A. No, ma'am.

23 Q. She did not go into the store?

24 A. She sent somebody into the store at
25 first.

1 Q. Okay. Well, the best you can recall,
2 what was the total exposure that the witness had
3 with the robber?

4 A. I would say probably about 10 or
5 15 minutes.

6 Q. Maximum, correct? And the minimum
7 would be a couple of minutes in riding to the
8 store?

9 A. About 15, 20 minutes, give or take.

10 Q. Okay. Going back to when you showed
11 her this photographic lineup, describe the setting
12 for me. You were all sitting at a table together,
13 three police officers and Miss Wilcox; is that
14 right?

15 A. Yes.

16 Q. Okay. And what specifically was said
17 to her before you gave her the form to read and
18 sign?

19 A. Like I said, a lot of things was said
20 to her before we give her this form. It was an
21 investigation. I don't know exactly what you're
22 looking for. A lot of things was said to her.

23 Q. Well, did any one of you officers tell
24 Miss Wilcox that you already knew who did it?

25 A. I don't recall that statement.

1 Q. Did you tell her you had a suspect in
2 mind?

3 A. Yes, we did.

4 Q. And did you give her the name of that
5 person?

6 A. I don't remember giving her the name.

7 Q. Okay.

8 A. I remember asking did she know the
9 suspect's name.

10 Q. Okay. Well, I wasn't there. That's
11 why I'm asking you, sir.

12 A. Yes, ma'am.

13 Q. But you already had a suspect in mind
14 because you had heard back from the Walterboro
15 officer, correct?

16 A. Well, not me. Another officer did.

17 Q. So somebody at your police department
18 already had the name of the suspect because you
19 received it from a call from the county police
20 officer, right?

21 A. I'm assuming he did at that point.

22 Q. Okay. So when you were in the room,
23 the three of you were in the room with Miss Wilcox,
24 you said she knew you already had a suspect?

25 A. I didn't say that. We were asking

1 about the suspect, whether she knew him.

2 Q. Okay. So you -- but -- but you already
3 -- was Mr. Coleman already the suspect in this
4 case?

5 A. He was a suspect in the case, but we
6 never mentioned it to her.

7 Q. None of the conversations you had with
8 Miss Wilcox were recorded, correct?

9 A. I don't think it was, no, ma'am.

10 Q. Okay. Did you read that form to her,
11 this form here that she signed?

12 A. Yes, ma'am, we did read it.

13 Q. Did you actually read it to her out
14 loud?

15 A. Yes.

16 Q. Do you know what her educational level
17 is?

18 A. I don't have no idea.

19 Q. Did she appear to be high on marijuana
20 or anything else at the time?

21 A. No, sir.

22 Q. Did you or any other officer let her
23 know that the person who robbed the store may not
24 even be in the photographic lineup?

25 A. We did advise her of that.

1 Q. Did anybody else in the room -- did
2 anyone in the room point at a particular picture or
3 indicate a certain response --

4 A. No, ma'am.

5 Q. -- you wanted from Miss Wilcox?

6 A. No, sir.

7 Q. And have you been to any special law
8 enforcement training regarding preparation of
9 photographic lineups or, I guess, best methods to
10 use in coming up with identification of suspects?

11 A. Years ago.

12 Q. Many years ago?

13 A. Many years ago.

14 Q. Are you familiar with the research
15 that's been done in the last 20 years that
16 discusses the lack of accuracy in many of the
17 eyewitness identification practices that were used
18 in the past?

19 A. Was I explained that?

20 Q. Are you aware?

21 A. I'm aware, yes, ma'am.

22 Q. That there has been a lot of research
23 that's been done?

24 A. Uh-huh.

25 Q. Are you aware that the research seems

1 to indicate a witness is often more accurate when
2 they are shown pictures, photographs, one at a time
3 as opposed to six in one photographic lineup? Did
4 you know that?

5 A. No, ma'am, I didn't know that.

6 Q. Okay. Did you -- are the photographs
7 -- do you know any of the other suspects in the
8 photographic lineup?

9 A. No, ma'am.

10 Q. You don't know them from being a
11 Yemassee police officer?

12 A. No, not at all.

13 Q. All right. Do you have any other
14 personal knowledge about the identification by
15 Ms. Wilcox that you haven't discussed yet?

16 A. No.

17 Q. Sir?

18 A. No, ma'am.

19 MS. DEWITT: Excuse me just a moment.

20 THE COURT: Who was your lead case
21 officer in this case?

22 MR. EVANS: Judge, that's -- we don't
23 really have one. The initial officer was Derrick
24 Pendergrass, but it's -- it was really more of a
25 team effort.

1 THE COURT: Okay.

2 MS. DEWITT: One more thing.

3 BY MS. DEWITT:

4 Q. Officer, are you aware that when Miss
5 Wilcox written -- or I take that back.

6 Are you aware that one of the persons
7 you interviewed indicated Miss Wilcox was on her
8 way to the store to obtain money to purchase
9 marijuana? Do you recall that fact?

10 A. No, ma'am, I don't recall that fact.

11 Q. Okay. Did she indicate to you whether
12 or not she was high on anything at the time she
13 rode to the store?

14 A. No, ma'am.

15 Q. And in what -- what positions in the
16 vehicle would -- and by that, I mean, front seat,
17 back seat, or where -- what was the seating
18 arrangement in the vehicle?

19 A. As I recall, she was sitting behind the
20 driver.

21 Q. Okay. And the driver -- was the driver
22 the suspect in the robbery later?

23 A. He was the driver in that robbery.

24 Q. Okay.

25 A. He was -- he was the driver.

1 THE COURT: You said he. This
2 defendant?

3 THE WITNESS: Who?

4 THE COURT: I don't understand what
5 you're --

6 BY MS. DEWITT:

7 Q. Who was driving the car, this defendant
8 or somebody else?

9 A. Somebody else.

10 Q. Okay. So the person who robbed the
11 store was not the driver of the car is what you're
12 saying?

13 A. Yes.

14 Q. When it left the apartment complex?

15 A. Right.

16 Q. Okay. And Miss Wilcox would have been
17 seated where?

18 A. Behind the driver.

19 Q. And in the back seat?

20 A. Yes, sir.

21 Q. And the person she identified later as
22 the robber would have been sitting where? In the
23 front seat or back seat?

24 A. Front passenger.

25 Q. Front passenger. So she was behind

1 that person, correct?

2 A. Right.

3 Q. Do you recall -- and I believe I may
4 have asked this already. Do you recall how much
5 time passed between the time of the robbery and the
6 time in which you showed her the photographic
7 lineup?

8 A. No, ma'am, I don't recall.

9 Q. Does that form have a date on it? Or
10 did the judge take the form?

11 THE COURT: I gave it back.

12 BY MS. DEWITT:

13 Q. Is it dated? What is the date on the
14 form?

15 A. 11/15/18.

16 Q. And, actually, November 18th is the
17 same date as the robbery, correct?

18 A. Without looking at the report --

19 Q. November 15, 2018, is that the date of
20 the robbery?

21 A. I don't have the report in front of me,
22 ma'am.

23 Q. Okay. When Miss Wilcox was located,
24 was she arrested?

25 A. She wasn't arrested, no, ma'am.

1 Q. She was Mirandized though; is that
2 correct?

3 A. She was Mirandized.

4 Q. Because she was a suspect in an armed
5 robbery, wasn't she?

6 A. She was.

7 Q. And she was a suspect because she was
8 in the store and she was in the vehicle, correct?

9 A. She was in the vehicle.

10 Q. Okay. And on the video, she's in the
11 store, isn't she?

12 A. I don't recall her being in the store.

13 Q. Okay. Well, do you recall what led you
14 or other officers to Miss Wilcox?

15 A. Video.

16 Q. Right. She was on the store video at
17 the time of the robbery?

18 A. She was outside of the store.

19 Q. Okay. Well, either before or after she
20 is on the store video, correct?

21 A. She was on the store video.

22 Q. And somebody recognized her?

23 A. Right.

24 Q. Right. And that's why you went to Ms.
25 Karen Wilcox to start with, correct?

1 A. Yes.

2 Q. So at the time -- at the time that she
3 looked at the photographic lineup, she was still in
4 police custody, wasn't she?

5 A. I don't remember whether she was still
6 in our custody. She was never in custody, but she
7 was in questioning.

8 Q. About the robber?

9 A. About the robbery.

10 Q. And that's why she was Mirandized?

11 A. Right.

12 Q. Okay. Was she Mirandized at the police
13 station?

14 A. Yes, ma'am, she was Mirandized.

15 Q. To the best of your knowledge, did she
16 leave and come back for the photographic lineup?

17 A. I can't answer that question. I mean,
18 I would have to look at the report.

19 Q. Was she in a custodial setting?

20 A. She was in custody.

21 Q. She was in what, sir?

22 A. She was in a custodial setting.

23 Q. A custodial setting?

24 A. Yes.

25 Q. Surrounded by three officers who

1 produced a photo lineup and wanted her to select
2 somebody, correct?

3 A. No, ma'am, no, that's not correct.

4 Q. Could she have gotten up and walked out
5 of there?

6 A. Sure.

7 Q. Without doing anything?

8 A. She was free to go. It was under
9 investigation.

10 Q. Just to clarify two things you said. I
11 believe you testified she was -- that Miss Wilcox
12 was not under the influence of anything at the time
13 she picked the photograph out of the lineup,
14 correct?

15 A. Correct.

16 Q. She did not appear to be high on
17 anything --

18 A. She did not appear to be high, right.

19 Q. -- at the time was your statement,
20 right?

21 A. That's correct.

22 MS. DEWITT: That's all I have.

23 THE COURT: Okay. Mr. Evans, anything
24 further?

25 MR. EVANS: Yes, briefly, Your Honor.

1 THE COURT: Go ahead.

2 MR. EVANS: May I approach?

3 THE COURT: You may.

4 .REDIRECT EXAMINATION

5 BY MR. EVANS:

6 Q. Captain, I'm going to hand you two more
7 pieces of paper. Can you identify these for us?

8 A. Yes, sir.

9 Q. What are those?

10 A. Karen Wilcox's statement.

11 Q. Okay. The statement that she gave to
12 you when you interviewed her?

13 A. Yes..

14 Q. What's the date on that?

15 A. 11/16/18.

16 Q. Does it have a time?

17 A. That's 8:00, 20.

18 Q. 2000, so military time. 8:00 normal
19 time?

20 A. Yes.

21 Q. Did she describe the suspect?

22 A. She did.

23 Q. How did she describe him? I think it's
24 on the second page. What is the last thing she
25 wrote?

1 A. He had a tattoo on the right side of
2 his face.

3 Q. Did she draw it?

4 A. And she drew it to the bottom.

5 Q. Thank you.

6 And handing you back Court's Exhibit

7 1 --

8 MR. EVANS: Oh, I would move these into
9 evidence.

10 THE COURT: May I see it, please?

11 (COURT EXH. 1, Line-up, was marked for
12 identification.)

13 BY MR. EVANS:

14 Q. Referring to Court's 1, this picture
15 I'm pointing to, which is Number 3, which she
16 indicated was the suspect. Is there a visible
17 tattoo in the photograph as far as you can tell?

18 A. I can't really see it.

19 Q. Okay. Then handing you back Court's
20 Exhibit 1. Is that the time that I'm pointing to
21 there?

22 A. Yes.

23 Q. What time is that?

24 A. 8:40, 2050.

25 Q. So does that mean 40 minutes after she

1 made the written statement was when she received
2 the lineup?

3 A. Could be possible, yes, sir.

4 MR. EVANS: Thank you, Your Honor.

5 Those are all the questions I have on redirect.

6 THE COURT: Okay. Anything further?

7 MR. EVANS: Not from this witness,
8 Judge.

9 THE COURT: Anything further,
10 Ms. Dewitt?

11 MS. DEWITT: No, Your Honor.

12 THE COURT: You may step down.

13 Call your next witness.

14 MR. EVANS: State calls Chief
15 Alexander.

16 GREG ALEXANDER,
17 being first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. EVANS:

20 Q. First, identify yourself for the
21 record.

22 A. Greg Alexander.

23 Q. You are the chief of the Yemassee PD?

24 A. I am.

25 Q. Were you involved in this case that

1 your agency investigated?

2 A. Yes, sir, I was.

3 Q. How were you involved, yourself?

4 A. I assisted with the investigation.

5 Q. How did you assist?

6 A. I spoke to the witnesses. I was one of
7 the officers on scene on November 15th.

8 Q. And how about this issue we're dealing
9 with here, the lineup and Miss Wilcox. Were you
10 part of that as well?

11 A. Yes, sir, I was.

12 Q. Tell us what you did in regards to her.

13 A. I was there when we questioned Miss
14 Wilcox. I gave Miss Wilcox the photo lineup. She
15 circled the photo lineup and put her initials on it
16 and said that was the suspect she was riding in the
17 vehicle with.

18 Q. Do you recall who read the instructions
19 to her? Who specifically handed her the lineup,
20 any of that?

21 A. I don't remember which one of us
22 actually handed her up the lineup, but I do know
23 Captain Loadholt -- those are his initials.

24 Q. He filled out the form?

25 A. Correct.

1 Q. And it was you, Captain Loadholt and
2 Officer Watson?

3 A. That's correct.

4 Q. What's his rank?

5 A. He's a sergeant now. He was a corporal
6 at the time.

7 Q. Corporal at the time?

8 A. Yes, sir.

9 Q. I think you heard Ms. DeWitt a moment
10 ago ask about, you know, the best practices. What
11 do you as the chief of Yemassee PD -- how do you
12 tell your officers to present lineups? Do you have
13 any rules, any practices that you try to stick to?

14 A. The practices we use is, first off, you
15 don't tell somebody that the suspect is in there.
16 You let them know that the suspect could be in
17 there, could not be in there, and we always read
18 that statement that Captain Loadholt read earlier,
19 and we put it in the folder and hand it to them.

20 Q. You put the six-pack, the actual photo
21 in the folder?

22 A. That's correct.

23 Q. Why do you do that?

24 A. We do that so our finger, our hand, we
25 won't point to no suspects so it's a clean photo

1 lineup that's not been --

2 Q. You don't want them to pick somebody
3 just because you accidentally touched one of the
4 photos when you handed it to them?

5 A. Absolutely.

6 Q. I understand you don't and Captain
7 Loadholt, I think his testimony was you-all don't
8 remember specifically who handed it, but do you
9 have any memory of that going wrong in this case?

10 A. Not at all.

11 Q. All right. You remember it being
12 handled in the normal way with the folder?

13 A. Yes, sir.

14 Q. How about getting the lineup in the
15 first place? How do you -- how do you do that?
16 You have to have the name. You have to know a
17 person, correct?

18 A. That's correct. What we do is we have
19 access to DMV online, and we got a name -- like we
20 did have a name because --

21 Q. From Deputy Varnado?

22 A. Varnado, that's right. Thank you. We
23 pulled up his name by DMV and we get the name,
24 specifics of him. Then we send it to Beaufort
25 County or SLED with that DO number and then it's

1 computer-generated to those face features.

2 Q. Do you send them an actual copy of the
3 DMV photo or do you -- because they obviously have
4 a fax machine?

5 A. Right.

6 Q. All of the agencies do?

7 A. Yes, that's correct.

8 Q. Do you tell them this is who we need a
9 lineup --

10 A. That's correct. Give them the name and
11 the DL number.

12 Q. Are you aware of how they put together
13 the other five photos for you all?

14 A. From what I was told by Ms. Morris, who
15 was Beaufort County Intelligence, it's computer
16 generated. It goes on the face features, comes
17 from the eyes and the nose. And they pull it up to
18 be almost specific of the person that we're
19 questioning.

20 Q. They try to have similar ones to weed
21 out people who might not really --

22 A. That's correct.

23 Q. -- pushed back a little from that.
24 Because you want it to be roughly similar?

25 A. That's right.

1 Q. Okay. Who did you -- well, who reached
2 out to Beaufort County from Yemassee PD in this
3 case to ask for that?

4 A. I did.

5 Q. You did?

6 A. Yes, sir.

7 Q. Do you recall who you spoke to?

8 A. Carol Morris.

9 Q. Do you recall about how long it took to
10 get the lineup back?

11 A. It takes about 15 to 20 minutes to get
12 it back to me.

13 Q. How did they send it? They obviously
14 don't drive it --

15 A. Electronically.

16 Q. They send it by e-mail?

17 A. That's right.

18 Q. And you print it out?

19 A. Yes, sir.

20 Q. Is that what happened in this case?

21 A. Yes, sir.

22 Q. All by you?

23 A. Yes, sir.

24 Q. You didn't look them up, but you did
25 the sending and receiving?

1 A. That's correct.

2 Q. Did you all put any approach on Miss
3 Wilcox?

4 A. Not at all.

5 Q. Had you all seen the video by this
6 point?

7 A. Yes, sir.

8 Q. After watching the video, was she still
9 a suspect?

10 A. No, sir.

11 Q. Why?

12 A. Because after she got out of the car,
13 she didn't try to run, she didn't go inside the
14 store. She appeared innocent on the video.

15 Q. Based on her behavior?

16 A. That's correct.

17 MR. EVANS: Those are all the questions
18 I have for you. Please answer any questions Ms.
19 DeWitt has.

20 THE COURT: Ms. DeWitt.

21 CROSS-EXAMINATION

22 BY MS. DEWITT:

23 Q. Is it your testimony Miss Wilcox did
24 not go inside the store?

25 A. I don't recall her going. Maybe she

1 did go into the store. I don't remember her going
2 back into that store, but as far as when she got
3 back outside of the car, and she didn't appear to
4 be the suspect in the armed robbery.

5 Q. Okay. Was Miss Wilcox present when you
6 arrived at the scene, the armed robbery scene?

7 A. No, ma'am, I don't think she was.

8 Q. Okay.

9 A. If I'm not -- I can't remember exactly.
10 I can't remember exactly.

11 Q. Okay. So what led you and the other
12 officers to go talk to Miss Wilcox?

13 A. Once we looked at the video and seen
14 who was in the car.

15 Q. Okay.

16 A. We talked to Miss Wilcox.

17 Q. And in the video, you could tell that
18 Miss Wilcox was sitting in the car?

19 A. Right. We didn't have access to the
20 video at the time we first arrived on scene. It
21 took the owner of the establishment to get there, I
22 think it was about 35 to 40 minutes, maybe an hour
23 before we was able to obtain the video to look back
24 into the history of it.

25 Q. All right. And the car that you're

1 referring to, the one that was used --

2 A. The white SUV.

3 Q. -- in the video, at least after the
4 robbery --

5 A. Yes, ma'am.

6 Q. -- is that correct?

7 A. That's correct.

8 Q. How long has it been since you saw the
9 video?

10 A. Oh, Ms. DeWitt, it's been -- oh, I'm
11 going to tell you about a year since I have seen
12 the actual video.

13 Q. Is it possible, sir, that when you
14 watched the video one of you recognized Miss
15 Wilcox?

16 A. Yes, ma'am. I think it was unanimous.
17 Everybody recognized Miss Wilcox.

18 Q. Whether she was in the car or the
19 store, somebody recognized her --

20 A. Right.

21 Q. -- right?

22 A. Yes, ma'am.

23 Q. And as a result, that's when -- did you
24 or one of the other officers then go find Miss
25 Wilcox?

1 A. Yes, ma'am.

2 Q. And was she initially questioned at her
3 residence?

4 A. No. We brought her to the police
5 department.

6 Q. Okay.

7 A. That's the practice we have to use.

8 Q. And that was in fact the same afternoon
9 of the robbery, wasn't it?

10 A. Yes.

11 Q. Or evening?

12 A. According to the -- what you all spoke
13 of earlier, the paper.

14 Q. And do you know how much time lapsed
15 between the time she was Mirandized and the time
16 that she was shown the photographic lineup?

17 A. No, ma'am. I don't know the exact
18 time.

19 Q. All right. But both her statement and
20 photographic lineup have times written on them,
21 correct?

22 She wrote out her statement on the date
23 of the incident and her statement is dated. And it
24 has the time on it. It looks like 20 o'clock p.m?

25 A. That's 8:00 p.m.

1 Q. That's military time.

2 A. Yes, ma'am.

3 Q. So she didn't -- she didn't fill out
4 the top of her written statement, did she?

5 A. I hadn't seen it. Can I see it?

6 Q. Or somebody must have told her what
7 time to put down, do you think? Isn't it true that
8 most civilians don't write military time down?

9 A. Was that a question?

10 Q. Yes.

11 A. Okay. What was the question?

12 Q. Would you think that one of you
13 officers might have told her what time it was when
14 she wrote the statement out?

15 A. That's very well possible.

16 Q. All right. So she made a written
17 statement 8:00 p.m. according to the writing. And
18 then according to the notice about the photographic
19 lineup that she signed, she identified this
20 defendant Joey Coleman at 8:40.

21 So she was in your custody that entire
22 time, correct?

23 A. Yes, ma'am.

24 Q. Did she write out the statement in the
25 courtroom?

1 A. Yes, ma'am.

2 Q. While you were sitting there?

3 A. Yes, ma'am. And let me clarify
4 something to you. It's a multiple purpose room.
5 Being a small agency, one day it's a courtroom,
6 might be the lunch room one day, great room next
7 day. I don't want you to get the impression that
8 we had -- we was in court on that.

9 Q. Yes, sir. I've been there, but it's
10 been awhile.

11 A. Yes, ma'am. Yes, ma'am.

12 Q. Okay. Yes, I did know that.

13 A. Okay. Put that on record.

14 Q. And it's not a huge room?

15 A. It's not, no, ma'am.

16 Q. Okay. So at the very least, she was
17 sitting in that little room with you for at least
18 40 minutes after being read Miranda warnings?

19 A. Yes, ma'am.

20 Q. Okay. And if Ms. Wilcox had refused to
21 cooperate, she had not given the written statement
22 or had not told you what she did that day, would
23 you have -- would you have released her and let her
24 go home?

25 A. Yes, ma'am.

1 Q. And why is that?

2 A. We are not in the practice of arresting
3 people that we feel like didn't commit a crime.
4 That's just our practice.

5 Q. So you just Mirandized her in case you
6 were wrong?

7 A. No, ma'am. We Mirandized her just in
8 case she said something that would incriminate her,
9 and we'd have our bases covered.

10 Q. Right?

11 A. Yes, ma'am.

12 Q. Okay. It's another way of saying, yes,
13 I believe.

14 A. Right.

15 Q. Okay. Was she in a hurry to get out of
16 there that day?

17 A. No, ma'am, she wasn't. We try to make
18 it comfortable for everybody going to get
19 interviewed. We offer them water, Coke, you know.
20 She wasn't in no hurry.

21 Q. She didn't have anybody at home waiting
22 on her to be there? Children or parents?

23 A. No, ma'am. She has adult kids I would
24 say.

25 MS. DEWITT: Okay. That's all of the

1 questions I have for the officers, Your Honor.

2 MR. EVANS: I have nothing, Your Honor.

3 THE COURT: This issue about the
4 vehicle and anything found in the vehicle? I know
5 you mentioned on a conference call something about
6 asking --

7 MR. EVANS: No, ma'am. I confirmed
8 again with the captain -- the chief. This is the
9 chief -- the chief -- I don't even know his first
10 name, Judge. I've been calling him chief.

11 No, I confirmed with them this morning
12 that although there was a search of the vehicle,
13 which they believe was the vehicle used, it was not
14 owned by any of the suspects in this incident.

15 THE COURT: Okay. So nothing from
16 that?

17 MR. EVANS: They didn't recover
18 anything from that. They didn't recover any
19 potential exhibits from Mr. Coleman's home either
20 when they served him in Waltherboro the next day.

21 THE COURT: Anything further from the
22 chief?

23 MR. EVANS: No, ma'am.

24 THE COURT: You're excused.

25 MR. EVANS: That's all from the State

1 for this hearing.

2 THE COURT: Okay.

3 MS. DEWITT: Your Honor, under the
4 circumstances, Miss Wilcox apparently is a local
5 person in Yemassee. And Your Honor I'm sure is
6 fully aware that Yemassee is a tiny town. As you
7 know from the jury selection today, so many
8 potential jurors all knew each other and knew the
9 witnesses in this case and the police chief.

10 THE COURT: It's a small town.

11 MS. DEWITT: Very small town. So under
12 the circumstances, Mrs. -- I believe Miss Wilcox
13 was ID'd in the video, and she was known to the
14 police officers in Yemassee. And it appears that
15 she was actually picked up by the police and taken
16 to the police department where she was Mirandized
17 and questioned as a suspect in the case.

18 She did then make a written statement
19 and basically was -- she was in a custodial
20 situation, at least according to the first officer
21 that testified, when she was shown the photographic
22 lineup.

23 I think it's overly suggestive. I
24 would move to suppress the photographic lineup or
25 the identification from Miss Wilcox. I think she

1 is the only one it was shown to. And, also, any
2 inquiry identification she might give tomorrow or
3 when she testifies in this trial.

4 THE COURT: Mr. Evans.

5 MR. EVANS: I don't think that she was
6 even in custody at this point, honestly. I think
7 the testimony was that they basically give Miranda
8 to everybody to be safe in case somebody says
9 something that might hurt themselves. But we
10 didn't put the video in, Your Honor; although, I'm
11 happy to do so now.

12 I'm -- first, I would stipulate happily
13 that, yes, Miss Wilcox did go into the store prior
14 to the robbery commencing. You can see on the --
15 there are two angles I'm planning to play. One
16 being the key angle showing the front desk inside
17 the store. You can see Miss Wilcox go in on that.

18 The other being the outside showing
19 what happens as Mr. Coleman leaves the store
20 following the robbery. Miss Wilcox gets out of the
21 car, runs or at least walks quickly to get behind a
22 gas pump as the vehicle leaves.

23 And she's like this, Judge.

24 (Indicating)

25 THE COURT: That's not the smartest

1 place to hide, but...

2 MR. EVANS: No, ma'am, but she didn't
3 have it between her and the car. Then the car
4 pulls out onto the road. She sees that and runs.
5 around to the other side, and then you can see her
6 duck.

7 I think that is -- and the reason I
8 give you such a vivid description is because
9 clearly they watched that. They knew she wasn't
10 involved based on that behavior. So she was not a
11 suspect. She was Mirandized because they do it for
12 everybody.

13 I didn't hear any challenge to the
14 photos themselves. The reason I asked about the
15 description with the tattoo on his face, I was
16 worried that his DMV photo might have a tattoo on
17 his face in which case --

18 THE COURT: Does it?

19 MR. EVANS: It does not.

20 THE COURT: Does he have a tattoo on
21 his face now?

22 MS. DEWITT: Not that I can see.

23 MR. EVANS: Yes, ma'am, under his right
24 eye.

25 THE COURT: I can't see it, but I'm

1 visually challenged in my age.

2 MR. EVANS: And what I was concerned
3 with, Judge, was the potential for, well, what if
4 you can see this tattoo on the picture? And then
5 the other five individuals are all black men of his
6 similar age who don't have tattoos on their face.

7 If that was the case, I would have a
8 panic attack, but it was not the case. And I asked
9 Captain Loadholt if he could see a tattoo. He
10 could not.

11 There was 40 minutes in between the
12 original interview and the lineup portion of the
13 interview. That matches up with what the chief
14 said about how they have to get the photo lineup.

15 They heard that the suspect was from
16 Colleton. That was from Miss Wilcox in her
17 original interview. They used that to get to
18 Deputy Varnado. He gave them a name. DMV gives
19 them a photo --

20 THE COURT: It was a very good
21 investigation.

22 MR. EVANS: Yes, ma'am. I think that
23 timing lines up from 8:00 to 8:40. I think this
24 all makes sense. And you heard that the -- I think
25 an additional best practice would be to videotape

1 these.

2 Obviously we would have loved to have
3 that so I could have just sent it to you at lunch
4 and you can watch it in camera, but here we have,
5 you know, a number of officers.

6 I understand Ms. DeWitt's point about
7 that, but I don't think just because there is more
8 than one officer it is inherently intimidating or
9 anything like that. You heard that they pass it in
10 a folder. I really like that. I think that's very
11 wise.

12 THE COURT: I can tell you, I have
13 never heard that before.

14 MR. EVANS: You have, Judge, because
15 Deputy McAllister does it that way. So you heard
16 it last month.

17 THE COURT: Okay.

18 MR. EVANS: Yes, ma'am.

19 THE COURT: I know he did it sometimes,
20 but I didn't know why.

21 MR. EVANS: You never know what you
22 might do by the way you pass it to somebody.

23 THE COURT: Under the totality of the
24 circumstances, the ID of the defendant was reliable
25 as far as Miss Wilcox's ID. I think she certainly

1 had the ability to see, her degree of attention
2 seemed fine.

3 Again, accuracy and length of time
4 between, you know, the crime and, you know, when
5 she saw it was all within reasonable limits. 'So,
6 you know, provided she can ID him in court, I'm
7 going to go ahead and rule that way.

8 MR. EVANS: Thank you, Your Honor.

9 THE COURT: Thank you. All right.
10 What else do you have?

11 MR. EVANS: Judge, I think the only
12 other thing that we may need testimony for is
13 something that I did not advise you and your law
14 clerk about last week. I apologize.

15 But in reviewing the indictments this
16 morning, I did come across an issue, which I think
17 we need to take up pretrial which is that -- and
18 Your Honor has the indictments in the clerk's file
19 -- you can see in the upper left of each one that
20 where witnesses is marked, I had indicated when I
21 prepared these proposed indictments that these were
22 to be presented by Yemassee PD.

23 THE COURT: Right. I see that.

24 MR. EVANS: Unfortunately, the witness
25 did not sign them. The chief while we were

1 selecting the jury has gone through his records by
2 phone and talked with people back at the office and
3 included who was the witness.

4 Who was that, Chief?

5 CHIEF LOADHOLT: Officer Osborne.

6 MR. EVANS: Officer Osborne presented
7 in this case. I think that this could have been an
8 error and if I hadn't caught it before you swore
9 the jury. So I thank Your Honor first of all for
10 waiting to do that because, you know, I'm always
11 going to find something. But I think if we take
12 care of it now it should be fine.

13 You know, an indictment is a notice
14 document. I think Ms. DeWitt, and before her,
15 Mr. Plexico, were very well aware of the
16 allegations as to what the State intended to prove
17 in this case. And I don't think there is a
18 narrative -- I'm going to have -- unless Your Honor
19 finds that it's, you know, waivable at this point,
20 but we plan to have Officer Osborne come in the
21 morning and sign the indictments.

22 She'll be available for that, right,
23 Chief?

24 CHIEF LOADHOLT: Yes, sir.

25 THE COURT: Ms. DeWitt.

1 MS. DEWITT: Your Honor, at this point
2 in time the indictments are defective. And can I
3 consent to correcting them it appears that to be
4 more of a clerical error. And, of course, our jury
5 is not sworn.

6 THE COURT: Okay. Well, I would agree
7 with you; I think it's more of a clerical error and
8 failure to actually have them signed. We'll go
9 ahead and amend them. That should be fine for all
10 of them.

11 Anything else? We've agreed to
12 sequester the witness, just for the record. I
13 think some of these things we need to put on the
14 record. We've agreed to sequester the witnesses,
15 correct?

16 MR. EVANS: Yes, ma'am. I'm in full
17 agreement as always for that.

18 THE COURT: Okay.

19 MR. EVANS: And just -- and I know you
20 asked who the case officer was. I don't really
21 have one designated. As I told you in the hearing,
22 in all candor, they sort of all contributed
23 equally.

24 I guess I would just ask that they be
25 allowed once they are excused to come in and watch

1 the rest just for their own interest.

2 THE COURT: Certainly. Certainly.

3 MR. EVANS: But I always agree.

4 THE COURT: What about this letter that
5 you-all --

6 MR. EVANS: Yes, ma'am. At this point,
7 so if you will recall from last month in Allendale
8 we had a motion for handwriting exemplars. I know
9 you were concerned about the expert's availability.
10 After that hearing, I conferred with Mr. Davis who,
11 you know, I always listen to for everything. And
12 he felt that --

13 THE COURT: They're laughing over here
14 in the corner.

15 MR. EVANS: I don't know why they're
16 laughing because --

17 THE COURT: You can just go ahead with
18 that one.

19 MR. EVANS: But we feel that we're in a
20 good enough position that we don't intend to
21 introduce it. It's certainly an interesting
22 document, but I think it honestly breaks both ways
23 in parts.

24 THE COURT: Okay.

25 MR. EVANS: So I don't think it's --

1 I'm not --

2 THE COURT: You are not going to use
3 it. All right.

4 Anything else?

5 MR. EVANS: On the issue of any
6 potential statements, that would be the only one --
7 the only statement that we have from the defendants
8 are the -- that letter and various other letters
9 which he sent either to myself, to the chief, or to
10 the Clerk of Court.

11 So there was no -- there was no, you
12 know, statement under Miranda by law enforcement in
13 this case. So it would have been sort of an
14 unusual hearing anyway.

15 THE COURT: Anything else we need to
16 put on the record before we start? I'm having the
17 jury come back at 10:00. If you all could be here
18 at least by quarter till and have Mr. Coleman ready
19 by quarter till.

20 MS. DEWITT: So, Your Honor, that's a
21 final ruling on the Neil v Biggers motion?

22 THE COURT: That's a final ruling.

23 MS. DEWITT: So when we start to try
24 the case, I don't need to remake it repeatedly?

25 THE COURT: I would note it's a

1 continuing objection, so it's preserved.

2 MS. DEWITT: Thank you, Your Honor.

3 And, of course, I will withdraw my motion to
4 suppress since obviously there was no evidence
5 found in the vehicle.

6 THE COURT: Right.

7 MS. DEWITT: And also I did not notice
8 there is no State co-defendant or any.

9 MR. EVANS: So two people -- I think
10 Mr. Fennell was on our list. There were two other
11 individuals, Judge, who were arrested as part of
12 this, Damian Fennell and the -- what's the driver's
13 name? Do you remember?

14 THE COURT: What was their role, if
15 any?

16 MR. EVANS: So the allegation would be
17 that Mr. Fennell was essentially a lookout and that
18 the driver was a get-away driver.

19 THE COURT: And who was the driver?

20 MR. EVANS: That's what I'm trying to
21 find, Judge. Davelyn Ferguson, Judge.

22 MS. DEWITT: He's not on the witness
23 list.

24 MR. EVANS: He is not on the witness
25 list. Mr. Fennell who is represented by Anthony

1 Doer, his case is still pending. He is on the
2 witness list, I do believe. I'm not sure if I'm
3 going to call him or not.

4 He is related to Miss Wilcox. Not that
5 that has any effect on his ability to testify.
6 That's just for Your Honor's information I guess.
7 The allegation would be that they were picked up by
8 the other two, everybody went to the store.

9 It appears from the video that there is
10 definitely some suspicious movement by Mr. Fennell,
11 sort of, you know, looking around. That type of
12 thing. He then, just like Miss Wilcox, gets out of
13 the car as Mr. Coleman and Mr. Ferguson drive off.

14 THE COURT: How good is the video?

15 MR. EVANS: It's really good. And the
16 next subject I was hoping we could take up is
17 potentially getting it in evidence right now. And
18 the reason for that is we do have a witness on our
19 list, Mr. Dell Patel, who is the owner of the store
20 who accessed the file and delivered it to Yemassee
21 PD. And that's the only thing he can testify to.
22 He's not a victim --

23 THE COURT: He wasn't there.

24 MR. EVANS: He's not a fact witness.

25 All he does is, he comes -- you know, the employees

1 tell him, we've been robbed. And he comes and
2 helps law enforcement get the video together.

3 I just -- you know, it's her right
4 whether to stipulate or not, but I was wondering if
5 we could even do a motion in limine and get the
6 video in evidence right now.

7 I think every officer watched it. They
8 may not have watched it in awhile, but they all
9 watched it at the time. And I sort of treat it
10 like photographs.

11 I don't think there's any evidence that
12 it could have been doctored or damaged in any way.
13 I mean, it was within a few minutes, and I would
14 just like to introduce it --

15 MS. DEWITT: I believe the testimony is
16 going to be that the one officer received it
17 directly from the owner of the store.

18 THE COURT: Right.

19 MS. DEWITT: Shortly after -- I mean,
20 after the robbery. Maybe 40 minutes because they
21 had to wait on the store owner to come --

22 THE COURT: Right.

23 MS. DEWITT: -- to get the video to
24 hand to them. I don't have a problem with clearing
25 the video this afternoon by putting up the chain of

1 custody on it to introduce it or -- but I cannot
2 waive the presentation of a witness.

3 THE COURT: Why would you need chain of
4 custody of the video?

5 MR. EVANS: I don't.

6 THE COURT: Why can't the person who is
7 the victim say, that's me, this person robbed me,
8 and that's a true and accurate representation of
9 what it is?

10 MR. EVANS: I don't know why --

11 THE COURT: Typically, we only need
12 chain of custody when we talk about blood and
13 things that you can't readily identify. I agree,
14 this is like a photograph.

15 MR. EVANS: That's exactly how I
16 treated it; it's just like a photograph. Does it
17 fairly and accurately depict? But the store owner
18 went into the computer and literally prepared the
19 file.

20 I'm sure that wasn't a complex
21 endeavor. I'm just trying to -- he literally
22 doesn't know anything else. He wasn't there.
23 That's why I was hoping to get it --

24 THE COURT: If you wanted to lay the
25 foundation, he can just say I took it off of the

1 computer. I wasn't there at the time. I can't
2 even tell you if it's an accurate depiction
3 although. It's a video and it was from 40 minutes
4 earlier. It's up to you. If you want him to come,
5 he can come.

6 Think about that and you guys decide
7 before we break today.

8 MR. EVANS: Yes, ma'am. I think that's
9 all.

10 THE COURT: He's available and in town,
11 right?

12 MR. EVANS: He's available and he lives
13 in Yemassee and he's been subpoenaed.

14 THE COURT: Okay. Anything else?

15 MR. EVANS: I don't believe so.

16 MS. DEWITT: I just have one. And that
17 would be if any of the other individuals who were
18 arrested as a result of this robbery, if they
19 testify as State's witnesses, then I would move to
20 review the deal, any offers or consideration for
21 reduction for their own charges.

22 THE COURT: For their testimony. I
23 think that's fair.

24 MR. EVANS: I'm happy to tell the Court
25 right now I've had conversations with Mr. Doer.

1 After I met with him and his client and we were
2 thinking we might try the case several months ago,
3 I met with them then. I did not make an offer at
4 that time; however, about a week later I offered to
5 have him plead to misprison of a felony.

6 He's charged with accessory before and
7 accessory after the fact. His testimony would
8 essentially be that, at least as of when I met with
9 him, his testimony is that he didn't know what was
10 going to happen, and he was shocked. That's why he
11 got out of the car.

12 And I said, well, he ought to plead to
13 misprison because he was still there when the
14 police arrived, and he didn't tell them anything
15 about that.

16 Candidly, Judge, he is on our witness
17 list. I don't know if I'm calling him or not.

18 THE COURT: Okay.

19 MR. EVANS: And I'll certainly provide
20 Ms. DeWitt with a rap sheet for him as well as Miss
21 Wilcox. Everybody else is law enforcement or, you
22 know, professional.

23 THE COURT: Okay. All right. Anything
24 else?

25 MS. DEWITT: Only other thing to be

1 determined might -- well, it would be which
2 convictions are on the rap sheet.

3 THE COURT: Can you give her a copy and
4 you can go through it?

5 MR. EVANS: Yes, ma'am, she should his
6 rap sheet. And I have the certificated copies of
7 the three I think that are at issue.

8 THE COURT: What are they?

9 MR. EVANS: 2010, burglary third
10 degree, first offense. That was in Colleton County
11 on -- excuse me, that's the incident date --
12 September 23, 2010, is the plea date; August 2nd,
13 2011, also in Colleton County, burglary, second
14 degree, nonviolent; and then March 19, 2018, PWID
15 cocaine, first offense. That's in Barnwell County.

16 THE COURT: And when was that?

17 MR. EVANS: March 19, 2018.

18 THE COURT: And he finished his
19 sentences I'm assuming after 2010 for the first
20 case --

21 MR. EVANS: Yes, ma'am. The first
22 case, the 9/23/10 plea, Judge Buckner, looks like,
23 sentenced him to five years, suspended to two years
24 probation. So that final date should have been --

25 THE COURT: Sometime in 2012.

1 MR. EVANS: -- somewhere September in
2 2012. And then September 2011, I believe that
3 probation was revoked -- well, this was Judge
4 Thomas Cooper. And he was sentenced under burg,
5 second, nonviolent to ten years -- okay --
6 suspended to two years of probation.

7 And there is a note; probation begins
8 when the YOA sentence is complete.

9 Yeah. The first plea was a YOA plea
10 and so probation was intended to begin in the
11 second plea after the completion of what I assume
12 was an active YOA.

13 THE COURT: He did an active.

14 How old is your client, Ms. DeWitt?

15 MS. DEWITT: Twenty-nine.

16 THE COURT: Twenty-nine now. And is
17 the most time he's ever done was an active YOA?

18 MS. DEWITT: Yes.

19 THE COURT: What did you offer him in
20 this case?

21 MR. EVANS: Judge, I offered initially
22 -- initially, I offered armed robbery and two
23 counts of A&B, first, all concurrent, 20, 10, and a
24 10. Mr. Plexico, who represented him at the time,
25 talked me down to 15 on armed robbery, 10, 10 on

1 A&B, first. I made that offer.

2 Mr. Plexico indicated to me that
3 Ms. Coleman accepted the offer. We brought him
4 over to court; however, a few minutes before the
5 plea, I handed Mr. Plexico the sentence sheet.

6 And he indicated, well, he wants a bond
7 hearing. And I said essentially, you can't tell me
8 that he accepts and then insist on a bond hearing.

9 If he wants a bond hearing, I'm
10 revoking the offer. I'll make you another one, but
11 I'm revoking it. And he said, that's what he
12 wants.

13 THE COURT: So armed robbery goes up to
14 30, correct?

15 MR. EVANS: Ten to thirty, yes, ma'am.

16 THE COURT: So on the A&B, first,
17 what's the maximum on those?

18 THE COURT: Those are ten and ten.
19 Possession of a weapon is five. And then...

20 MR. EVANS: Kidnapping is 30.

21 THE COURT: That's 30.

22 MR. EVANS: Zero to thirty. We
23 increased the offer at the next nonjury term to 17
24 years. He rejected that on the record as well. We
25 made him a final offer of straight-up armed robbery

1 and two counts of A&B, first. He rejected that as
2 well.

3 And I believe that was around the time
4 when he asked Your Honor to relieve Mr. Plexico.

5 THE COURT: Okay. And what were the
6 alleged injuries to the victims?

7 MR. EVANS: Judge, they were not -- the
8 reason I -- so he was arrested on those
9 indictments -- those warrants rather for two counts
10 of attempted murder because he did discharge a gun
11 in the sort of general direction of these men.

12 THE COURT: No one was shot, right?

13 MR. EVANS: No one was shot. The only
14 person who was injured was one of the victims who
15 he struck -- you can see in the video -- on the
16 back of his head with the pistol.

17 THE COURT: Okay.

18 MR. EVANS: I chose to reduce -- as I
19 read ABHAN, I did not believe that we had
20 sufficient proof of his mental state for attempted
21 murder. I didn't believe that from the beginning.

22 THE COURT: Okay.

23 MR. EVANS: To me, the video clearly
24 shows him shooting warning shots into the wall and
25 floor, et cetera. I knew I had to reduce, but I

1 read ABHAN requiring an actual injury that relates
2 to the manner. I think it's arguable, but I went
3 with A&B, first, as offers or attempts to cause
4 injury though none is actually caused by means
5 likely to cause great bodily injury.

6 So I think firing the gun in the course
7 of an armed robbery in very close proximity to your
8 robbery victims is an offer to injure them if --

9 THE COURT: As well as hitting someone
10 obviously with the gun.

11 MR. EVANS: And he struck one but not
12 the other with the gun.

13 THE COURT: Okay. I just wanted -- I
14 put it all on the record I understand kind of what
15 we're looking at. All right.

16 MR. EVANS: And I'm happy to give you a
17 copy of the video if you would like to review it
18 before we start.

19 THE COURT: Actually I would tomorrow
20 morning if that's okay. How long is it roughly?

21 MR. EVANS: The interior is about six
22 minutes. The actual robbery itself is about a
23 minute 15 of that.

24 THE COURT: Okay.

25 MR. EVANS: I'm not tech savvy enough

1 to get it down any smaller. And the outside camera
2 is a shorter file; maybe 90 seconds of that.

3 THE COURT: If you don't mind, I will
4 be here by 9:30 tomorrow.

5 MR. EVANS: I'll have one waiting in
6 chambers for you on a thumb drive.

7 THE COURT: Anything else, Ms. DeWitt,
8 we need to do before tomorrow morning?

9 MS. DEWITT: No. I believe this takes
10 care of the pretrial motions.

11 THE COURT: Okay. Perfect. All right.
12 I will be here at 9:30 tomorrow morning. Make sure
13 that Mr. Coleman is here and ready to go. Jury is
14 coming in at 10:00. If there's anybody you need to
15 get up and get out of here, we will work through
16 that.

17 MR. EVANS: Okay.

18 THE COURT: I appreciate you all.
19 Thank you.

20 (These proceedings were recessed at
21 3:35 p.m. to be reconvened at 10:00 a.m., 2/4/20.)
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23
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25

1 CERTIFICATE OF REPORTER

2

3 I, Carol Denise Lauder, Registered
4 Professional Reporter and Notary Public for the
5 State of South Carolina at Large, do hereby certify
6 that the foregoing transcript is a true, accurate,
7 and complete record.

8 I further certify that I am neither related
9 to nor counsel for any party to the cause pending
10 or interested in the events thereof.

11 Witness my hand, I have hereunto affixed my
12 official seal this 23rd day of April, 2020 at
13 Charleston, Charleston County, South Carolina.

14

15

16

17 S/Carol Denise Lauder
18 Carol Denise Lauder
19 Registered Professional
20 Reporter, CP
My Commission expires
February 27, 2028

21

22

23

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STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

COURT OF GENERAL SESSIONS

STATE	)	
	)	
	)	TRANSCRIPT OF RECORD
V.	)	2018-GS-25-0440
	)	2018-GS-25-0441
JOEY DEAN COLEMAN	)	2018-GS-25-0442
	)	2018-GS-25-0443
<u>DEFENDANT.</u>	)	2018-GS-25-0444
	)	2018-GS-25-0445

FEBRUARY 4, 2020
HAMPTON, SOUTH CAROLINA

B E F O R E:

THE HONORABLE CARMEN MULLIN, JUDGE; AND A JURY.

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

REED ANTHONY EVANS, ASSIST. SOLICITOR
ATTORNEY FOR THE STATE

DIANE DEWITT, ASSIST. PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

BETHANIE K. CREPPON
CIRCUIT COURT REPORTER

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1 P R O C E E D I N G S

2 * * *

3 THE COURT: Is there anything we need to put on
4 the record? I had the opportunity this morning to
5 see the two videos.

6 So thank you, Mr. Evans.

7 MR. EVANS: Thank you, Your Honor. We do have
8 a matter, which I told you about in chambers.

9 MS. DEWITT: Can we wait until my client is
10 here?

11 MR. EVANS: I'm sorry. We need your client.

12 THE COURT: Yes. Thank you. Let's get a
13 client.

14 (Defendant enters the courtroom.)

15 THE COURT: All right. Mr. Evans, let's go
16 ahead and on the record, if you would.

17 MR. EVANS: Thank you, Your Honor. I told you
18 yesterday that we had a clerical error with the --
19 or scrivener's error with the indictments in that
20 they were presented on March 13th, 2019, to the
21 Grand Jury and true-billed, all six.

22 Unfortunately, the witness who presented them
23 did not sign the indictment. We researched that
24 yesterday. We believed that we had figured out who
25 the officer from Yemassee Police Department was.

1 When I met with that officer this morning, she
2 advised me that she knows she has done Grand Jury at
3 least once, but could not remember the particulars
4 of this case.

5 I then, to try to get to the bottom of this,
6 took a look in my e-mail to see if that drummed up
7 any clues. And on March 13th of 2019, the date that
8 these were presented, I sent an e-mail to Chief
9 Alexander referencing a letter, which Your Honor is
10 familiar with, written by Mr. Coleman, which was the
11 subject of that handwriting exemplar motion. That
12 was the day that he advised me of that.

13 That, in turn, it was, you know, evidence, law
14 and action, Judge. It refreshed my recollection of
15 seeing him here on March 13th. And he was the one
16 who presented these cases.

17 He tells me, in all honesty, this morning,
18 Judge, that he cannot specifically remember
19 presenting them. I imagine that happens just about
20 every month for, you know, a career as long as his
21 is. But I do remember him being here.

22 So, at this point, the State would move to
23 amend the indictments by allowing Chief Alexander to
24 sign all six and let us proceed today.

25 MS. DEWITT: Your Honor, I have a problem with

1 this because the State does not have a witness who
2 recalls or can state under oath that they were
3 present and presented the case to the Grand Jury.
4 Those indictments are defective.

5 THE COURT: Yeah. Well, Mr. Evans,
6 respectfully, you remember that he was the one who
7 presented, is that correct, to the Grand Jury?

8 MR. EVANS: I remember seeing him here on that
9 date. Yes, ma'am.

10 THE COURT: And you know he presented to the
11 Grand Jury?

12 MR. EVANS: Yes, ma'am.

13 THE COURT: All right.

14 MR. EVANS: And that's the usual course of
15 business for the Yemassee Police Department. It
16 honestly would surprise me -- and I know now that it
17 has happened. But it would surprise me if they ever
18 had any other officers present.

19 THE COURT: All right. So you noted it for the
20 record. I'm going to go ahead and allow him to sign
21 those indictments, noting your objection for the
22 record, Ms. Dewitt.

23 MS. DEWITT: Thank you, Your Honor.

24 THE COURT: Thank you.

25 THE BAILIFF: All the jurors are here, Your

1 Honor.

2 THE COURT: Thank you. I appreciate it.

3 Are y'all ready to go this morning?

4 MR. EVANS: Judge, we are still looking for a
5 couple of our lay witnesses who were told to be
6 here, who are under subpoena, and who were here
7 yesterday. We may just need to go a bit out of
8 order. I might just go with all my law enforcement
9 first, if that's your pleasure.

10 THE COURT: Of course.

11 MR. EVANS: But, at some point --
12 unfortunately, I may need to ask for a break at some
13 point.

14 THE COURT: You just ask me for a break when
15 you need one.

16 MR. EVANS: Thank you, Your Honor.

17 THE COURT: So, Melinda, you're going to swear
18 the jury in when they come in?

19 THE CLERK: Yes, ma'am.

20 THE COURT: We'll go ahead and bring everybody
21 in.

22 MR. EVANS: If the officers could have a chance
23 to step out?

24 THE COURT: Welcome to.

25 MR. EVANS: The only other thing, Judge, is

1 that I have decided that Chief Alexander does not
2 need to testify. So I'm asking he be designated as
3 case officer. If it does happen, of course, I may
4 call him, since he's on the witness list, but I
5 really don't think so.

6 THE COURT: Okay. That's fine.

7 (The jury enters the courtroom at 11:03 a.m.)

8 THE COURT: Good morning, ladies and gentlemen.
9 It is a pleasure to see you-all. At this time, we
10 are going to go ahead and begin the trial of this
11 case. Ms. Nettles is going to swear you in as our
12 jury. So, if you-all would please rise, raise your
13 right hand, and when you accept the oath, say "I do
14 and take a seat. Okay?

15 (Jury sworn.)

16 THE COURT: Thank you.

17 Ladies and gentlemen, what I am now going to
18 say to you is intended to serve as an introduction
19 to the trial of this case. These are not a charge
20 on the law. I'm going to instruct you on the law
21 applicable to this case at the end of the trial.
22 This is merely an explanation of the procedure that
23 we're going to follow so you can better understand
24 what's happening.

25 Ladies and gentlemen, the defendant in this

1 case is charged by the bill of indictments filed in
2 this court with the offenses of armed robbery, two
3 counts of kidnapping, possession of a weapon during
4 the commission of a violent crime, and two counts of
5 assault and battery in the first degree. Again, the
6 elements of all those charges I'll explain to you
7 later.

8 Now, ladies and gentlemen, an indictment is
9 simply the charge by which a case is brought into
10 the court and it is not in any sense evidence of any
11 of the allegations that it contains.

12 Now, ladies and gentlemen, in this case,
13 Mr. Coleman, the defendant, has pled not guilty to
14 these indictments. The State, therefore, has the
15 burden of proving each of the elements of each of
16 the indictments beyond a reasonable doubt. And it's
17 your duty, ladies and gentlemen, to decide whether
18 the State has met that burden.

19 Now, as jurors, your purpose is to find and
20 determine the facts. You, the jury, are the sole
21 judge of all facts in this case. Ladies and
22 gentlemen, if at any time I make any comment
23 regarding the facts in this case, you must it
24 disregard it. And you are to determine the facts
25 from the testimony you're going to hear right from

1 the witness stand as well as any other evidence
2 that's introduced into the court.

3 It's up to you, ladies and gentlemen, to
4 determine the inferences which you feel may be
5 properly drawn from the evidence. It is especially
6 important that you perform your duty of determining
7 the facts diligently and conscientiously because,
8 ordinarily, there is no way to correct an erroneous
9 determination of the facts by a jury.

10 On the other hand and with equal emphasis, the
11 same law that makes you, the jury, the judge of the
12 facts makes me the judge of the law. The law given
13 by this Court is the only law you may consider. I
14 cannot tell you what the facts are and you cannot
15 disagree with me about what the law is or what you
16 think the law ought to be. Your job, at the end of
17 this trial, is to take the law as I give it to you
18 and apply it to the facts as you find them and, from
19 there, render a verdict.

20 Now, until I tell you that you may begin your
21 deliberations back in your jury room, you must not
22 discuss this case with anyone -- and that includes
23 each other, ladies and gentlemen -- until you've
24 heard all the evidence, you've heard the closing
25 arguments from the lawyers, and I've charged you on

1 the law that's applicable.

2 Again, I told you, the attorneys, the parties,
3 the witnesses in this case have been instructed they
4 are not to talk to you in coming and going from the
5 courthouse over the next couple days.

6 Ladies and gentlemen, also, you are not to
7 read, watch, or listen to anything that may be in
8 the news or in the newspaper about this case or do
9 any independent research, as I've told you. It is
10 important that you keep an open mind and not decide
11 any issue in this case until all the evidence has
12 been presented; again, the parties have made their
13 closing arguments, and I've instructed you on the
14 law. Your verdict in this case must be based solely
15 on evidence presented to you here in this courtroom
16 and after I instruct you on the law.

17 Now, in just a moment, the solicitor is going
18 to make what is called an opening statement in which
19 he is going to explain to you the issues in this
20 case or what he believes the issues are. And then
21 the defense attorney, Ms. Dewitt, is going to also
22 make an opening statement, although she's not
23 required to do so.

24 I want you to understand something: What these
25 lawyers tell you in their opening statements is not

1 evidence in this case. Again, it is just their
2 contention as to what they believe the evidence will
3 show. I remind you again, evidence comes from the
4 witness stand as well as any other exhibits that are
5 entered.

6 Now, I also want you to know that from time to
7 time, the lawyers may say something like, Your
8 Honor, I believe we have a question of law. I may
9 motion them up here to talk or I may even send you
10 back to your jury room. I want you to understand
11 something: I'm not hiding anything from you.
12 Oftentimes, when I have to rule as a matter of law
13 whether or not certain evidence is admitted, I may
14 make a comment on the facts of the case. And
15 because I would never want anything I do to
16 influence you in your determination of facts, out or
17 an abundance of caution, we just do it outside your
18 presence.

19 Now, in determining what the true facts are in
20 this case, you must decide whether or not the
21 testimony of the witnesses is believable. It's my
22 responsibility to rule, as a matter of law, whether
23 or not certain testimony is admitted. But once it
24 is admitted, whether or not you believe it is for
25 you to determine.

1 In deciding whether to believe a witness, you
2 have the right to consider the interest of any
3 witness, the bias of any witness, the prejudice of
4 any witness, the opportunity the witness had to have
5 seen the matters and things about which the witness
6 may testify. You can also look at the way the
7 witness acts on the witness stand. You have the
8 right to consider anything that is in the record
9 that will help you evaluate the testimony of the
10 witnesses.

11 That means, ladies and gentlemen, it is your
12 duty to pay close attention to the witnesses, to
13 observe them, to listen to them, so at the very end
14 of the trial, you can accurately remember the
15 testimony that's given. All right?

16 So in order to preserve any anyone's rights,
17 again, any objections to my introductory comments
18 from the State?

19 MR. EVANS: No, Your Honor.

20 THE COURT: Ms. Dewitt?

21 MS. DEWITT: None, Your Honor.

22 THE COURT: Thank you.

23 Ladies and gentlemen, we will now begin the
24 trial of this case.

25 Mr. Evans?

1 MR. EVANS: Thank you, Your Honor. May it
2 please the Court?

3 THE COURT: Yes, sir.

4 MR. EVANS: Ms. Dewitt, ladies and gentlemen of
5 the jury, the afternoon of November 15th, 2018,
6 started as a normal one in Yemassee, South Carolina,
7 a small town sitting in two counties. This incident
8 we're here about took place on the Hampton side at
9 145 Yemassee Highway, the convenience store known as
10 Snappy Foods.

11 It was a normal day, sun shining outside. A
12 couple of gentlemen of Indian heritage, Yashkumar
13 Patel and Atolson Solanki, were standing behind the
14 counter doing business as usual, having people buy
15 items, checking e-mail, needing some downtime;
16 nothing out of the ordinary, until Joey Coleman
17 walked in the store, stood in line like everybody
18 else, tried to make a purchase like everybody else,
19 or at least appeared to be trying to make a
20 purchase.

21 He placed a large bottle of beer on the
22 counter, waited, waited, looked around, and from out
23 of nowhere, pulled a gun, pointed it across the
24 counter in the direction of these men and demanded
25 money. When they didn't give him any attention,

1 didn't even look up, he pulled the trigger. That's
2 when November 15th, 2018, became a very unusual day
3 at the Snappy Foods.

4 Mr. Coleman walked around to the other side of
5 the counter where, by now, these two men know what's
6 going on and they have dropped to their knees and
7 put their hands up, they know that this is no normal
8 customer interaction.

9 He shoves them down, strikes Mr. Solanki on the
10 back of the head with his gun, and keeps demanding
11 all the money they had. Mr. Solanki opens the cash
12 register. Mr. Coleman takes all the cash he can
13 grab with one hand. The other hand is still on the
14 gun. He keeps firing a second time, bang, into the
15 floor; a third time as he's walking.

16 My apologies to the Court.

17 A fourth time as he's leaving the store, and
18 even a fifth time as he's driving away. That's what
19 happened on November 15th, 2018, and that's what
20 you're going to hear and see today. That's why
21 Mr. Coleman is here before you charged with six
22 offenses, six crimes: Armed robbery, taking of
23 money from another by force, and use of a deadly
24 weapon; two counts of assault and battery in the
25 first degree, offering or attempting to injure

1 someone through means likely to cause death or great
2 body injury; two counts of kidnapping, keeping
3 someone in one place against their will where they
4 are not free to leave; and, finally, possession of a
5 weapon during the commission of a violent crime.

6 At the end of the trial, after I've had one
7 more chance to speak with you and Ms. Dewitt has had
8 a chance to speak with you, the Judge is going to
9 tell you what the law is for those six charges.
10 Four different crimes, but six different charges
11 because of two people -- two victims.

12 If, at the end of the trial, she tells you
13 anything that sounds different from what I say about
14 the law is, listen to her and not me. She's the
15 judge of the law. But, as she just told you, you
16 are the judges of the facts.

17 When this trial ends, you're going to retire to
18 your jury room with the evidence, with the testimony
19 in your mind, and you're going to deliberate. And
20 then you're going to tell us what the truth is.
21 You're going to deliver a verdict. Verdict is from
22 Latin. It literally means truth speaking. You're
23 going to tell us what the truth is. And, in order
24 to do that, we're going to ask that you pay
25 attention to every single person who comes to this

1 witness stand and tells you what they saw, heard,
2 and did.

3 We're going to ask that you withhold your
4 judgment until you've heard all the evidence. Why
5 is that? Because, as Ms. Dewitt may stand up here
6 and tell you in a minute, Mr. Coleman is entitled to
7 a fair trial. She's absolutely right. He is
8 entitled to a fair trial. He's entitled for you to
9 wait until you've heard all the evidence and then
10 decide. He's entitled to your attention.

11 But the State of South Carolina is also
12 entitled to a fair trial. Ms. Dewitt is probably
13 going to tell you the State of South Carolina has
14 the burden of proof in this case. Again, she's
15 right. We have to prove this crime to you -- these
16 crimes beyond a reasonable doubt. And that's a lot
17 to ask. It's much more serious than a civil case;
18 much higher burden of proof.

19 But you're going to see this crime take place.
20 You're going to see that it was that man, Joey
21 Coleman, who did these things. And you're going to
22 hear scientific evidence that confirms what you're
23 going to see on that screen.

24 Please give all the witnesses your full and
25 undivided attention. This is a serious day, just

1 like November 15th, 2018, for Joey Coleman, for
2 Atolson Solanki, for Yashkumar Patel.

3 At the end of the case, I'm going to stand
4 before you and I'm going to go over the evidence
5 again. And I'm going to ask you to find him guilty
6 on all six charges. Thank you in advance for your
7 attention.

8 THE COURT: Thank you.

9 Ms. Dewitt?

10 MS. DEWITT: Thank you, Your Honor.

11 Good morning. Thank you for coming. We
12 couldn't be here without y'all, without jurors like
13 you. You may have figured out already that in a
14 criminal case, the person who is accused of
15 committing a crime is called the defendant.

16 In this case, the defendant is Mr. Joey
17 Coleman. Mr. Coleman has entered a plea of not
18 guilty. He's requested a trial, a jury trial. And
19 that's why you were picked.

20 You know, in this country, anyone who is
21 accused of a crime or, for that matter, even a
22 speeding ticket, has a right to have a jury trial, a
23 trial by his peers. In a jury trial, the State of
24 South Carolina must present witnesses to prove each
25 and every element of the offense for which someone

1 is charged with beyond a reasonable doubt. And
2 that's a question that you will decide at the end of
3 the trial.

4 At this point in time, Mr. Coleman is wearing,
5 like, a cloak or a cape of innocence. He's presumed
6 to be innocent throughout these proceedings until
7 such time as a jury verdict might be rendered.

8 The Judge has already told you, and, I think,
9 the solicitor, and I will say it again, you cannot
10 begin any deliberations in this case until you've
11 heard all of the evidence presented. The State will
12 show, and we don't dispute, that a robbery occurred
13 on November 15th, 2018, at the Snappy Foods in
14 Yemassee.

15 Mr. Coleman says he did not commit the crime;
16 he's not the robber. I want you to keep that in
17 mind as you listen to the State's case. And I also
18 ask that you keep an open mind to the end of the
19 case and until after the Judge gives you her
20 instructions at the end of the trial. Thank you.

21 THE COURT: Thank you, Ms. Dewitt.

22 Mr. Evans, you may call your first witness.

23 MR. EVANS: Thank you, Your Honor. The State
24 calls Derrick Pendergrass.

25 DERRICK PENDERGRASS

1 being first duly sworn, testified as follows:

2 THE WITNESS: I do.

3 THE CLERK: Have a seat, please.

4 MR. EVANS: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. EVANS:

7 Q. Would you please identify yourself and spell
8 your last name for the court reporter, sir.

9 A. Okay. Officer Derrick Pendergrass. Last name
10 is spelled P-E-N-D-E-R-G-R-A-S-S.

11 Q. And where do you work, sir?

12 A. Yemassee Police Department.

13 Q. How long you been there?

14 A. About a year and a half now. I guess a little
15 over a year.

16 Q. Do you have any prior law enforcement
17 experience before Yemassee PD?

18 A. Yes; 22 years.

19 Q. Where did you work, generally?

20 A. Mostly in the Upstate area. Started out in
21 Greenville County; went on from there to Spartanburg
22 and spent 13 years of it with Mauldin City Police
23 Department.

24 Q. Do you remember the events of November 15th,
25 2018, that brought us here today?

1 A. Yes.

2 Q. What can you tell us about your role?

3 A. I was the initial officer responding to the
4 scene.

5 Q. What was the scene?

6 A. Well, first contact that I had was with a young
7 lady in the parking lot of the police department
8 that stated that --

9 MS. DEWITT: Objection, Your Honor, to hearsay.

10 MR. EVANS: Let me ask a different question.

11 THE COURT: Just rephrase it.

12 BY MR. EVANS:

13 Q. Where did you go? Where were you told to go?

14 A. I went to Snappy Foods store.

15 Q. Do you know the address of that store?

16 A. 145 Yemassee Highway.

17 Q. In the Town of Yemassee?

18 A. Yes.

19 Q. Which side? Because I know -- Yemassee is in
20 two counties, right?

21 A. Yes. It was the Hampton County side.

22 Q. This was the Hampton County side?

23 A. Yes.

24 Q. And about what time did you get dispatched out
25 there?

1 A. Three -- excuse me. It was around 4:50 when I
2 went to the scene.

3 Q. What did you find when you got there, and,
4 again, without telling us what people said?

5 A. All right. First thing we saw was a group of
6 individuals kind of hanging around outside the
7 store. I was trying to ascertain what exactly was
8 going on.

9 Walked inside the store. The two clerks were
10 there. There was another individual standing there
11 as if he was checking on them. I asked them was
12 everything okay. They stated they had just been
13 robbed.

14 Q. What were their names? Did you get their
15 names?

16 A. Ha.

17 Q. They're from India?

18 A. Yes.

19 Q. Did you put them in your report?

20 A. Oh, yes.

21 Q. Could you refresh yourself?

22 A. Sure. I can't pronounce the first name.

23 Q. Last name is okay.

24 A. First one is Patel and -- excuse me -- and
25 Solanki.

1 Q. Mr. Patel and Mr. Solanki?

2 A. Yes.

3 Q. Okay. What did they -- would you describe
4 their state of mind, how they appeared to you?

5 A. Both were very shaken. One was very visibly
6 upset, almost to the point of tears, saying that he
7 needed to go somewhere. I asked him was he hurt. I
8 was trying to make sure no one was injured. Both of
9 them stated that --

10 MS. DEWITT: Objection, Your Honor.

11 MR. EVANS: Again, you can't tell us what they
12 said.

13 THE WITNESS: I'm sorry.

14 THE COURT: Thank you.

15 BY MR. EVANS:

16 Q. They appeared shaken?

17 A. Yes.

18 Q. Did it seem to you like they'd been through
19 some kind of traumatic event?

20 A. Oh, yeah, very much.

21 Q. What kind of physical evidence or other things
22 did you observe around the store?

23 A. I did observe a beer bottle, some casings.
24 There was a bottle in a bag sitting right at the
25 counter, looked like someone had left it there.

1 Q. Like it was about to be purchased?

2 A. Yes.

3 Q. Did you ask if that was part of this case?

4 A. Yes. I asked whose beer bottle was it.

5 Q. And was that beer bottle eventually collected?

6 A. It was.

7 Q. Do you recall by who?

8 A. I believe it was Officer Strauss.

9 Q. Also of the Yemassee Police Department?

10 A. Yes.

11 Q. And you said casings. What are those?

12 A. Casings, the portion of the bullet that's left
13 or ejected from the pistol after the actual bullet
14 has been fired from the pistol. If you have a
15 semi-automatic, it's the piece that you see that's
16 ejected from it. If you have a revolver, it's
17 what's remaining inside the pistol after the firing.

18 Q. And you could see some of those where?

19 A. Like, on the counter. There was, like, two
20 casings there. And there were some others that were
21 located on the floor that we observed.

22 Q. Did the Yemassee Police Department eventually
23 collect those?

24 A. Yes.

25 Q. What else did you see while you were in the

1 store?

2 A. While we were in the store, I also asked about
3 video surveillance.

4 Q. Yeah. Why do you do that? Is that something
5 you normally do in a case like this?

6 A. Especially in an armed robbery, yes, because
7 that will give you video evidence of what occurred.
8 And you can also validate any statements that are
9 made and get a better picture of what's going on,
10 because a lot of times when people are upset,
11 sometimes you can get actually what occurred.

12 Q. Were you able to watch a video in this case?

13 A. Yes. We inquired about video. They were able
14 to contact the owner who came and gave us access for
15 me to play it on a screen there inside the business.

16 Q. And you yourself watched it?

17 A. I did. We all watched it.

18 Q. Was the Yemassee Police Department able to
19 collect a copy of that video?

20 A. Yes.

21 MR. EVANS: Beg the Court's indulgence.

22 May he be allowed step down?

23 (State's Exhibit No. 1 marked for
24 identification.)

25 THE COURT: Certainly. Certainly.

1 MR. EVANS: Officer, I'm going to ask you to
2 come over to my computer.

3 THE COURT: Are you going to be able to
4 broadcast it somehow?

5 MR. EVANS: Yes, ma'am, I'm just laying
6 foundation right now.

7 THE COURT: Okay.

8 MR. EVANS: Yes, ma'am. We'll be quick.

9 BY MR. EVANS:

10 Q. Officer, I'm putting into my computer something
11 that's been marked State's Exhibit 1. Can you see
12 that? And I'm going to play the files that are on
13 this disc. Do you see that?

14 A. Uh-huh.

15 Q. Does that appear to be the same video that you
16 observed on November 15th, 2018?

17 A. Yes.

18 Q. And one more file. Tell us, what does this one
19 describe or what does it show?

20 A. It's showing the actual counter, behind the
21 counter where the cashier -- the clerks that were
22 working, a little bit of the area; the entranceway,
23 like, right after you come into the store where
24 individuals are passing; also, the cigarette stand,
25 which is behind there.

1 Q. And I'll play another file, also State's

2 Exhibit 1. What does this show?

3 A. That's the view right outside of the front door
4 showing the gas pumps which are directly in front of
5 the door.

6 Q. This is another video that you watched that
7 day?

8 A. Looks like it. Yes.

9 Q. All right. Thank you. That's all.

10 MR. EVANS: Your Honor, those are all the
11 questions I have for Officer Pendergrass.

12 Please answer any questions Ms. Dewitt may
13 have.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MS. DEWITT:

17 Q. Officer, did you have any other involvement in
18 this case?

19 A. No, ma'am, not really, outside the fact of,
20 once we had a potential suspect identified, going
21 over to the residence. We attempted to locate them,
22 but no contact was made during that point. So...

23 Q. Thank you, sir.

24 MS. DEWITT: No questions for this witnesses.

25 THE COURT: Anything further?

1 MR. EVANS: No, ma'am.

2 THE COURT: Any objections to Officer
3 Pendergrass being excused?

4 MR. EVANS: None.

5 MS. DEWITT: None, Your Honor.

6 THE COURT: You are excused, sir. Thank you.
7 Call your next witness, Mr. Evans.

8 MR. EVANS: The State calls Michael Strauss.

9 MICHAEL STRAUSS

10 being first duly sworn, testified as follows:

11 THE WITNESS: I do.

12 MR. EVANS: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. EVANS:

15 Q. Would you please identify yourself for the
16 Court? And spell your last name for the court
17 reporter.

18 A. My name is Sergeant Mike Strauss,
19 S-T-R-A-U-S-S.

20 Q. Sergeant, where do you work, sir?

21 A. I'm with the Yemassee Police Department.

22 Q. How long have you been there?

23 A. Four years now.

24 Q. Do you have any prior law enforcement?

25 A. Yes, sir. I was with the Bamberg Police

1 Department and Colleton County Sheriff's Office.

2 Q. For how long?

3 A. I've been in law enforcement ten years now.

4 Q. Do you remember the events of November 15th,
5 2018?

6 A. I do, sir.

7 Q. What can you tell us about how you became
8 involved in this case?

9 A. I responded with the rest of the department to
10 an armed robbery at Snappy Foods in Yemassee. And I
11 was the one who collected the evidence for this
12 particular case. I was the one who cataloged it and
13 logged it all into evidence.

14 Q. Is Snappy Foods in the Town of Yemassee?

15 A. Yes, sir.

16 Q. And is it in Hampton County?

17 A. Yes, sir.

18 Q. You said you collected the evidence?

19 A. Yes, sir.

20 Q. What can you tell us you found and you
21 collected?

22 A. Over the course of the recovery of evidence, we
23 found a beer bottle, lemonade bottle, two shell
24 casings that were recoverable, a bullet that was
25 recovered from the stand that holds the cigarettes,

1 a cigarette carton that had been shot, as well as a
2 video.

3 Q. You observed all those within the store?

4 A. Yes, sir.

5 Q. All right. Did you create any evidence of your
6 own? Did you document anything that you found?

7 A. Just normal procedures as outlined in our
8 policy that you have to log it in so that the
9 evidence custodian can enter it into the log track
10 and then to -- in case it has to be sent to SLED or
11 to --

12 Q. Okay. Did you take any photographs?

13 A. Yes, sir.

14 Q. What did you take photographs of?

15 A. Primarily the video screen because we hadn't
16 identified a suspect yet at that time.

17 Q. Did you take any photographs of any damage?

18 A. Yes, sir, I did. I took photographs of the
19 stand where the cigarettes -- where the cigarette
20 carton was shot.

21 MR. EVANS: May I approach, Your Honor?

22 THE COURT: You may.

23 BY MR. EVANS:

24 Q. Sergeant, I'm going to hand you two photographs
25 and ask if you can identify those. Refer to the

1 markings up at the top, if you could.

2 A. Yes, sir. This is State's Exhibit 3, it's the
3 entry hole from a bullet -- I'm sorry. That's the
4 exit hole expanded out. And Exhibit 4 is the entry
5 hole.

6 Q. Okay. And these are two sides of the same
7 shot?

8 A. Yes, sir.

9 Q. Where in the store did you find this?

10 A. They were on the -- where the bullet had
11 penetrated through the cigarette carton.

12 Q. All right.

13 MR. EVANS: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. EVANS:

16 Q. Do these photos fairly and accurately depict
17 the way that the bullet hole looked at the time you
18 took them?

19 A. Yes.

20 MR. EVANS: Your Honor, the State would move to
21 enter into evidence State's Exhibits 3 and 4.

22 THE COURT: Any objection?

23 MS. DEWITT: No, Your Honor.

24 THE COURT: Without objection, they're
25 admitted.

1 MR. EVANS: Thank you, Your Honor. May I
2 publish?

3 THE COURT: You may.

4 (State's Exhibit Nos. 3 and 4 marked for
5 identification and admitted into evidence.)

6 BY MR. EVANS:

7 Q. Thank you, Sergeant. Can we get back, I guess,
8 to the evidence that you physically collected with
9 your own hands?

10 A. Yes.

11 Q. I think you said something about the
12 cigarettes.

13 A. Yes, sir.

14 Q. What was that again?

15 A. There was a cigarette carton that was hit when
16 the robber discharged his weapon the first time.

17 Q. And you collected that?

18 A. Yes, sir.

19 Q. Is that with you here today?

20 A. Yes, sir.

21 Q. I see you have a backpack with you.

22 A. Yes, sir.

23 Q. Would you mind? How can you tell that that's
24 the cigarette carton that we've been talking about?

25 A. This is my handwriting on the evidence bag, as

1 well as when I sealed the carton -- or the evidence
2 tape, I put my number, which is 804, and my
3 initials. And they covered over the evidence to --
4 in the event there was an opportunity that someone
5 opened it, then I could see it was tampered with.

6 Q. But nobody has had the need to open it since
7 then?

8 A. No. It's still sealed up.

9 Q. All right.

10 MR. EVANS: The State would move, Your Honor,
11 the contents of the bag into evidence as State's
12 Exhibit 5, I guess.

13 THE COURT: All right. It's in evidence
14 without objection, Ms. Dewitt?

15 MS. DEWITT: Without objection, Your Honor.

16 BY MR. EVANS:

17 Q. Would you open it up and let the jury take a
18 look at it? Can you show us on there where it was
19 struck by a bullet, sir?

20 A. Yes, sir. It would be right here.

21 Q. Thank you. I'll collect that and let it be
22 marked.

23 (State's Exhibit No. 5 marked for
24 identification and admitted into evidence.)

25 BY MR. EVANS:

1 Q. Did you find any other evidence of gunfire?

2 A. Yes, sir.

3 Q. What else did you find?

4 A. We found some shell casings.

5 Q. And are those with you in the backpack?

6 A. In the magic bag? No, sir. I didn't -- I take
7 it back. No, sir. I didn't bring them with me
8 today. I apologize.

9 Q. All right. Any projectiles?

10 A. They're at SLED right now in the IBIS system.

11 Q. Why is that?

12 A. In the event the firearm was recovered or used
13 in another crime, the Integrated Bullet Information
14 System would document the striations and be able to
15 identify that weapon as having been previously used
16 in a crime.

17 Q. Did Yemassee Police Department find a gun in
18 the course of this investigation?

19 A. Not that I'm aware of, sir.

20 Q. So nothing to compare that projectile to?

21 A. No, sir.

22 Q. Where was it found in the store?

23 A. The bullet was dug out of the cigarette -- out
24 of the rack for the cigarettes.

25 Q. Okay. So it appears to be the one that caused

1 this damage?

2 A. Yes, sir. I noticed when you were taking it
3 away, there was also an exit on --

4 Q. . I see that as well. What else did you collect?

5 A. We collected shell casings. I have a list of
6 all the evidence that was put in there, if I may?

7 THE COURT: You may.

8 Q. You can refresh, yes.

9 A. Okay. A bottle of Olde English, two shell
10 casings, one spent bullet, one lemonade bottle, and
11 a carton of Marlboro Lights with a bullet tear.

12 Q. Why did you collect the lemonade bottle and the
13 Olde English?

14 A. Based on the video, the robber had touched both
15 of those and placed them on the counter before he
16 presented his weapon.

17 Q. I see. And so you took those into evidence?

18 A. Yes, sir.

19 Q. What happened to them after that?

20 A. They were submitted to the Beaufort County lab
21 for DNA analysis.

22 Q. And do you have those back with you in your
23 possession today?

24 A. I do, sir. I have the beer bottle here.

25 Q. How can you tell that that's the beer bottle?

- 1 A. It's a 40-ounce beer bottle.
- 2 Q. You can feel it?
- 3 A. Yes, sir.
- 4 Q. How about the markings on that bag?
- 5 A. Black bag with 40-ounce Olde English. And it
- 6 was signed into evidence on the 15th.
- 7 Q. By yourself?
- 8 A. Yes, sir.
- 9 Q. And did you seal it at that time?
- 10 A. Yes, sir. And, again, my initials and ID
- 11 number are both on here.
- 12 Q. And you took it, you said, to Beaufort County?
- 13 A. Yes, sir.
- 14 Q. Who at Beaufort County did you take it to?
- 15 A. The DNA lab. I believe it was Mr. French.
- 16 He's a DNA analysis person. They have an intake
- 17 person who gives us a custody sheet for it.
- 18 Q. Okay. So you gave it to Mr. French. Tim
- 19 French, is that his name?
- 20 A. Yes, sir.
- 21 Q. And asked him to perform DNA analysis on it?
- 22 A. Yes, sir.
- 23 Q. All right. Because you're not trained in any
- 24 of that?
- 25 A. No, sir.

1 Q. All right. And you received it back from him
2 at a later time?

3 A. Yes, sir.

4 Q. Do you have when you received it back?

5 A. Those are the buccals.

6 That would have been 10/30 of '19.

7 Q. All right.

8 MR. EVANS: Your Honor, the State would move
9 the contents of this bag, the Olde English beer
10 bottle, into evidence as State's Exhibit 2.

11 THE COURT: Without objection, Ms. Dewitt?

12 MS. DEWITT: Yes, Your Honor.

13 THE COURT: State's 2, you said?

14 MR. EVANS: Yes, ma'am. I think I skipped over
15 2 earlier.

16 THE COURT: That's fine.

17 (State's Exhibit No. 2 marked for
18 identification and admitted into evidence.)

19 BY MR. EVANS:

20 Q. You can unseal it and show it to the jury,
21 please. Looks like a Miller High Life to me. You
22 referred to it as Olde English before.

23 A. Yes, sir. My mistake, sir.

24 Q. That's fine. But it is a bottle of some
25 alcoholic beverage?

1 A. Yes, sir.

2 Q. I'll collect that so it can be marked.

3 (State's Exhibit No. 2 marked for
4 identification and admitted in evidence.)

5 BY MR. EVANS:

6 Q. Sergeant, looks like you found another piece of
7 evidence.

8 A. Yes, sir. My apologies. In my backpack --
9 this is normally a computer backpack. It's a little
10 small for all this.

11 Q. I understand. So what is that?

12 A. This is the shell casings that were submitted.

13 Q. How can you tell that those were the shell
14 casings?

15 A. They're labeled as such with our evidence label
16 and sealed up. They were opened by the SLED lab.
17 And SLED put their seal on it as well.

18 Q. Are you aware of any results that came back
19 from that testing?

20 A. There were no matches found.

21 Q. Are your initials anywhere on there?

22 A. Yes, sir. My initials and ID number are both
23 on here.

24 Q. So it's been unsealed and resealed since then?

25 A. Yes, sir.

1 MR. EVANS: Your Honor, the State would move
2 the contents of this envelope, the shell casings,
3 into evidence as State's Exhibit 6.

4 THE COURT: Without objection?

5 MS. DEWITT: Without objection, Your Honor.

6 MR. EVANS: Beg the Court's indulgence.

7 THE COURT: Yes, sir.

8 MR. EVANS: May I publish, Your Honor?

9 THE COURT: You may.

10 (State's Exhibit No. 6 marked for
11 identification and admitted into evidence.)

12 BY MR. EVANS:

13 Q. Sergeant, did you have any other role in this
14 investigation beyond the collection of this
15 evidence?

16 A. The video.

17 Q. Right.

18 A. Yes, sir. That's all.

19 Q. You viewed that as well?

20 A. Yes, sir.

21 Q. Same one that Officer Pendergrass looked at?

22 A. Yes.

23 MR. EVANS: Those are all the questions I have
24 for the Sergeant, Your Honor.

25 Please answer any questions Ms. Dewitt may

1 have.

2 MS. DEWITT: No questions for this witness.

3 THE COURT: All right. Any objection to
4 Sergeant being excused?

5 MR. EVANS: No, ma'am.

6 THE COURT: You're excused.

7 Ladies and gentlemen, does anyone need a break?
8 Everybody okay?

9 Is the next witness long or short?

10 MR. EVANS: I think it will be short.

11 THE COURT: All right. Call your next witness.

12 MR. EVANS: Del Patel.

13 THE BAILIFF: He's in the restroom.

14 THE COURT: Okay. Maybe now is a good time for
15 a break.

16 Ladies and gentlemen, I'm going to send you
17 back to your jury room. Refresh yourselves, grab a
18 cup of coffee. I need you to do one thing for me,
19 though: I need you to select a foreperson.

20 The foreperson doesn't have any more say than
21 anyone else. They're just the person who
22 communicates with me regarding scheduling.

23 You're it?

24 THE FOREPERSON: Yes, ma'am.

25 THE COURT: Fabulous. I appreciate it. I

1 didn't even have to do anything.

2 Are we ready?

3 THE BAILIFF: He is here.

4 THE COURT: All right. We'll take him and
5 we'll take a break after.

6 Come on up, Mr. Patel.

7 DEL PATEL

8 being first duly sworn, testified as follows:

9 THE WITNESS: Yes, I do.

10 MR. EVANS: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. EVANS:

13 Q. Good morning.

14 A. Good morning.

15 Q. Would you please try to speak up a bit, because
16 that microphone might not pick up everything you
17 say.

18 First question I'm going to ask you is could
19 you identify yourself and spell your last name for
20 our court reporter.

21 A. Del Patel. Last name P-A-T-E-L.

22 Q. And, Mr. Patel, what do you do for a living?

23 A. I'm in the hotel business and also manage the
24 store on the side.

25 Q. What store would that be?

- 1 A. Well, it was the Yemassee store only.
- 2 Q. Okay. Snappy Foods?
- 3 A. Yes.
- 4 Q. Okay. Where is that located?
- 5 A. Yemassee.
- 6 Q. What is the address?
- 7 A. I don't know off the top of my head because
- 8 it's too many properties I have. But it's on
- 9 Yemassee Highway.
- 10 Q. It's on Yemassee Highway?
- 11 A. We just remember by the exits.
- 12 Q. I understand.
- 13 A. It's Exit 38.
- 14 Q. Exit 38, fair enough. In Yemassee, in Hampton
- 15 County?
- 16 A. Correct.
- 17 Q. Do you remember the events of November 15th,
- 18 2018?
- 19 A. Yes.
- 20 Q. How were you involved?
- 21 A. Well, I was called by -- well, I think that
- 22 evening, I just came and left because, normally,
- 23 every morning or afternoon, I come to collect the
- 24 money and put the deposit in.
- 25 Q. You're the manager? You run the place?

- 1 A. Right.
- 2 Q. You're not there all the time?
- 3 A. No.
- 4 Q. Were you there during the robbery?
- 5 A. No.
- 6 Q. So you learned that there was one?
- 7 A. Yes.
- 8 Q. And then did you go to the store?
- 9 A. Yes.
- 10 Q. What did you do when you got there?
- 11 A. When we got there, there were police cars all
- 12 over around the properties. We waited until the
- 13 police was actually watching the video, and we
- 14 watched the video at the same time.
- 15 Q. Did you help them get a copy for them to take
- 16 with them?
- 17 A. Yes.
- 18 Q. How did you do that?
- 19 A. Took it out of the DVR, copied -- the actual
- 20 part from the DVR, copied the footage and put it on
- 21 a flash drive.
- 22 Q. You put it on a little thumb drive so they
- 23 could take it with hem?
- 24 A. Yes.
- 25 Q. How often does that video run?

1 A. What do you mean?

2 Q. Well, is it going all the time when y'all
3 are in --

4 A. Well, it's on a motion censor. So any time
5 anybody just walking around in front of the camera
6 or just passing by the camera, the motion activates
7 and it records you.

8 Q. How many cameras do you have, roughly?

9 A. About 16 or 18 cameras.

10 Q. And you were able to watch it yourself?

11 A. Yes.

12 MR. EVANS: May he step down, Judge, and --

13 THE COURT: He may.

14 BY MR. EVANS:

15 Q. Mr. Patel, I'm going to ask you to come over
16 here and take a look at my computer screen. And I'm
17 going to -- as you can see, I'm popping in what's
18 previously marked as State's Exhibit 1. And I'm
19 going to ask you if you recognize what I'm about to
20 show you.

21 What is that, sir?

22 A. That's the main register counter.

23 Q. Is this the same video that you assisted
24 Yemassee PD with taking with them?

25 A. I'd have to look at the whole thing.

1 Q. Okay. Watch it until you're comfortable.

2 Would it help if I skipped ahead to --

3 A. Yes, please.

4 Q. Do you recognize that?

5 A. Yes. That's the video.

6 Q. You were not there when this happened, but you
7 saw it on your own screen later that day?

8 A. Yes, sir.

9 Q. And how about this second file on this same
10 disc? What does that appear to be?

11 A. That's, like, main entrance of the store.

12 Q. An outdoor view?

13 A. Outdoor view, yes.

14 Q. And is it -- is this the same video you
15 reviewed on November 15th, 2018?

16 A. Yes.

17 MR. EVANS: At this time, Your Honor, the State
18 would enter State's Exhibit 1 into evidence.

19 THE COURT: All right. And publish it now?

20 MR. EVANS: Yes, ma'am. I'd like to publish it
21 now.

22 THE COURT: Without objection?

23 MS. DEWITT: Yes, ma'am.

24 (State's Exhibit No. 1 admitted into evidence.)

25 THE COURT: All right.

1 Mr. Patel, I'm probably going to have you step
2 down, if you can, so you can see it.

3 BY MR. EVANS:

4 Q. Mr. Patel, if you'll indulge me, at a few
5 points in this video, I'm going to pause and ask you
6 if you can identify folks that you know.

7 Who is that gentleman behind the counter that
8 we can see there?

9 A. He used to work for us.

10 Q. What's his name?

11 A. Nick. I'm bad at names. But his last name is
12 Patel, too. But he used to work for us.

13 Q. Okay. Mr. Patel, how about this gentleman I'm
14 pointing to with the mouse?

15 A. Yash Patel.

16 Q. Yash Patel?

17 A. Yes.

18 Q. Another employee?

19 A. Yes. He used to work for us.

20 Q. I'm going to play the other angle, Mr. Patel.
21 Can you remind us what this is?

22 A. Exit and entrance of the store.

23 Q. Thank you, Mr. Patel. You can return to your
24 seat.

25 Mr. Patel, were you able to ascertain how much

1 the store lost as a result of this?

2 A. A few hundreds. I don't recall the exact
3 amount.

4 Q. A few hundred, is your estimate? .

5 A. Yes.

6 MR. EVANS: Your Honor, those are all the
7 questions that I have for Mr. Patel.

8 Please answer any questions Ms. Dewitt may
9 have.

10 THE COURT: Ms. Dewitt?

11 MS. DEWITT: Yes. Just a few, Your Honor.

12 CROSS-EXAMINATION

13 BY MS. DEWITT:

14 Q. Mr. Patel, now, you said your store, Snappy
15 Foods, is at Exit 38 off I-95, right?

16 A. Yes, ma'am.

17 Q. Okay. And so it's right there, not far from
18 the exit; is that correct?

19 A. It's about a mile and a half.

20 Q. And the Yemassee Highway?

21 A. Correct.

22 Q. That's a road that a person would drive from
23 Yemassee straight to Hampton or Farmville, isn't it?

24 A. Yes.

25 Q. Is that the road you drove today from Yemassee?

1 A. Yes.

2 Q. From downtown Yemassee or, I'd say, from the
3 railroad tracks, from the train station in Yemassee,
4 that Yemassee Highway heads, say, to Hampton as
5 opposed to Walterboro?

6 A. Say again.

7 Q. That Yemassee Highway --

8 A. Uh-huh.

9 Q. -- is a road somebody takes to get to Hampton
10 from Yemassee --

11 A. Correct.

12 Q. -- as opposed to maybe going to Walterboro?

13 If you were to go to Walterboro from Yemassee,
14 what road would you take?

15 A. I'd take straight 95.

16 Q. Straight 95. Or could you take 17 -- hit 17
17 somewhere?

18 A. I wouldn't, because when I used to go to
19 Walterboro, the property I was managing was right at
20 Exit 53. So --

21 Q. So you always took the interstate?

22 A. Yes.

23 Q. All right. Thank you, sir.

24 THE COURT: Anything further?

25 MR. EVANS: No, Your Honor, not from this

1 witness.

2 THE COURT: Any objection to Mr. Patel being
3 excused?

4 MR. EVANS: Not at all.

5 MS. DEWITT: No, Your Honor.

6 THE COURT: You're excused, sir.

7 Now is a good time for us to take a quick
8 recess. I need to remind you -- and I'm going to do
9 this every time I send you back to the jury room or
10 before we part -- do not discuss this case. It
11 would not be appropriate to do so. You haven't seen
12 all the evidence; you haven't heard the arguments
13 from the lawyers, nor have you heard my charge on
14 the law. Go refresh yourselves.

15 Mr. Foreperson, when y'all are ready to come
16 back in, just knock on the jury room door and we'll
17 bring you back in. Okay? Thank you.

18 (The jury exits the courtroom at 11:16 a.m.)

19 THE COURT: I saw that Tim French is on your
20 witness list. Did you get a DNA lift from the beer
21 bottle?

22 MR. EVANS: Yes, ma'am.

23 THE COURT: And what did it come back as?

24 MR. EVANS: 126 quadrillion to 1.

25 THE COURT: To Mr. Coleman?

1 MR. EVANS: I asked Mr. French to come in the
2 afternoon, if that's --

3 THE COURT: That's absolutely fine. I was just
4 looking and saw he was there.

5 We'll be at ease about ten minutes. All right?
6 Thank you.

7 (Brief recess.)

8 THE COURT: Are you ready?

9 MR. EVANS: Yes, ma'am.

10 THE COURT: Are you ready, Ms. Dewitt?

11 MS. DEWITT: Yes, ma'am.

12 THE COURT: All right. Let's bring the jury
13 in.

14 MR. EVANS: Your Honor, I think I might have
15 something I'd like to advise Ms. Dewitt and Your
16 Honor about before the jury comes in.

17 THE COURT: Sure.

18 MR. EVANS: My next witness is going to be
19 Mr. Yash Patel, one of the victims in the case.

20 THE COURT: Right.

21 MR. EVANS: And after, I plan to call
22 Ms. Wilcox who is in the building and gave a
23 description of the robber having a tattoo on his
24 face.

25 I would like, after she's done, to ask that

1 Mr. Coleman walk over closer to the jury so they can
2 see his face. I don't believe that's testimonial.
3 But I wanted to advise Your Honor of that ahead of
4 time.

5 THE COURT: Okay. I can't see anything on his
6 face from here.

7 MS. DEWITT: I can't see from here either.

8 THE COURT: You can't from where you are?

9 MS. DEWITT: And, certainly, I object to the
10 request, Your Honor.

11 THE COURT: What's your basis for objecting?

12 MS. DEWITT: Well, I think it all goes to the
13 extent of compelling the defendant to testify when
14 he has a right to testify or not.

15 MR. EVANS: I don't believe it is testimonial.

16 THE COURT: I think there's plenty of case law
17 on it, if you'll just do a little bit of research on
18 it.

19 MR. EVANS: I'm happy to wait until the
20 research is done for that to request.

21 THE COURT: Before the request? Okay.

22 (The jury enters the courtroom at 11:38 a.m.)

23 THE COURT: All right. Welcome back, ladies
24 and gentlemen.

25 Mr. Evans, call your next witness.

1 MR. EVANS: Thank you, Your Honor. The State
2 calls Yashkumar Patel.

3 YASHKUMAR PATEL
4 being first duly sworn, testified as follows:

5 THE WITNESS: I swear to tell the truth and
6 nothing but the truth.

7 THE CLERK: Okay. That's fine. You can have a
8 seat.

9 DIRECT EXAMINATION
10 BY MR. EVANS:

11 Q. Good morning.

12 A. Good morning, sir.

13 Q. Would you please introduce yourself and spell
14 your last name for our court reporter.

15 A. Yeah. My last name Patel and my first name is
16 Yashkumar.

17 Q. Let's spell that first name, too, I guess.

18 A. Okay. It's Yashkumar, Y-A-S-H-K-U-M-A-R.

19 Q. And Patel is P-A-T-E-L?

20 A. P-A-T-E-L.

21 Q. Do you go by anything shorter? Does anybody
22 call you any nicknames or anything like that?

23 A. Yeah. My nickname is Yash, but most people
24 can't pronounce it and they call me Josh.

25 Q. Yash or Josh.

- 1 I'll call you Mr. Patel; is that okay?
- 2 A. Yeah.
- 3 Q. Mr. Patel, where do you work? What do you do?
- 4 A. Right now, I'm working in Florence in a gas
5 station.
- 6 Q. Is that what you've been doing for a while?
- 7 A. Yeah.
- 8 Q. Did you ever work in Yemassee?
- 9 A. Yes, sir.
- 10 Q. From about when to when?
- 11 A. I can tell you it's in November 2018 because I
12 know I just -- I don't remember the exact date, but
13 I know starting of the November, I came in Yemassee.
- 14 Q. Okay. To the Snappy Foods?
- 15 A. Yes, sir.
- 16 Q. Do you recall the address or where that's
17 located?
- 18 A. Snappy Foods? Yeah, it's 143 Yemassee Highway.
- 19 Q. In Yemassee and in Hampton County?
- 20 A. Yes, sir, Hampton County.
- 21 Q. Do you remember what happened on November 15th,
22 2018, at the Snappy Foods?
- 23 A. Yes, sir.
- 24 Q. What can you tell us about that day?
- 25 A. All I remember, like, it's like a regular day.

1 And because we have two stores, one grocery and a
2 liquor store, so we have back and forth, I just came
3 from the other end, the liquor store, come to the
4 grocery store. Then I go behind the counter just on
5 the other register. And I remember I was checking
6 my phone at that time. It was not that busy. The
7 other clerk, he was taking the customers on the
8 other side.

9 Q. Who was the other clerk?

10 A. Oh, Mr. Solanki.

11 Q. Do you recall his first name?

12 A. Yeah. We call him Harry.

13 Q. Harry?

14 A. Yeah.

15 Q. Okay. Do you recall his actual Indian first
16 name?

17 A. Yeah. Hiren.

18 Q. Okay. S-O-L-A-N-K-I?

19 A. Yeah.

20 Q. Okay. Mr. Patel, I'm going to ask you to scoot
21 your chair back just a few inches because I think
22 you're exhaling into the microphone a little bit.

23 A. My bad.

24 Q. So, if you can, just speak up the way I'm
25 doing, and then the microphone will catch

1 everything, even from back there.

2 So you and Mr. Solanki were working in the
3 grocery store?

4 A. Yes, sir.

5 Q. What happened next?

6 A. Yeah. I remember, one of the customers, he was
7 buying. And then all of a sudden -- because I was
8 still looking at my phone. And then I hear that he
9 ask for money. But it's something those -- like,
10 you know, feel like nothing else because some time
11 it happen, like, regular customer come and they just
12 make -- like, for fun, you know, they -- just take
13 out your money.

14 Q. You've experienced customers joking with you?

15 A. Yeah, just joking, you know, just regular
16 customer. And they just make fun. Like, you know,
17 they not actually robbing you, just funny. So I
18 thought it was a regular customer because that was
19 my first week, so I don't know all people around
20 there.

21 Q. You were new to that particular store?

22 A. Yeah. That was my first week right there at
23 that place.

24 Q. Okay. So did you feel alarmed when you heard
25 this thing?

1 A. No. I still, like, in my mind, it's somebody,
2 just, like, regular customer came in. But then all
3 of a sudden, I hear the gun. I see he pull out the
4 gun. That's when I just looked. And I was still
5 like, you know, thinking, like, what's going on?
6 And then before I realized anything, he shoot first
7 time.

8 Q. So did you hear the gunshot first or see the
9 gun, then hear it, if you recall?

10 A. No. First, I see the gun; then, as soon as I
11 see, he shoot. So --

12 Q. Did he shoot at you?

13 A. No. He shoot between the two clerks. We have,
14 like, you know, a space between us. So he shoot in
15 between us.

16 Q. What did you do after that?

17 A. After that -- because I had my cell phone in my
18 hand. So I just tried to drop it, like, you know,
19 because I know that, in this kind of situation. So
20 I just try to put it on the counter, like, you know,
21 quickly. And when I do that, he just point the gun
22 on me. And that was like -- and then I just raised
23 my hand. All the time, I was screaming one thing:
24 Just -- you know, just take the money, but don't
25 shoot.

1 Q. What were you feeling while this was going on?

2 A. It was like the -- I feel like, you know, all
3 the time I was in a fear that it can be -- because
4 when he pointed the gun on me, all the time, I was
5 in that fear that he probably going to shoot me.

6 Q. You thought he was going to shoot you?

7 A. Yeah.

8 Q. Did you feel like you could leave?

9 A. No, sir. I was in the corner. And then
10 before -- like, when I realized what's going on or
11 anything, he come behind the counter. So he tell us
12 to get on the ground. And, like, we -- you know, I
13 was just pointing at him, like, there's the money,
14 don't shoot. But then he hit on my back.

15 And because I was wearing a jacket, that hoodie
16 came on my -- so I can't even look up because I was
17 so scared. And then, all the time, I was looking at
18 the ground. Then a few moment, I just realized a
19 gunshot that happened, like, so close that my ears
20 are ringing almost for half an hour.

21 Q. This is a second gunshot?

22 A. No. This is the third. Because when we were
23 on the ground, I heard another one.

24 Q. So he had shot or someone --

25 A. Yeah. I don't know --

1 Q. The robber had shot --

2 A. I don't know where he shot that time. But I
3 hear the second one after he come in behind the
4 counter.

5 Q. What happened after you heard that third shot?

6 A. So that shot was so close, my ear was ringing.
7 And after that, I was so shaking that -- I'm in a
8 position. After that, I don't know if he left or
9 what. And then I heard another one afterwards. I
10 don't remember exactly what time. But then I hear
11 the other clerk. He told me, you know, just get up,
12 you know, he's gone.

13 Q. Mr. Solanki told you he was gone?

14 A. Yes. So I still was, like, so scared to get
15 up. But then I got up and then I see one of the
16 guys who was working over there, he do the cleaning
17 stuff, so he just came outside the counter. And I
18 tried to call the cops, but my hands were so
19 shaking. So I just give the phone and call the
20 police, that's all. And I was still like, you know,
21 shaking at that time until I see the police come.
22 And, you know, I feel some comfort because they were
23 there.

24 Q. When did you feel that you were safe?

25 A. When I see the police come. I see it was okay

1 now; I don't have to worry now.

2 Q. Are you still in Yemassee?

3 A. No, sir.

4 Q. Why is that?

5 A. Sir, even after this incident happened, for a
6 while I was there. But, every day, I was still
7 living in fear.

8 Q. Did you have to do anything to treat yourself
9 or --

10 A. Yes, sir. I see a counselor also --

11 MS. DEWITT: Objection, Your Honor; relevance.
12 What is this?

13 THE COURT: Okay. You can continue.

14 MR. EVANS: Thank you.

15 BY MR. EVANS:

16 Q. Please tell us.

17 A. Okay. I see a counselor; she help me out.
18 Because this is the first time, like, I -- you know,
19 even at the nighttime, even at the store, when I see
20 somebody with a hoodie also and, like, new place,
21 all -- most of the new faces, you know, it's always
22 scare me. I never feel it like that before. Even
23 when I move out of Yemassee, still I got to go to
24 another counselor in Florence where I live right
25 now --

1 Q. You live in Florence?

2 A. -- for a while until, like, you know, I feel a
3 little bit normal, because I'm just back to my old
4 place with my cousin. And I have my family and
5 friends, so they help me out. They support me all
6 the time. They talk to me.

7 Q. And you're working in the same industry,
8 another gas station in Florence now?

9 A. Yes.

10 Q. Has anything like this happened since?

11 A. No, sir. But I know this still affects me,
12 those things that day.

13 MR. EVANS: Beg the Court's indulgence.

14 THE COURT: Yes, sir.

15 MR. EVANS: Your Honor, I'm going to publish
16 State's Exhibit's No. 1 for Mr. Patel and ask him to
17 go over it with us.

18 THE COURT: Okay.

19 BY MR. EVANS:

20 Q. Mr. Patel, if you want to step down -- I'm
21 going to put the video up here, if you want to step
22 down so you can see.

23 Mr. Patel, what I'm showing you is already in
24 evidence as State's Exhibit 1, so I'm going to go
25 ahead a little bit. First, can you tell me who that

1 is?

2 A. Yeah. It's Harry.

3 Q. Harry Solanki?

4 A. Yeah.

5 Q. And I'll pause here. Can you tell us where

6 we're at right now? And who do you see in the

7 video?

8 A. All right.

9 Q. You describe what we see on the screen?

10 A. Oh, right now, like, I remember that jacket.

11 He's the guy who started shooting on us.

12 Q. Do you mean the gentleman on the left, you

13 remember the clothing he was wearing that day?

14 A. Yes.

15 Q. And I'm indicating him here with the mouse.

16 This gentleman here?

17 A. Yes, sir.

18 Q. And is this you?

19 A. Yes, sir.

20 Q. Okay. Do you recall what the gentleman in the

21 black sweatshirt is saying at this point?

22 A. I can't tell exactly, sir, because I'm not good

23 at remembering face. And, since then, I don't watch

24 this video that much.

25 Q. Looks like you're paying a little more

1 attention to your phone than anything else; is that
2 fair to say?

3 A. Yes, sir.

4 Q. Do you recall what he said at this point, more
5 or less?

6 A. Yeah. This is the -- I don't remember exactly.
7 All I know that -- because I was all the time
8 looking at my phone. And I hear him, like, ask for
9 money. But then it sounds to me like something
10 normal.

11 Q. Okay. And I see you pointing at this point.
12 What is that?

13 A. I'm pointing at the cash register.

14 Q. Okay. Is that so that -- well, I don't want to
15 lead you.

16 Tell us why you were pointing at the cash
17 register. Can you tell us why you were pointing at
18 the cash register?

19 A. Yes, sir. Because I remember all the time I
20 was screaming since the first gunshot that, take the
21 cash, you know, don't shoot. Because I before heard
22 about those kinds of incidents. And I know that,
23 like, you know, if they want the money, don't shoot.
24 Nothing more important than my life or anybody else
25 life.

1 Q. You've been trained --

2 A. Yeah, because before I was working at gas
3 station. So we know if anything happen, like, you
4 know, cash is not important for us.

5 Q. Right. Mr. Patel, I'm going to --

6 MR. EVANS: May I approach, Your Honor?

7 THE COURT: You may.

8 BY MR. EVANS:

9 Q. I'm going to pass you something. Can you tell
10 me what that is?

11 A. Sir, that's the same guy.

12 THE COURT: You need to speak up, sir.

13 THE WITNESS: Okay.

14 Q. Is this a photograph?

15 A. Yeah.

16 Q. Is it from, basically, where we're watching in
17 the video right here?

18 A. Yes, sir.

19 Q. All right.

20 MR. EVANS: Your Honor, the State would move
21 this into evidence as State's Exhibit 7.

22 THE COURT: Any objection?

23 MS. DEWITT: No, Your Honor.

24 THE COURT: It's in evidence.

25 MR. EVANS: Thank you, Your Honor.

1 THE COURT: You can publish it or whatever you
2 need to.

3 (State's Exhibit No. 7 marked for
4 identification and admitted into evidence.)

5 BY MR. EVANS:

6 Q. Now, I believe you testified earlier,
7 Mr. Patel, at some point you could not see. Are we
8 at that point?

9 A. Yeah, remember, because when he hit me, my
10 hoodie just came on my face. And I was like, all I
11 could see is the ground. And I was so scared to,
12 you know, look up or take off my hoodie, like --

13 Q. What's going on at this point? What was going
14 on in your mind at --

15 A. I was in shock at that time. After the third
16 shot, like, you know, my ear was ringing and I was
17 still shaking. I was shocked at that time.

18 Q. What do we see at this point?

19 A. Yeah. That the time I remember because
20 Mr. Solanki, he told me -- he told me that he
21 already left and I got up.

22 Q. Mr. Solanki told you that?

23 A. Yeah. I try to tell him, don't get up. And he
24 tell me he already left, now get up.

25 Q. All right. We see you reaching for your phone.

- 1 Is this what you testified about earlier?
- 2 A. Yes, sir.
- 3 Q. Thank you. You can return to the stand.
- 4 Did you know the person who did this?
- 5 A. Pardon?
- 6 Q. Did you know the person who did this? I know
- 7 you were -- you said you were new to the store.
- 8 A. No, sir.
- 9 Q. You did not know him? You did not recognize
- 10 him --
- 11 A. No.
- 12 Q. -- as a regular customer?
- 13 A. No, sir.
- 14 Q. Were you able to tell the police who it was?
- 15 A. No, sir.
- 16 Q. Do you recall him? Do you remember him?
- 17 A. Like, hardly, by the face.
- 18 Q. Do you see him in the courtroom today?
- 19 A. I can't say 100 percent, sir, because I'm not
- 20 good at remembering, like, face until, like, I see
- 21 somebody everyday.
- 22 Q. Okay. This is the only time you saw him?
- 23 A. Yes, sir.
- 24 Q. For that minute that we watched him?
- 25 A. No; that and whenever I see the video. But I

1 tell you, I don't want to watch the video that much;
2 like, you know, if I need it. But I don't want to
3 recall that moment.

4 Q. I understand. Thank you very much. Please
5 answer any questions Ms. Dewitt may have.

6 CROSS-EXAMINATION

7 BY MS. DEWITT:

8 Q. So your testimony is that the man in the video
9 in the black-and-yellow sweatshirt and the man in
10 the photograph taken from the video is the person
11 who robbed the store?

12 A. Yes, ma'am.

13 Q. And you were new to the store. So you were not
14 familiar with regular customers?

15 A. Yeah; not most of them.

16 Q. Well, after a week, you knew people who came in
17 continuously during that week?

18 A. Yeah. A few people I know that I see every
19 day. So I know those few people.

20 Q. All right. But you had only been there a week
21 at the time of the robbery, correct?

22 A. Yes; almost a week.

23 Q. Did you require medical attention?

24 A. Yes, ma'am.

25 Q. Did you ask for medical attention when the

1 police came?

2 A. Yeah, because my ear was ringing. But then,
3 you know, like -- it's nothing like a pain, but all
4 like, you know, loud gunshot, and I was not sure. .
5 But when the police was there, I don't want to leave
6 that place with the police, so I just stayed there.

7 And I thought probably I don't need that much
8 until I realized later on about the different, like,
9 you know -- because I never been to those kind of --
10 and my counselor, they told me what's going on is a
11 trauma.

12 Q. Yes, sir. How many times have you watched the
13 video of the robbery?

14 A. I know when it happened, after that, there
15 were -- the officers, they tried to recall the
16 videos. So what happened, they tried to see. So,
17 like, I was with them at that time. And then after
18 that, probably like few times.

19 Q. All right. And then you saw it today?

20 A. Yes, ma'am.

21 Q. All right. Thank you.

22 MS. DEWITT: That's all the questions I have
23 for the witness.

24 THE COURT: Anything further?

25 MR. EVANS: No, ma'am.

1 THE COURT: You may be excused, sir. Thank
2 you.

3 MR. EVANS: Karen Wilcox.

4 KAREN WILCOX

5 being first duly sworn, testified as follows:

6 THE WITNESS: Yes.

7 THE CLERK: Okay. Have a seat.

8 DIRECT EXAMINATION

9 BY MR. EVANS:

10 Q. Good morning.

11 A. Good morning.

12 Q. Would you please tell us who you are and spell
13 your last name for our court reporter.

14 A. I'm Karen Denise Wilcox. My last name,
15 W-I-L-C-O-X.

16 Q. Where do you live, Ms. Wilcox?

17 A. Rock Hill, South Carolina.

18 Q. Have you ever lived closer to Hampton?

19 A. Yemassee.

20 Q. You've lived in Yemassee. For how long?

21 A. Some years. About -- yeah, some years.

22 Q. Were you living in Yemassee in November of
23 2018?

24 A. Uh-huh.

25 Q. Do you recall the events of November 15th of

1 2018?

2 A. Yes.

3 Q. What can you tell us about that day?

4 A. Well, I was going to the store.

5 Q. Which store would that be?

6 A. The Indian store, the jinks store. We called

7 it the jinks store.

8 Q. On Yemassee Highway?

9 A. Uh-huh. We always called it jinks.

10 Q. How were you planning on getting to the store?

11 A. Actually, I was walking, and my cousin said,

12 come on, you know, we'll give you a ride, because my

13 knee was hurting so bad. I needed some dish liquid.

14 Q. Who's your cousin?

15 A. Damian Finnel.

16 Q. And you wanted to go to the store to buy dish

17 liquid?

18 A. Yes.

19 Q. For the machine or for hand washing?

20 A. For my -- wash my dishes.

21 Q. Okay. And what happened when you went to the

22 store?

23 A. So I got in the car. So I asked him -- I said,

24 Dollar Store is right here; y'all can let me out at

25 the Dollar Store; I'll be okay from there. Because

1 it's cheaper at the Dollar Store.

2 Damian says, I'm going on to the Indian store.
3 I said, Lord have mercy, I don't have change for
4 this. I had enough money, so got me a little thing
5 of Dawn, and I went out the store. Next thing you
6 know, I hear all these gunshots and stuff like that.
7 And I'm like, oh, my stars. I'm like, what's going
8 on?

9 Q. So I'm going to interrupt if that's all right.

10 A. Uh-huh.

11 Q. You went in the store and made a purchase of
12 dish soap?

13 A. Yes.

14 Q. And then did you go outside?

15 A. Yes.

16 Q. What were you doing outside?

17 A. I think I got in the truck and was talking. I
18 got back in the vehicle.

19 Q. Were you waiting to leave?

20 A. Yes. And then, next thing you know, the store
21 is being robbed by the people in the -- the guys in
22 the vehicle. I'm like, oh, my stars.

23 Q. I'm going to back up again, if that's okay.

24 You said you came in the truck. Who else was
25 in the truck?

DIRECT EXAMINATION OF KAREN WILCOX BY MR. EVANS

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- 1 A. The driver, he was in the truck.
- 2 Q. There was a driver? You were not the driver?
- 3 A. Was I the driver?
- 4 Q. Yes, ma'am.
- 5 A. Oh, no.
- 6 Q. Where were you sitting in the truck?
- 7 A. In the back.
- 8 Q. Which seat? Passenger side or driver's side?
- 9 A. On the -- not behind the driver. Passenger --
- 10 behind the passenger.
- 11 Q. Okay. And your cousin, Mr. Finnel, where was
- 12 he?
- 13 A. He was in the back with me.
- 14 Q. He was in the back seat with you?
- 15 A. Uh-huh.
- 16 Q. And did you know the driver in the front seat
- 17 passenger?
- 18 A. The one with the dreads in his hair? Yes, I
- 19 knew that kid.
- 20 Q. What was his name?
- 21 A. But I didn't know the passenger.
- 22 Q. You did not know the passenger?
- 23 A. No. Never seen him.
- 24 Q. Did you know anything about him?
- 25 A. Huh-uh. Nothing at all. I actually never seen

1 him before. Never seen him.

2 Q. Okay. And moving forward ahead.

3 Now, when you were outside waiting to leave,
4 who was waiting with you, if anybody?

5 A. The driver was in the truck.

6 Q. The driver was sitting in the truck with you?

7 A. In the truck.

8 Q. Okay.

9 A. Uh-huh.

10 Q. Where was everybody else?

11 A. Damian was in the truck. Then Damian got back
12 out and go back inside the store. And when Damian
13 went inside the store, that's when everything took
14 place.

15 Q. Could you see what was happening or just hear
16 it?

17 A. I couldn't see. We were parked right in front
18 of the store, you know. I still couldn't see
19 anything.

20 Q. So couldn't see in?

21 A. Huh-uh. Next thing, I heard some gunshots went
22 off. I jumped out and I tried to hide. That's all
23 I remember.

24 Q. Could you see anybody come out of the store?

25 A. Yeah.

1 Q. Who did you see come out of the store?
2 A. That guy right there.
3 Q. This gentleman sitting next to Ms. Dewitt?
4 A. Uh-huh.
5 Q. Could you describe what he's wearing?
6 A. Actually, I can't remember.
7 Q. Not back then, but today.
8 A. Got a black coat on -- is that a coat? I can't
9 see that well. I got the wrong glasses. Can barely
10 see you, it's so blurry.
11 Q. But that's the gentleman that you saw?
12 A. That is him. It is him.
13 Q. What could you tell about him on that day? I
14 understand you can't remember his clothing. But --
15 A. Uh-huh.
16 Q. -- what else did you notice?
17 A. Well, I know -- because I spoke with him. When
18 I was face-to-face with him, I noticed a tattoo that
19 he had. I noticed that.
20 Q. Where does he have a tattoo?
21 A. Like, on his eye. Like a teardrop or
22 something.
23 Q. Can you see --
24 A. Yes. Uh-huh. I'll never forget that. It was
25 a teardrop or something. Because I think I asked

1 him about that and he told me about what it was for
2 or something. I can't remember.

3 Q. This is earlier on that day?

4 A. The same -- you know, the same time I was
5 riding.

6 Q. Was that the only day you ever met him?

7 A. First time I ever seen him in my life.

8 Q. Do you know his name?

9 A. (Shakes head.)

10 Q. You didn't know then and you still don't know
11 now?

12 A. Huh-uh.

13 Q. Did you know where he was from?

14 A. He stay across the river, that's what I heard.

15 Q. What does that mean?

16 A. They call the river, like, Jonesville or
17 something like that.

18 Q. So you heard from somewhere that --

19 A. I heard that --

20 Q. -- he was from Colleton County?

21 A. I heard that. I'm not for sure.

22 Q. Did you tell anybody that?

23 A. The policeman.

24 Q. You told the police that you heard he was from
25 across the river?

DIRECT EXAMINATION OF KAREN WILCOX BY MR. EVANS

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1 A. Uh-huh.

2 Q. What did he do after getting out of the store?

3 A. When I heard them gunshots going off in that
4 store, I got in that truck real fast and tried to
5 find me a hiding spot.

6 Q. Oh, I understand what you did. Do you know
7 what he did, this gentleman over here?

8 A. He made the other guy drive off. And he kept
9 shooting, shooting, shooting. And I ducked.

10 Q. You ducked when you heard more gunshots?

11 A. Uh-huh. Yes.

12 THE COURT: Say yes.

13 MR. EVANS: I think I heard one at the end,
14 Judge.

15 BY MR. EVANS:

16 Q. But just for anything else, please say yes or
17 no because the court reporter can't take down that
18 other stuff.

19 A. Okay.

20 Q. Ms. Wilcox, I'm going to show you something
21 that's entered into evidence as State's Exhibit
22 No. 1. I think you may need to step down, ma'am, so
23 you can see this screen up here.

24 Do you recognize anybody in this image?

25 A. Isn't that me getting dish liquid?

- 1 Q. Is that you?
- 2 A. In the GAP sweatsuit?
- 3 Q. I have to ask you; you can't ask me.
- 4 A. Yeah. I'm saying that's me --
- 5 Q. That's you? Okay.
- 6 A. -- in the jacket.
- 7 Yeah. That's me right there getting me some
- 8 Dawn, getting my dish liquid.
- 9 Q. And you're purchasing the dish soap you told us
- 10 about a little while ago?
- 11 A. Uh-huh.
- 12 Q. Okay.
- 13 A. See?
- 14 Q. Yes, ma'am.
- 15 A. Dish liquid.
- 16 Q. That's the dish soap that you bought?
- 17 A. Dawn. It's the best kind to use.
- 18 Q. Okay.
- 19 A. Yep.
- 20 Q. I'm going to move on to another video. Can you
- 21 tell what this is, Ms. Wilcox?
- 22 A. That's the store.
- 23 Q. Is that the outside of the store?
- 24 A. Uh-huh.
- 25 Q. Okay. And you said you were waiting in a truck

- 1 outside; is that correct?
- 2 A. Yes, sir.
- 3 Q. I'm going to ask when you see that -- well,
- 4 actually, who's that gentleman there that just
- 5 stepped out?
- 6 A. Looks like Damian.
- 7 Q. That's your cousin?
- 8 A. Uh-huh.
- 9 Q. Okay.
- 10 A. Yeah, that's Damian.
- 11 Q. When you see yourself or that truck, I want you
- 12 to let us know. Is that okay?
- 13 Do you recognize that vehicle, Ms. Wilcox?
- 14 A. Is that a Mercedes?
- 15 Q. Do you recognize it? Could it be the vehicle
- 16 that --
- 17 A. It was a white vehicle, I know that.
- 18 Q. Okay.
- 19 A. It was a white vehicle.
- 20 Q. Is that you, ma'am? Can you see it?
- 21 A. Running to the car?
- 22 Q. Yes, ma'am. Is that you?
- 23 A. Is that me right there? No, no, no. I must
- 24 have been hiding someplace then.
- 25 Q. I'll ask you to keep watching.

1 You see this pump in the back that I'm circling
2 with the mouse?

3 A. That's me hiding.

4 Q. That's you hiding? Okay. Keep watching.

5 What did we see right there?

6 A. There was shooting going by and I was ducking
7 some more. And that's my cousin Damian.

8 Q. Yep.

9 A. And I'm just as nervous and hysterical.

10 Q. Okay. Thank you, ma'am. You can return to the
11 stand.

12 Thank you, Ms. Wilcox. That's all the
13 questions I have for you. Please answer any
14 questions Ms. Dewitt may have for you.

15 CROSS-EXAMINATION

16 BY MS. DEWITT:

17 Q. Good afternoon, Ms. Wilcox.

18 A. Good afternoon.

19 Q. I'm Diane Dewitt. I didn't quite understand.
20 How did you end up in the car?

21 A. Like I said, I was walking to the store. My
22 cousin know that I have a bad leg and a bad hip, you
23 know, so it hurts. But I had to get the dish soap,
24 so they offered me a ride. So I took a ride to the
25 store. That's how.

- 1 Q. So you knew your cousin. Was he in the car?
- 2 A. No. He wasn't in there then, but he got in.
- 3 He got in the car.
- 4 Q. I thought you testified you were walking to the
- 5 store.
- 6 A. I was walking -- I was walking out my trailer
- 7 park going to the store. Okay? And I was offered a
- 8 ride. That's when I got in the vehicle to go to the
- 9 store to get dish liquid.
- 10 Q. At the time when you got in the car, how many
- 11 people were in it then?
- 12 A. It was two. And then after Damian and I got
- 13 in, it made four.
- 14 Q. And you were sitting in the back seat behind
- 15 the driver or the passenger?
- 16 A. Passenger.
- 17 Q. You were behind the passenger?
- 18 A. Passenger.
- 19 Q. And did you know the driver of the car?
- 20 A. Yes. I knew that kid because my mother taught
- 21 him in school. I knew him very well. But I'm not
- 22 good at names. But I know he had dreads.
- 23 Q. The driver had his hair in dreadlocks --
- 24 A. Yes.
- 25 Q. -- is your testimony?

1 And once you got in the car, isn't it true it
2 only took about a minute and a half to get to the
3 store?

4 A. I guess. I would assume. It takes about --
5 yeah, about a minute.

6 Q. You testified you didn't know the passenger,
7 correct?

8 A. I did not know the passenger, correct.

9 Q. You'd never seen him before?

10 A. Never seen him before in my life.

11 Q. But he was in front of you sitting --

12 A. But I spoke with him when I got in the vehicle
13 face-to-face. I looked directly in his face, so I
14 could not forget his face.

15 Q. And it's your testimony he had a teardrop
16 tattoo on his face?

17 A. Yes, something like a teardrop. It looked like
18 a teardrop. I know the tattoo was on his face.

19 Q. Teardrop tattoo on his face. When you got to
20 the store, did everybody get out?

21 A. I don't know. I was the first to get out, so I
22 don't know who else got out.

23 Q. You said you were --

24 A. I was the first getting out. I came to the
25 store to get the dish liquid, so I jumped out the

1 car and went in the store. And then I think my
2 cousin -- I think Damian got out. I can't remember.
3 But I know I got out to get the dish liquid. And I
4 know Damian got out, too, and went to the store and
5 went inside. Then, after I got back in, then that's
6 when that fool over there got out. Dreads didn't
7 get out. The driver, he did not get out the car.

8 Q. It's your testimony that the man with the
9 dreadlocks did not get out of the car and go in the
10 store?

11 A. No, he did not go in the store.

12 Q. And you knew him?

13 A. Yes. Because he's -- he was saying, I know
14 that boy didn't do this dumb mess right here; I know
15 he didn't do this dumb mess. I say, what he doing?
16 He said, he's sticking -- I said, oop. And then he
17 got out.

18 I heard the shooting. It was just a hysterical
19 moment for me, something I never been through before
20 in my life. It was very scary. I was really shook
21 up and it was very bad. I see a psychiatrist right
22 now because of this incident.

23 Q. Ms. Wilcox, were you under the influence of any
24 intoxicating substances that day?

25 A. No, ma'am. I take medications.

1 Q. Are you under the influence of anything now?

2 A. No, ma'am, except for medication.

3 Q. What kind of medication are you taking?

4 A. I take heart pills, nerve pills --

5 Q. Nerve pills?

6 A. -- and Cymbalta.

7 Yes. But I didn't take my medication this
8 morning, blood pressure pills. I didn't take no
9 medicine this morning. Only thing I'm under is
10 water and a sausage.

11 Q. Water and --

12 A. Water and sausage. I had a sausage this
13 morning to eat and I'm drinking water now.

14 Q. You said you take some kind of nerve pills.

15 A. Yes, I take nerve pills. Cymbalta. Cymbalta.
16 What's this have to do with me being under the
17 influence this morning?

18 THE COURT: Ma'am, you can't ask questions.
19 You just need to answer the questions. Okay?

20 THE WITNESS: Okay. Yes, ma'am.

21 Q. Ms. Wilcox, were -- did you know, on a daily
22 basis, any of the Yemassee police officers?

23 A. Yes. Do I know on a daily -- yes, I do.

24 Q. Okay. Did you wait on --

25 A. Yemassee is a small town. Yes, ma'am.

1 Q. Did you wait on the scene until the police
2 officers came to the store that day?

3 A. It took a minute. And I was -- I got -- the
4 first thing -- they came to -- they found me. They
5 talked with me; they took me down to the station. I
6 was interrogated for some hours.

7 Q. Okay. So you were not at the store when the
8 police arrived; is that correct?

9 A. No. They came to my house, if I'm not
10 mistaken. I was just so hysterical and nervous, I
11 can't remember too much. I remember enough.

12 Q. But it's true that you left the scene
13 immediately, correct?

14 A. No. I didn't leave it immediately. You know,
15 the police didn't come -- when the police got
16 there -- I was gone before the police got there, put
17 it like that.

18 Q. You were gone before the police got there,
19 right?

20 A. Before the police came there, yes.

21 Q. And how did you get home?

22 A. A neighbor -- no. Damian's girlfriend, because
23 my old man, Robert Lee Daniels, he asked her to
24 please give me a ride home because he knows how my
25 nerves were. I was so shaky.

1 Q. Did you call the police or 911 and tell them
2 what happened?

3 A. No, I did not.

4 Q. And isn't it true that when the police came to
5 your house, they actually took you down to the
6 police station?

7 A. Yes, they did.

8 Q. Do you recall that you were read your Miranda
9 rights, that you had the right to remain silent?

10 A. Yes, I was.

11 Q. And anything you said could be used against
12 you?

13 A. Yes, ma'am.

14 Q. In fact, you're familiar with Miranda warnings,
15 aren't you?

16 A. Yes, ma'am.

17 Q. Because you've had prior run-ins with the
18 police before, haven't you?

19 A. Yes, ma'am.

20 Q. In fact, you've been convicted of a few crimes;
21 is that true?

22 A. Yes, ma'am.

23 Q. Do you recall what they are?

24 A. No.

25 MR. EVANS: I'm going to object to the form of

1 that question.

2 THE COURT: Okay.

3 MR. EVANS: May we approach?

4 THE COURT: You may.

5 (Sidebar conference.)

6 BY MS. DEWITT:

7 Q. In particular, Ms. Wilcox, isn't it true,
8 you've been convicted of shoplifting?

9 A. Yes, when I was very young.

10 Q. And shoplifting involves stealing?

11 A. Yes. I was very young. Yes, I did.

12 Q. And you've also been found guilty of obtaining
13 goods under false pretenses?

14 A. Retaining goods?

15 Q. You recall that, obtaining goods under false
16 pretenses?

17 A. No. I don't remember. I don't recall that,
18 ma'am. But I know about shoplifting. I was about,
19 what, 18, 19, something like that.

20 Q. And you knew the police because -- how do they
21 recognize you on the video, is what I want to know?

22 A. Because Yemassee is a small town. Everybody
23 knows everybody in Yemassee, if you lived there a
24 long time. My mother and my grandmother taught
25 school. My grandmother taught the older people and

1 my mother taught the generation going on now.

2 Q. Ms. Wilcox, did you think you were in trouble
3 when the police came and took you to the police
4 station?

5 A. Excuse me?

6 Q. Did you think you were in trouble with the law
7 when they came and took you to the police station?

8 A. No, ma'am.

9 Q. Even when they read you your Miranda warnings,
10 you didn't think you were in trouble?

11 A. No, ma'am, because I didn't do anything. So I
12 didn't think that way.

13 Q. Okay. Now, you testified that you could not
14 tell if the man sitting at my table was wearing a
15 jacket or what. Can you see from where you're
16 sitting?

17 A. My vision is blurry. But I recognize his face.

18 Q. Your vision is blurry?

19 A. Yes, right now with these glasses. But I
20 recognize his face very well. I can't forget his
21 face.

22 Q. How long has your vision been blurry?

23 A. My vision been blurry for about -- I just got
24 new glasses two months ago.

25 Q. Okay.

- 1 A. Uh-huh.
- 2 Q. You're not wearing them today, are you?
- 3 A. I brought the wrong ones. These are not my
- 4 prescriptions. I grabbed the wrong ones.
- 5 Q. All right. I noticed when you were looking at
- 6 the video, you were standing right up at the TV
- 7 screen close as you could get.
- 8 A. Going to the store.
- 9 Q. Okay. You were standing up close so you could
- 10 see the screen?
- 11 A. Could I see? Yeah. I seen the screen.
- 12 Q. Okay. But you were standing up close to it so
- 13 you could see it?
- 14 A. Yes. I seen it.
- 15 Q. Okay. So you're not wearing your glasses and
- 16 your vision has been blurry for a long time; is that
- 17 what you testified to?
- 18 A. My vision has been messed up.
- 19 Q. Right. And in fact --
- 20 A. I just got glasses -- new glasses.
- 21 Q. Ms. Wilcox, isn't it true that you identified
- 22 my client because he's the only black man sitting at
- 23 the table over there at the defense table?
- 24 A. No, ma'am, that is not why. I believed he was
- 25 a really nice person, you know, until the incident.

1 It disrupted me.

2 Q. And prior to coming out here to testify, did
3 you talk with any of the police officers or the
4 solicitor in this case?

5 A. No, ma'am.

6 Q. But -- and why are you here? Were you
7 subpoenaed?

8 A. Yes, ma'am. I just lost my sister, that's why
9 I came home. I just buried my sister yesterday.

10 Q. I'm sorry to hear that.

11 Were you -- did you talk with the police
12 officers in Yemassee and the solicitor before you
13 testified today?

14 A. No, ma'am.

15 Q. Not at all?

16 A. Except when they told me wait right there in
17 that waiting room and I should be called next. And
18 I said it's not going to be like yesterday. That's
19 about it. I was making jokes and stuff.

20 Q. And no one talked with you yesterday about the
21 case?

22 A. No, ma'am.

23 Q. Even though everybody was here waiting?

24 A. Yes, ma'am. Matter of fact, I was in that room
25 all day long by myself. It was cold, uncomfortable,

1 nothing to eat. I was so upset. I left and went
2 home. I was sick; I mean, literally sick. My
3 diverticulitis was acting up on me. I got a stomach
4 disease.

5 Q. Ms. Wilcox, you know that you're here for the
6 trial and the case? You know all that, right?

7 A. Yes.

8 Q. And you're aware that only one person is being
9 tried for that robbery, aren't you?

10 A. Yes, ma'am. I -- yes, ma'am.

11 Q. You knew that, didn't you?

12 A. I would assume. Yes, ma'am.

13 MS. DEWITT: Thank you. That's all the
14 questions I have for Ms. Wilcox.

15 THE COURT: Mr. Evans?

16 MR. EVANS: Briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. EVANS:

19 Q. You remember meeting me yesterday?

20 A. Yeah.

21 Q. We talked for a few minutes down the hall right
22 back there?

23 A. Yeah, about me getting back where I live at and
24 getting back home. That was my concern --

25 Q. That's the first --

1 A. -- getting back home.

2 Q. Yes, ma'am.

3 We talked about how we were going to get you
4 home to Rock Hill?

5 A. Then you asked me, well, did you actually have
6 anything to do with it? And I said, no, sir.

7 Q. But that was the first time you and I met?

8 A. That's the first time I seen you.

9 MS. DEWITT: That's all, Your Honor.

10 THE COURT: Anything further, Ms. Dewitt?

11 MS. DEWITT: No, Your Honor.

12 THE COURT: Any objection to Ms. Wilcox being
13 excused from either of you?

14 MR. EVANS: No, ma'am.

15 THE COURT: Any objection, Ms. Dewitt?

16 MS. DEWITT: No, Your Honor.

17 THE COURT: You may be excused. Thank you.

18 THE WITNESS: Thank you. Y'all have a blessed
19 day.

20 THE COURT: Call your next witness.

21 MR. EVANS: Samuel Watson.

22 SAMUEL WATSON

23 being first duly sworn, testified as follows:

24 THE WITNESS: Yes, ma'am.

25 THE CLERK: Take a seat.

DIRECT EXAMINATION OF SAMUEL WATSON BY MR. EVANS

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1 THE COURT: Mr. Evans.

2 MR. EVANS: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. EVANS:

5 Q. Would you please introduce yourself and spell
6 your last name for our court reporter.

7 A. Sergeant Samuel Watson, W-A-T-S-O-N.

8 Q. Sergeant, where do you work?

9 A. Yemassee Police Department.

10 Q. And how long have you been with YPD?

11 A. Approximately five years.

12 Q. Did you work in law enforcement anywhere else
13 before that?

14 A. Yes, sir. I've been in law enforcement since
15 1994.

16 Q. Since '94. Where else?

17 A. Beaufort County, Allendale, Hampton.

18 Q. All over the Lowcountry?

19 A. Yes.

20 Q. Do you remember the events of November 15th,
21 2018, that led us here today?

22 A. Yes, sir.

23 Q. What was your role in the investigation? Can
24 you tell us?

25 A. Basically, my role was -- I went with Captain

1 Loadholt to pick up one of the suspects in the
2 incident. After that, we went down to the police
3 department and I sat in the interview with one of
4 the witnesses, the suspect.

5 Q. Who was that?

6 A. Ms. Wilcox.

7 Q. Karen Wilcox. Was she a suspect or a witness
8 or what?

9 A. We were determining at that time.

10 Q. Trying to figure it out?

11 A. Yes, sir.

12 Q. What, if anything, did you learn from her?

13 A. During that time, she indicated one of the
14 subjects she didn't know the name of lived across
15 the water, indicating the water, pointing towards
16 Colleton County.

17 Q. What did that mean to you when she said that?

18 A. During that time, I had for her a still picture
19 of the suspect. And when she said Colleton County,
20 I knew a detective over there, Sergeant Varnadoe, so
21 I forwarded that picture to Sergeant Varnadoe. And,
22 at that time, he identified the suspect.

23 Q. He gave you an idea of who you might be looking
24 for?

25 A. Yes, sir.

1 Q. And that was because she said she thought he
2 might be from Colleton?

3 A. Yes, sir.

4 Q. Detective Varnadoe was with which agency?

5 A. Colleton County Sheriff's Department.

6 Q. How long have you known him?

7 A. For a long time.

8 Q. A while back?

9 A. Yes, sir.

10 Q. He was able to give you some help?

11 A. Yes, sir.

12 Q. Did that lead to the eventual arrest of
13 Mr. Coleman?

14 A. Yes, sir.

15 Q. All right.

16 MR. EVANS: Those are all the questions I have.
17 Please answer any questions Ms. Dewitt may have.

18 THE COURT: Ms. Dewitt?

19 CROSS-EXAMINATION

20 BY MS. DEWITT:

21 Q. Officer, isn't it true that Ms. Wilcox never
22 said the man she talked to was from Colleton County?

23 A. No, she didn't. She just pointed in that
24 direction.

25 Q. She just said he lived across the water?

1 A. Yes.

2 Q. Which, from Yemassee, that could be Colleton;
3 it could be Savannah, couldn't it?

4 A. Yes, ma'am.

5 Q. Could be Charleston, too, couldn't it?

6 A. Yes, ma'am.

7 Q. Because we're in the Lowcountry. There's a lot
8 of water.

9 A. Yes, ma'am.

10 Q. And causeways and bridges?

11 A. Yes, ma'am.

12 Q. Did Ms. -- now, Ms. Wilcox did not know the
13 name of the man. She didn't know a first name or
14 last name, did she?

15 A. No, ma'am.

16 Q. And did she tell you that she talked to a man
17 who had a teardrop tattoo on his eye?

18 A. I can't remember that. All I know is she was
19 pointing to the direction of Colleton area and
20 that's what put me into that.

21 Q. Okay. So you don't remember anything about a
22 tattoo?

23 A. I can't --

24 Q. At this point in time?

25 A. Yes, ma'am.

DIRECT EXAMINATION OF BRIAN VARNADOE BY MR. EVANS

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1 Q. All right. Thank you, sir.

2 MR. EVANS: No redirect.

3 THE COURT: Sergeant, you may be excused, sir.

4 Thank you.

5 MR. EVANS: Brian Varnadoe.

6 BRIAN VARNADOE

7 being first duly sworn, testified as follows:

8 THE WITNESS: I do.

9 THE CLERK: Have a seat.

10 MR. EVANS: Thank you, Your Honor.

11 DIRECT EXAMINATION

12 BY MR. EVANS:

13 Q. Would you please introduce yourself and spell
14 your last name for the record.

15 A. Sergeant Varnadoe. I work with Colleton County
16 Sheriff's Office. Last name is spelled
17 V-A-R-N-A-D-O-E.

18 Q. Were you working for the Colleton Sheriff's
19 Office in November of 2018?

20 A. I was.

21 Q. Did you become involved in a Hampton County
22 case?

23 A. I did.

24 Q. How did that come about?

25 A. I had a -- law enforcement in Hampton PD

1 contacted me, informed me they had an armed robbery
2 in their jurisdiction.

3 Q. Would it have been Hampton or Yemassee?

4 A. It was Hampton.

5 Q. Hampton County?

6 A. I'm sorry. A Yemassee officer contacted me.

7 Q. Do you recall who that was?

8 A. Sam Watson.

9 Q. What, if anything, did you learn from him?

10 A. Well, he informed me they had an armed robbery
11 in their jurisdiction and, through their
12 investigation, they came about information that the
13 defendant could have -- or the suspect could have
14 been from Colleton County. Of course, he contacted
15 me. I was a point of contact for him in Colleton.

16 Q. What information, if any, were you able to give
17 him?

18 A. They had some video and pictures. I observed a
19 photograph -- or a still shot of the video and I
20 recognized the subject in the picture.

21 Q. Who did you recognize him as?

22 A. Your defendant.

23 Q. Could you name him for me?

24 A. Mr. Coleman.

25 Q. Joey Coleman?

DIRECT EXAMINATION OF BRIAN VARNADOE BY MR. EVANS

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- 1 A. Yes.
- 2 Q. How did you know him?
- 3 A. Previous incidents before --
- 4 MS. DEWITT: Objection, Your Honor.
- 5 THE COURT: Ask a different question.
- 6 MR. EVANS: Rephrase, yes, ma'am.
- 7 BY MR. EVANS:
- 8 Q. Is he from Colleton?
- 9 A. He is from Colleton.
- 10 Q. Have you met him before?
- 11 A. I have.
- 12 Q. You've seen him face-to-face?
- 13 A. Yes, I have.
- 14 Q. Do you know his name?
- 15 A. Yes.
- 16 Q. You recognized him immediately?
- 17 A. Immediately, yes.
- 18 Q. Is that who you told them to look for?
- 19 A. Yes. I told him the person in the photograph
- 20 that I was shown was Joey Coleman.
- 21 Q. Is Mr. Coleman in the courtroom today?
- 22 A. He is.
- 23 Q. Could you identify him by something he was
- 24 wearing and where he's sitting?
- 25 A. He's wearing the black shirt.

1 Q. Sitting at counsel table with Ms. Dewitt?

2 A. That's right.

3 MR. EVANS: Those are all the questions I have,
4 Your Honor.

5 Please answer any questions Ms. Dewitt may
6 have.

7 THE COURT: Ms. Dewitt.

8 CROSS-EXAMINATION

9 BY MS. DEWITT:

10 Q. You had no further involvement in the case; is
11 that correct?

12 A. That's correct.

13 Q. And that's all the questions I have. Thank
14 you, sir.

15 THE COURT: Anything further?

16 MR. EVANS: No, ma'am.

17 THE COURT: Any objection to Sergeant Varnadoe
18 being excused by anyone?

19 MR. EVANS: No, Your Honor.

20 THE COURT: You're excused, sir. Thank you.

21 THE WITNESS: Thank you, Your Honor.

22 THE COURT: Call your next witness.

23 MR. EVANS: Joe Loadholt.

24 JOE LOADHOLT

25 being first duly sworn, testified as follows:

DIRECT EXAMINATION OF JOE LOADHOLT BY MR. EVANS

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1 THE WITNESS: I shall.

2

3

DIRECT EXAMINATION

4

BY MR. EVANS:

5

Q. Would you please identify yourself and spell
6 your last name for the record.

7

A. Captain Joe Loadholt, Yemassee Police
8 Department. Last name is L-O-A-D-H-O-L-T.

9

Q. Captain, how long have you worked for Yemassee
10 PD?

11

A. About nine years.

12

Q. Nine years. Did you work in law enforcement
13 before that?

14

A. Yes, sir.

15

Q. Where at and for how long?

16

A. Estill. I was in Estill off and on for four
17 years; Ridgeland, one year. And I was in Allendale
18 three years.

19

Q. Do you remember the events of November 15th,
20 2018, that brought us here today?

21

A. Yes, sir.

22

Q. What was your role in the investigation?

23

A. We investigated the victims -- one of the
24 suspects, I'm sorry, in the case.

25

Q. What did you do to investigate the case? Did

1 you go to the scene?

2 A. We did go to the scene. I did go to the scene.

3 Q. Right.

4 A. And we investigated from there.

5 Q. How did you investigate? What did you do?

6 A. Well, after seeing the video, I went -- myself
7 and another officer went to pick up a potential
8 suspect that we seen in the video.

9 Q. Who was that?

10 A. That was Ms. Wilcox.

11 Q. Ms. Wilcox. She was a suspect at that time?

12 A. She was a suspect at that time.

13 Q. Did she ever get charged with anything? Did
14 you rule her out? What did you do with her?

15 A. We ruled her out.

16 Q. How did you do that?

17 A. Because of the fact when we viewed the video,
18 it didn't look as it seemed during the time of the
19 investigation.

20 Q. So you reviewed it more than once and changed
21 your mind, sounds like?

22 A. Yes, sir.

23 Q. All right.

24 A. After we went in detail of the video.

25 Q. Did you participate in an interview of her?

- 1 A. I did.
- 2 Q. What, if anything, did you learn during that
- 3 interview?
- 4 A. I'm sorry?
- 5 Q. What, if anything, did y'all learn during that
- 6 interview?
- 7 A. That she could identify the suspect.
- 8 Q. All right. Once y'all had a name, who was
- 9 that? Who was the name that you eventually ended up
- 10 with?
- 11 A. Joey Coleman.
- 12 Q. And what did you do once you knew who your
- 13 suspect was?
- 14 A. We did a photo lineup.
- 15 Q. When did you find him?
- 16 A. I'm sorry?
- 17 Q. When was he charged? When was he served? When
- 18 was he arrested?
- 19 A. Joey Coleman?
- 20 Q. Yes, sir.
- 21 A. I can't remember.
- 22 Q. Were you aware of where he was, where he lived?
- 23 A. Yes, sir.
- 24 Q. Where is that?
- 25 A. Colleton County.

- 1 Q. Did you participate in arresting him?
- 2 A. Yes, sir, I did.
- 3 Q. Where did you go?
- 4 A. We went to Colleton County.
- 5 Q. What part?
- 6 A. The city of.
- 7 Q. Walterboro?
- 8 A. Walterboro.
- 9 Q. Did you have any assistance with that?
- 10 A. Yes, sir.
- 11 Q. What assisted you, what agency?
- 12 A. Colleton County.
- 13 Q. Sheriff's Office?
- 14 A. Sheriff's Office.
- 15 Q. Is that normal for when you're going outside
- 16 your jurisdiction?
- 17 A. It is.
- 18 Q. Speaking of jurisdiction, what is that?
- 19 A. Yemassee.
- 20 Q. Town of Yemassee?
- 21 A. Town of Yemassee.
- 22 Q. Did this take place in the Hampton or Beaufort
- 23 side?
- 24 A. Took place in the Hampton County side.
- 25 Q. And you went to the scene. What scene is that?

- 1 A. That's Snappy Foods.
- 2 Q. Snappy Foods on Yemassee Highway?
- 3 A. Yes, sir.
- 4 Q. After Mr. Coleman was charged, what else, if
- 5 anything, did you do in this case yourself?
- 6 A. After Mr. Coleman was charged, we took some --
- 7 well, I went to take some DNA that we received from
- 8 Hampton County Detention Center to Columbia.
- 9 Q. And how did that happen? How did that come
- 10 about?
- 11 A. We took some swabs that wasn't used that was
- 12 out of our department to the nurse at the Hampton
- 13 County Detention Center.
- 14 Q. Do you recall her name?
- 15 A. I think her last name is Coate.
- 16 Q. Coates, could be? Tonia Coates?
- 17 A. Yes, sir.
- 18 Q. What did you ask her to do?
- 19 A. I'm sorry?
- 20 Q. What, if anything, did you ask Ms. Coates to
- 21 do?
- 22 A. Take samples of saliva, DNA.
- 23 Q. Have you done that before?
- 24 A. I have not.
- 25 Q. But you've seen it done?

- 1 A. I've seen it done.
- 2 Q. How does it work? What does somebody do in
3 order to take a sample like that?
- 4 A. It's a swab, look like a Q-tip, but it's longer
5 than a Q-tip swab. You put it inside the mouth, get
6 saliva samples, and put it into a tube.
- 7 Q. Rub it around their cheeks inside?
- 8 A. Yes, sir.
- 9 Q. Did Ms. Coates do that?
- 10 A. She did.
- 11 Q. On Mr. Coleman?
- 12 A. On Mr. Coleman.
- 13 Q. Is that Mr. Coleman?
- 14 A. Yes, sir.
- 15 Q. The same one you arrested?
- 16 A. Yes, sir.
- 17 Q. And you saw her take a DNA sample from him?
- 18 A. I did.
- 19 Q. What happened with that sample?
- 20 A. As soon as she did the sample, I took it from
21 Ms. Coates and took it in my custody and took it to
22 Columbia to SLED to the lab.
- 23 Q. Did you take possession of it at any other time
24 after that?
- 25 A. No, sir.

1 Q. You took it up to SLED?

2 A. Yes, sir.

3 Q. What, if anything, did she do to protect that
4 sample? Was it closed up?

5 A. She sealed it.

6 Q. She sealed it how?

7 A. She put the top back on it and put it back in
8 the plastic seal.

9 Q. Can you tell the jury what is used to seal bags
10 like that?

11 A. Glue. That's all I can tell you.

12 Q. Like a special tape or something?

13 A. Yeah. And red tape after the fact.

14 Q. You saw her do that before she handed it to
15 you?

16 A. Well, it was glued and initialed --

17 Q. She wrote her initials on it?

18 A. Yes, sir.

19 Q. Okay.

20 MR. EVANS: Beg the Court's indulgence.

21 Those are all the questions I have, Your Honor.

22 Sergeant, please answer any questions

23 Ms. Dewitt may have.

24 THE WITNESS: Captain.

25 MR. EVANS: Captain, I'm sorry.

1

2

3

CROSS-EXAMINATION

4

BY MS. DEWITT:

5

Q. Okay. So, Officer, you were one of the

6

policeman who went and picked up Ms. Wilcox?

7

A. Yes, ma'am.

8

Q. And where did y'all pick her up at?

9

A. Oak Plaza trailer park.

10

Q. So, basically, at her residence?

11

A. Well, she was coming from a neighbor's house in

12

the area.

13

Q. And at the time you picked her up, she was a

14

suspect in the case; is that right?

15

A. She was a suspect, yes, ma'am.

16

Q. And, in fact, when you got to the police

17

department, someone -- you or the other officer read

18

her her Miranda warnings, didn't you?

19

A. We did.

20

Q. Which is what you're required to do when you

21

think somebody may have committed a crime or been

22

involved; is that right?

23

A. Yes, ma'am.

24

Q. So at that time -- I mean, she was basically in

25

custody, wasn't she?

- 1 A. She was. She was in custody.
- 2 Q. And you read her her rights. And then she
- 3 waived her rights and talked to y'all; is that what
- 4 happened?
- 5 A. Yes, ma'am.
- 6 Q. Okay. Now, it's true that her -- she did not
- 7 know the name of the person who robbed the store,
- 8 correct?
- 9 A. She did not know the name.
- 10 Q. Did she know the name of whoever may have been
- 11 driving the vehicle?
- 12 A. She did not know the name, no, ma'am.
- 13 Q. Did she indicate to you or tell you that she
- 14 can't see worth a darn, that her vision is blurry?
- 15 A. I'm sorry? I didn't get that.
- 16 Q. Did she tell you she cannot see well?
- 17 A. No, ma'am.
- 18 Q. Was she wearing glasses at the time that you
- 19 talked to her?
- 20 A. I don't remember.
- 21 Q. Do you know if she was wearing glasses -- did
- 22 you notice if she was wearing glasses in the video
- 23 from the store?
- 24 A. I don't remember. It's been so long since I
- 25 have seen the video. I don't remember if she had

1 glasses on or not.

2 Q. Okay. So, basically, she was a suspect at the
3 time she was first taken to the police station. And
4 was she aware of the situation you were questioning
5 her about?

6 A. She was aware.

7 Q. She knew she was being questioned about an
8 armed robbery at Snappy Foods?

9 A. Yes, ma'am.

10 Q. And was she aware that her -- her cousin was a
11 suspect in that case, too, right?

12 A. Her what?

13 Q. Her cousin Mr. Finnel.

14 A. I don't know whether they're related or not. I
15 don't know.

16 Q. Was she aware of the names of any of the other
17 suspects then?

18 A. Not that I know of.

19 Q. And you testified you don't know if
20 Mr. Finnel's related to her or not?

21 A. I don't know if they're related.

22 Q. Now, at what point in time did you watch the
23 video and decide that she was not a suspect?

24 A. We watched that video numerous times and
25 watched the incident as it happened. And we came to

1 that conclusion from the way she was acting in that
2 video that she didn't have anything to do with it.

3 Q. Does the video or the part of the video you saw
4 show the individuals getting out of the vehicle at
5 the store?

6 A. Did it show that?

7 Q. Yes.

8 A. Yes, it did.

9 Q. And how many people got out of the car?

10 A. Could be four -- three people. Sorry.

11 Q. And one person stayed in the car?

12 A. Yes, ma'am.

13 Q. How many people have been arrested in this
14 case?

15 A. Two people have been arrested in this case.
16 I'm thinking two -- three people -- two people, I'm
17 sorry, have been arrested in this case.

18 Q. All right. The -- how much time -- at what
19 point in time was Ms. Wilcox released to go home?
20 How long was she held?

21 A. Probably about an hour.

22 Q. Could it have been -- well, about an hour.
23 Did you have to give her a ride home?

24 A. I think someone took her back to the house.

25 Q. Okay. So your part in this investigation then

1 was picking up -- picking up Ms. Wilcox and
2 participating in the questioning of her?

3 A. Yes, ma'am.

4 Q. Okay. And is that the extent of it -- and then
5 you took some evidence to SLED, correct?

6 A. I did. And went to Colleton County for the
7 arrest of Mr. Coleman.

8 Q. Okay. Now, you were present -- you were
9 present when Mr. Coleman got arrested here. And do
10 you know where he was located?

11 A. I don't know the street name in Colleton
12 County, no, ma'am. But he was in the city of
13 Walterboro.

14 Q. Do you know whose residence it was?

15 A. Could be his uncle. I'm not sure.

16 Q. To your knowledge, was it a residence that was
17 in Mr. Coleman's name?

18 A. I have no idea whether it was his name or not.

19 Q. Isn't it true that Mr. Coleman's uncle gave
20 y'all permission to search his house?

21 A. Yes, ma'am.

22 Q. Did you locate any guns, sweatshirt, or
23 anything else in that house?

24 A. No, ma'am.

25 Q. And are you aware he was arrested the day after

- 1 the robbery at the store?
- 2 A. I think so.
- 3 Q. It was pretty quick, right?
- 4 A. Yes, ma'am.
- 5 Q. No evidence of the robbery was found at the
- 6 location, correct?
- 7 A. Correct.
- 8 Q. And did your department also seize a vehicle?
- 9 A. We towed a vehicle. We had one towed. Right.
- 10 Q. Do you recall?
- 11 A. Yes, ma'am.
- 12 Q. Okay. Did you participate in searching any
- 13 vehicle?
- 14 A. I did not.
- 15 Q. You did not?
- 16 A. No, ma'am.
- 17 Q. Do you know who did search that vehicle?
- 18 A. I do not know.
- 19 Q. Do you know whatever happened to the vehicle?
- 20 A. It got towed to the tow shop. They towed it to
- 21 the tow yard.
- 22 Q. To where, sir?
- 23 A. To the tow yard.
- 24 Q. In Colleton County or Yemassee?
- 25 A. It was originally towed to Yemassee, then he

1 towed it back to the tow yard.

2 Q. To your knowledge, was any evidence of this
3 robbery found in any vehicle?

4 A. No, ma'am.

5 Q. And to the best of your knowledge, there was
6 never a gun recovered? There was never a sweatshirt
7 like the robber wore recovered? No money was ever
8 recovered, correct?

9 A. Correct.

10 Q. Okay. Did Mr. Coleman have any cash on him at
11 that time he was arrested the day after the robbery?

12 A. What do you mean cash? Any property?

13 Q. Yes, sir.

14 A. I don't recall.

15 Q. Okay. If he had had cash or a couple hundred
16 dollars of cash on him, would you have seized it?

17 A. It would have gone in his property. I wouldn't
18 have seized it, no, ma'am.

19 Q. You would not have?

20 A. No, ma'am.

21 Q. Would it have been recorded in the report?

22 A. If we took the property, it would have been
23 recorded in the report.

24 Q. But if you found a bunch of cash, like cash
25 obtained from a robbery, you would not have

- 1 confiscated that money?
- 2 A. Yes, ma'am.
- 3 Q. Oh, you would have?
- 4 A. Would have.
- 5 Q. And then it would have been written in the
- 6 report, correct?
- 7 A. Correct.
- 8 Q. And in this case, there was no money taken from
- 9 the defendant, right?
- 10 A. Not from us, no, ma'am.
- 11 Q. Okay. Now, you testified about obtaining a DNA
- 12 swab. How exactly was that done? Did someone take
- 13 Mr. Coleman to this nurse or did she come to the
- 14 jail or wherever he was?
- 15 A. The nurses at the jail. They have a nurse at
- 16 the jail. And he was already incarcerated, so they
- 17 just have to bring him across the hall to the nurse
- 18 and get the samples from him.
- 19 Q. He was incarcerated because you had arrested
- 20 him, right?
- 21 A. He was arrested. Yes, ma'am.
- 22 Q. And that's why he was in jail. So the jail
- 23 nurse is who was used to obtain a swab?
- 24 A. Yes, ma'am.
- 25 Q. And were you present when she did it?

1 A. I was.

2 Q. And when she did that and then she -- the nurse
3 herself put it in the tube and sealed it and then
4 handed it directly to you, correct?

5 A. Yes, ma'am.

6 Q. Okay. And how close in time was that to the
7 date of arrest?

8 A. I have the evidence here. I wouldn't know
9 until I look on it.

10 Q. You still have the evidence up there? You have
11 the date and time written on it, correct?

12 A. Sergeant Strauss would have to answer that.

13 Q. So that date and time.

14 Do you think it was pretty close to when he was
15 arrested?

16 A. I wouldn't recall much until I look on the
17 evidence bag. I mean, I can't recall. I can't
18 answer that question.

19 Q. When you receive a sample, how long did you
20 keep it before you took it to SLED?

21 A. It went straight to SLED.

22 Q. Immediately?

23 A. Immediately.

24 Q. Isn't it true that your department had to
25 obtain a second DNA sample from Mr. Coleman?

1 A. No, ma'am.

2 Q. You're not aware of it?

3 A. No, ma'am. We didn't.

4 Q. So it's your testimony that you were only
5 involved in the taking of one sample?

6 A. Yes, ma'am.

7 Q. And that it was immediately driven to SLED
8 after you received it?

9 A. Yes, ma'am.

10 Q. When you say immediately, do you mean the next
11 day?

12 A. The same day.

13 Q. Same day?

14 A. Yes, ma'am.

15 Q. And it actually was SLED in Columbia, correct?

16 A. Correct.

17 MS. DEWITT: Thank you. That's all the
18 questions I have for him.

19 THE COURT: Anything further, Mr. Evans?

20 MR. EVANS: Briefly, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. EVANS:

23 Q. Captain.

24 A. Thank you.

25 Q. You didn't have anything to do with the sample

1 once you took it to SLED, correct?

2 A. Correct.

3 Q. Do you have knowledge of where it went after
4 that?

5 A. Once it got to SLED?

6 Q. Yes, sir.

7 A. No, sir. It just got compared with the sample
8 that already was there to compare it against.

9 Q. Where do y'all ask to do DNA analyses,
10 generally? Where does Yemassee PD generally send
11 the DNA?

12 A. SLED.

13 Q. Do you ever send it to Beaufort County?

14 A. Sometimes.

15 Q. Sometimes?

16 A. Yes, sir.

17 MR. EVANS: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 BY MR. EVANS:

21 Q. Do you recognize what I'm passing you?

22 A. Yes, sir.

23 Q. What is that?

24 A. That's the DNA sample swabs that we got from
25 Mr. Coleman.

1 Q. The ones you testified about in this case?

2 A. Yes, sir.

3 Q. How can you tell that?

4 A. By the packaging of the swab and my
5 handwriting.

6 Q. Is your name anywhere on that?

7 A. Yes, sir.

8 MR. EVANS: Your Honor, the State would move
9 this bag into evidence as State's Exhibit No. 8.

10 THE COURT: Without objection?

11 MS. DEWITT: Yes, Your Honor.

12 THE COURT: Without objection, State's 8.

13 MR. EVANS: Thank you, Your Honor. Those are
14 all the questions I have.

15 (State's Exhibit No. 8 marked for
16 identification and admitted into evidence.)

17 THE COURT: Anything further, Ms. Dewitt?

18 MS. DEWITT: Not from this witness, Your Honor.

19 THE COURT: All right.

20 Captain, you're excused.

21 THE WITNESS: Thank you.

22 THE COURT: Okay. May I see the lawyers really
23 quickly?

24 (Sidebar conference.)

25 THE COURT: Ladies and gentlemen, it is almost

1 1:00, so we're going to go ahead and break for
2 lunch. I'm going to ask you to be back in your jury
3 room at 2:15 where we'll go ahead and continue with
4 the trial of the case.

5 Let me remind you, do not discuss this case
6 with each other or anyone else you come in contact
7 with; don't do any independent research.

8 Ladies and gentlemen, grab a bite to eat, come
9 back, and we will see you back in your jury room at
10 2:15 and continue. Thank you.

11 (Jury exits the courtroom at 12:57 p.m.)

12 THE COURT: Anything more for the record before
13 we break for lunch?

14 MR. EVANS: No, ma'am, I don't believe so.

15 THE COURT: It's my understanding you have two
16 witnesses left; is that correct?

17 MR. EVANS: Potentially three, being the chief.
18 I'm weighing that right now. But if I call him, it
19 would be brief. The other witnesses are Ms. Dawn
20 Crawford who was formerly evidence custodian for
21 Yemassee PD and is now working for our office. This
22 is actually her second day. So she -- I told Dillon
23 to have her here at 2:00. Mr. French, who will
24 obviously be our last witness, from Beaufort County,
25 I told him to be here at 2:00.

1 THE COURT: All right. We'll be at ease then
2 until a little after 2:00. We'll start back up at
3 2:15. Okay?

4 MR. EVANS: Thank you, Your Honor.

5 THE COURT: Thank you.

6 (Luncheon recess 12:58 p.m. to 2:15 p.m.)

7 THE COURT: Welcome back, ladies and gentlemen.
8 I trust y'all had a chance to get something to eat.

9 Solicitor, you may call your first witness for
10 the afternoon.

11 MR. EVANS: Thank you, Your Honor. The State
12 calls Gregory Alexander.

13 GREGORY ALEXANDER

14 being first duly sworn, testified as follows:

15 THE WITNESS: I do.

16 DIRECT EXAMINATION

17 BY MR. EVANS:

18 Q. Would you please introduce yourself and spell
19 your last name for the record, sir.

20 A. My name is Chief Gregory Z. Alexander.

21 Spelling of the last name: A-L-E-X-A-N-D-E-R.

22 Q. And how long have you been the chief of
23 Yemassee PD?

24 A. Five years.

25 Q. Do you have prior law enforcement experience

1 before that?

2 A. Yes, sir, 20 years law enforcement.

3 Q. Were you the chief on November 15th, 2018?

4 A. I was.

5 Q. Do you recall the events that brought us here
6 to this trial today?

7 A. I do.

8 Q. What can you tell us about your role in the
9 investigation?

10 A. I was one of the initial officers that
11 responded to the scene. And I helped do interviews
12 and collect evidence and supervise the guys on the
13 case.

14 Q. Were you in the interview with Ms. Wilcox?

15 A. I was.

16 Q. How did that interview begin?

17 A. How it began?

18 Q. Yes. What did you do to begin the interview?

19 A. First thing you do is read them their rights.

20 Q. Why do you read somebody their rights?

21 A. Any time you talk to somebody that may be
22 possibly involved in a crime, you read them their
23 rights just to let them know their rights.

24 They got a right to an attorney before they
25 speak to us. They got a right to talk to us. They

1 got a right not to talk to us and, during
2 questioning, they can stop talking at any time. So
3 you got to let folks know their rights before you
4 start talking to them that they potentially be
5 involved in a crime.

6 Q. So you thought she potentially was involved?

7 A. Yes, sir.

8 Q. Do you do that with everybody, whether you
9 think they're involved or not?

10 A. Do I read them their rights?

11 Q. Yes, sir. That's something you do as a matter
12 of course with all the witnesses you interview?

13 A. Absolutely.

14 Q. And was Ms. Wilcox charged in this case?

15 A. She was not.

16 Q. Why is that?

17 A. After looking at the video and talking to
18 Ms. Wilcox -- as you've seen today, Ms. Wilcox is
19 very passionate, I would say. And she was very
20 passionate that night. She convinced us out the
21 gate that she wasn't involved with it. And it
22 corroborated with her story, once we looked at the
23 tape, how she ran behind the gas pumps, tried to
24 secure herself. She didn't get back in the car. So
25 we were very convinced that she didn't have anything

1 to do with it.

2 Q. So you elected not to charge her. But you did
3 charge two other people besides Mr. Coleman?

4 A. That's correct.

5 Q. Who were they?

6 A. It was Joey Coleman and Damian Finnel and --

7 Q. Mr. Ferguson?

8 A. Mr. Ferguson. Dalvin Ferguson from Colleton
9 County.

10 Q. And who was he?

11 A. He was the driver of the vehicle.

12 Q. Chief, I'm going to show you what's already
13 been entered into evidence as State's Exhibit 8. Do
14 you know what that is?

15 A. Those are sterile swabs.

16 Q. From this case, correct?

17 A. Absolutely.

18 Q. You didn't take those, though, did you?

19 A. No, sir, I did not.

20 Q. Are you familiar with why we took them?

21 A. Yes, sir.

22 Q. What can you tell us about that?

23 A. Solicitor read evidence --

24 Q. Me?

25 A. Yes.

1 Q. Okay.

2 A. Solicitor read evidence, suggest that we do a
3 Schmerber order to take DNA from Mr. Coleman to
4 match the DNA from that Miller Life --

5 Q. State's Exhibit No. 2?

6 A. Yes. Miller High Life bottle there.

7 Q. And I told you to get a sample directly from
8 him?

9 A. Correct.

10 Q. What did I tell you to do with that sample?

11 A. You told us to take that sample to SLED.

12 Q. Was that right? Tell the truth.

13 A. No, sir. It was not correct.

14 Q. So I made a mistake?

15 A. You made a mistake, yes.

16 Q. What was my mistake? Explain that to the jury.

17 A. His mistake was he didn't realize that we took
18 the other DNA to Beaufort County lab in Beaufort to
19 get the DNA analysis done. So when he told us to
20 take the swabs, he said take the swabs to SLED. I
21 didn't argue with him. I thought maybe the systems
22 would talk to each other, the CODIS system. So I
23 acknowledged with the solicitor, and that's when he
24 had Captain Loadholt take the DNA to SLED in
25 Columbia.

1 Q. All right. And what happened when I realized
2 my mistake?

3 A. Well, once it was late on getting the results
4 back, I called the chief of SLED, Mark Keel, and I
5 asked him -- I said, can we put a rush on this case,
6 because this case is coming up for trial? And he
7 said, let me go talk to my lab.

8 When he spoke to his lab, his lab was like,
9 well, we didn't take the original DNA, so what y'all
10 need to do is take the DNA back to Beaufort County
11 so they can compare the two DNAs.

12 Q. And did you have an officer assigned to do
13 that?

14 A. We did.

15 Q. Who was that officer?

16 A. The evidence custodian, Dawn Crawford.

17 Q. To the best of your knowledge, did she do that?

18 A. Oh, she did it.

19 Q. Picked it up from SLED and take it down to
20 Beaufort?

21 A. Yes, sir.

22 Q. All right.

23 MR. EVANS: Those are all the questions I have
24 for the chief.

25 Chief, please answer any questions Ms. Dewitt

DIRECT EXAMINATION OF TIMOTHY FRENCH BY MR. EVANS

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1 may have.

2 MS. DEWITT: No questions.

3 THE COURT: Thank you. You may step down.

4 MR. EVANS: May we approach?

5 THE COURT: You may.

6 (Sidebar conference.)

7 MR. EVANS: The State calls Tim French.

8 TIMOTHY FRENCH

9 being first duly sworn, testified as follows:

10 THE WITNESS: I do.

11 DIRECT EXAMINATION

12 BY MR. EVANS:

13 Q. Good afternoon.

14 A. Hi.

15 Q. Would you introduce yourself and please spell
16 your last name for the record.

17 A. Timothy French, F-R-E-N-C-H.

18 Q. And where do you work, sir? What do you do?

19 A. I work for the Beaufort County Sheriff's Office
20 in the forensic services laboratory. I analyze DNA
21 evidence.

22 Q. What kind of education, training, and
23 experience do you have to go through in order to do
24 that job?

25 A. My education is I have a Bachelor of Science

1 degree from State University in New York with a
2 major in biology and minors in chemistry and math.

3 After getting into the forensic field, I have
4 additional trainings from the FBI Academy in
5 Quantico, Virginia, and conventional forensic
6 serology course at the Serological Resource
7 Institute in San Francisco on bloodstain analysis
8 sytem and advanced DNA training at Marshal
9 University.

10 Q. And how long have you been doing this kind of
11 work?

12 A. I've been with the Beaufort County Sheriff for
13 12 years. Prior to that, I worked 10 years at the
14 Charlotte Mecklenburg Police crime lab in North
15 Carolina. Prior to that, nine years at the Syracuse
16 Police Department crime lab in New York.

17 Q. Have you ever been qualified as an expert in
18 court before?

19 A. I have.

20 Q. How many times would you say, approximately?

21 A. In DNA, 14 times.

22 Q. All right.

23 MR. EVANS: Your Honor, the State would tender
24 Mr. French as an expert in the field of DNA
25 analysis.

DIRECT EXAMINATION OF TIMOTHY FRENCH BY MR. EVANS

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1 THE COURT: Any voir dire?

2 MS. DEWITT: No, Your Honor.

3 THE COURT: Ladies and gentlemen, in this case,
4 Mr. French is being qualified as an expert in the
5 area of DNA analysis. That allows him to give his
6 opinion and the reasons for his opinion. And that's
7 for you to use as you see appropriate and also
8 compare to other evidence in this case.

9 MR. EVANS: Thank you, Your Honor.

10 BY MR. EVANS:

11 Q. Mr. French, this is a Hampton County, Yemassee
12 Police Department case. How does Beaufort County
13 Sheriff's Office get involved?

14 A. They asked us to analyze the evidence further.

15 Q. Is that something that happens regularly;
16 you're analyzing evidence that comes from other
17 agencies?

18 A. We do everybody within this circuit, if they
19 ask us to do it. We test all evidence in Beaufort
20 County.

21 Q. Do you recall what you were asked to test?

22 A. I was brought two shell casings, a water
23 bottle -- lemonade bottle, and a beer bottle.
24 Initially, that's what I received.

25 Q. State's Exhibit 2, does this look like the beer

1 bottle you received?

2 A. Yes.

3 Q. What did you do with it? And let me also ask,
4 State's Exhibit 6, I'll hand up to you, does this
5 look familiar to you?

6 A. Yes, it does.

7 Q. What is that?

8 A. This is a package with the two shell casings.

9 Q. Okay. What, if anything, did you do when you
10 received State's Exhibits 2 and 6?

11 A. The casings, I swabbed with a cotton swab kind
12 of like a Q-tip to try to get DNA off that. On the
13 swab of the casings, I did not get any DNA.

14 On the Miller High Life bottle, I swabbed the
15 mouth of it, again with a cotton swab, and I
16 obtained a mixture of DNA, which means more than one
17 person present.

18 Q. Let me ask you this: There's a couple
19 different ways DNA can get on a physical object,
20 right? I mean, we could have blood; we could have
21 semen; we could have saliva?

22 A. Yeah. There's different types of substrates
23 that can give you DNA.

24 Q. What were we looking for in this one? Or does
25 it matter?

- 1 A. In this case, we're looking for skin cells.
- 2 Q. From a person's hands?
- 3 A. Hands, mouth, yeah.
- 4 Q. Any part of the surface of their body?
- 5 A. That's correct.
- 6 Q. You said you did not find anything usable that
- 7 you could get a DNA profile from State's Exhibit 6?
- 8 A. I did not get DNA at all.
- 9 Q. Is that common with shell casings?
- 10 A. It's pretty common. Yes.
- 11 Q. Why is that?
- 12 A. It's a very small surface. The act of firing
- 13 it produces a lot of heat, so that can degrade the
- 14 DNA.
- 15 Q. Burn off what's left behind?
- 16 A. Yes.
- 17 Q. How about State's Exhibit 2, the beer bottle?
- 18 A. What's the question?
- 19 Q. You're right. That was a very bad question.
- 20 What, if anything, were you able to get off of that?
- 21 A. I got a mixture of DNA off the mouth.
- 22 Q. What does that mean, if anything, to you?
- 23 A. It means there's more than one person there.
- 24 Q. You also mentioned a bottle of lemonade. Did
- 25 you analyze that as well?

1 A. Yes, I did.

2 Q. What, if anything, did you get off of that?

3 A. I swabbed the mouth in the same way I did the
4 beer bottle. I also got a mixture of DNA there.

5 Q. All right. I'm handing you Exhibit 8. Does
6 that look familiar to you, sir?

7 A. Yes, it does.

8 Q. What is that?

9 A. This is what's called a buccal standard from
10 Joey Coleman. It's a swab that they take of the
11 inside of the cheek of the mouth to obtain that
12 person's DNA.

13 Q. Why is that important to someone in your line
14 of work?

15 A. That's what we compare it to.

16 Q. Because you don't -- you have to have one
17 against one? You have to have two things to look
18 at?

19 A. That's correct.

20 Q. When did you receive that, approximately?

21 A. I believe that came in around June 2019.

22 Q. And what did you do with it once you received
23 it? Well, actually, let me backtrack. Who did you
24 receive it from?

25 A. I'll have to check the chain of custody.

- 1 Q. You may refresh yourself.
- 2 A. The buccal swab I received from Dawn Crawford.
- 3 Q. Of the Yemassee PD?
- 4 A. Yes, sir.
- 5 Q. What condition was it in when you got it?
- 6 A. It was sealed up.
- 7 Q. It was sealed up? Didn't appear to be damaged
- 8 or opened in any way?
- 9 A. No.
- 10 Q. What would you have done if it had been opened?
- 11 A. We wouldn't receive it.
- 12 Q. You'd just say this doesn't work
- 13 scientifically --
- 14 A. We would just reject it because we don't know
- 15 the chain of what happened with that item.
- 16 Q. But no indication of any problem this time?
- 17 A. No.
- 18 Q. What did you do once you received it?
- 19 A. I extract DNA from it and then obtain a DNA
- 20 profile.
- 21 Q. And were you able to do so in this case?
- 22 A. Yes, I did.
- 23 Q. Did you compare that against the profile from
- 24 State's Exhibit 2?
- 25 A. I did.

1 Q. How about the lemonade bottle?

2 A. Also compared it with that.

3 Q. What were the results? What were your
4 findings?

5 A. When I compared it against the lemonade bottle,
6 Joey Coleman was excluded; meaning, I did not find
7 his DNA in that mixture. When I compared it to the
8 beer bottle, I did find that there was a match.

9 Q. To what extent? What, specifically, did you
10 find?

11 A. The way we state that match is that a match to
12 Joey Coleman is 126 quintillion times more likely
13 than a random match to an unrelated individual.

14 Q. What is a quintillion?

15 A. It's 18 zeros.

16 MR. EVANS: Those are all the questions I have,
17 Your Honor.

18 Ms. French, please answer any questions
19 Ms. Dewitt may have.

20 THE COURT: Ms. Dewitt?

21 MS. DEWITT: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MS. DEWITT:

24 Q. Good afternoon again, Mr. French.

25 A. Hi.

- 1 Q. And forgive me if I'm going to dumb this down a
2 little bit. Okay?
- 3 A. That's fine.
- 4 Q. All right. What you're looking for is DNA
5 from, basically, skin cells; is that right?
- 6 A. In this case, yes.
- 7 Q. Okay. It's called trace evidence?
- 8 A. No, not -- trace evidence is more like hair and
9 fibers. You mean trace DNA?
- 10 Q. Trace DNA.
- 11 A. Trace DNA is touch DNA. Yes.
- 12 Q. It's touch DNA. It's usually from skin cells;
13 is that correct?
- 14 A. That's correct.
- 15 Q. Okay. Skin cells that come off people when
16 they touch things?
- 17 A. That's correct.
- 18 Q. All right. Such as if I'm touching this right
19 now, I'm probably shedding some of my DNA on this
20 podium; is that fair to say?
- 21 A. Probably. Yes.
- 22 Q. Because human beings are continuously shedding
23 skin cells?
- 24 A. That's correct.
- 25 Q. So how common is it then for there to be trace

1 DNA on objects that individuals touch?

2 A. How common is it that there's DNA there?

3 Q. Yes.

4 A. It's pretty common.

5 Q. In fact, it would be all over the place, right?

6 A. That's correct.

7 Q. In the home in which I live, it would be all
8 over my house, don't you think, my DNA?

9 A. I would think so, yes.

10 Q. Or your DNA would be all over your house,
11 correct?

12 A. That's correct.

13 Q. In fact, the DNA from skin cells can be
14 transferred from person to person by shaking hands;
15 is that right?

16 A. That's correct.

17 Q. Or by being very close to somebody?

18 A. Not likely. It's usually contact with an item.

19 Q. Can I transfer DNA if I coughed or sneezed on
20 someone?

21 A. Sure.

22 Q. Could it end up on their hands if I sneezed on
23 a counter or I sneezed on a doorknob or if I sneezed
24 and wiped it off and then touched a doorknob? Could
25 I transfer my DNA onto that surface?

1 A. Yes.

2 Q. In a store setting, anyone who touches any of
3 the items in that store could be transferring their
4 skin cells, their DNA, correct?

5 A. Yes.

6 Q. Are you familiar with some of the cases
7 nationwide in which DNA actually remained on certain
8 items for, sometimes, up to 50 days?

9 A. I'm not sure of that particular time period,
10 anything that says 50 days. But, yeah, it
11 potentially could stay there indefinitely.

12 Q. Indefinitely. Okay. In cases involving
13 robberies, have you ever had the opportunity to
14 analyze DNA samples, skin cells taken off of cash
15 registers?

16 A. Yes.

17 Q. In fact, that's pretty common for police to
18 check for DNA on a register, isn't it?

19 A. Yes.

20 Q. Anywhere the money was taken from, where the
21 cash register may have been touched?

22 A. Yes.

23 Q. Or an instance where somebody may have actually
24 picked up a cash register, they could transfer DNA,
25 skin cells, right?

1 A. Potentially. We don't usually find that --
2 suspect's DNA on that, though. Potentially, it's
3 there. But, most of the time, we don't usually see
4 it.

5 Q. Let me just give you another example. If I
6 leave here today and on my way out I shake hands
7 with the attorneys and some of the police officers
8 who I met in the process of being here, am I
9 transferring my DNA onto them?

10 A. Potentially, you are. I can't say that every
11 time you touch someone you will.

12 Q. But we're continuously shedding our skin,
13 correct?

14 A. That's correct.

15 Q. When I do that and they leave here, are they
16 putting my DNA on the doorknobs they touch?

17 A. Potentially, they are. Yes.

18 Q. Okay. And when I leave, if I touch the door on
19 the way out, the front doors of the courthouse, am I
20 possibly putting their DNA as well as mine on those
21 doors?

22 A. Yes.

23 Q. Okay. If I get in my car on my way home and
24 stop at a store and then open the cooler door at
25 that store and decide to get a Diet Coke, which I

1 touch, but change my mind and get the Diet Pepsi
2 instead, am I transferring my DNA cells and possibly
3 other individuals' onto those bottles?

4 A. More likely yours. After the period of time
5 when you're touching numerous things, before you get
6 to that point, you've probably lost any foreign DNA
7 on your hands.

8 Q. But we can't say for sure?

9 A. No. Potentially, you could. But the more
10 things you touch, the more you're going to lose that
11 foreign DNA.

12 Q. So it might depend on how many hands I shook
13 and how many doors I went through and how many other
14 items I touched --

15 A. That's correct.

16 Q. -- before I got to the cooler?

17 But once I've touched those items in that
18 store, okay, if other customers come in and touch
19 the same things, are they putting their skin cells,
20 their DNA on those same items?

21 A. Yes.

22 Q. Okay. And in a cooler-type setting, isn't it
23 true that the DNA should be preserved for longer
24 periods of time?

25 A. Than at room temperature, yes.

1 Q. As opposed to, say, something left in the trunk
2 of a car where it might get entirely too hot?

3 A. That's correct, yes.

4 Q. Okay. Now, I believe it was your testimony
5 that there was DNA samples found on the lemonade
6 can -- was it a can or a bottle?

7 A. Bottle.

8 Q. And none of the DNA on that matched
9 Mr. Coleman?

10 A. That's correct.

11 Q. Okay. And I believe you also testified that
12 there was DNA from several different sources from --
13 or individuals on the Miller Lite bottle?

14 A. That's correct.

15 Q. Of which you were able to extract? Is that the
16 term you used?

17 A. I'm not sure of the question.

18 Q. What process do you go through when you've got
19 a mix of various people's DNA? What's the process
20 for trying to figure out what DNA belongs to who?

21 A. We use a software program. It's called
22 TrueAllele. And what that does is it tries to pick
23 out the possible contributors, genotypes of who's in
24 that mixture.

25 Q. Is that a fairly new procedure?

- 1 A. We've been using it for, I think, about five
2 years now.
- 3 Q. So in the grand scheme of DNA, that's not
4 considered a new procedure; is what you're saying?
- 5 A. There's some labs that don't use it. Yeah.
- 6 Q. And some labs don't use it because they think
7 it's not reliable?
- 8 A. No. They just haven't gotten around to doing
9 it yet. Everybody is going to go to some type of
10 genotype at some point in the future.
- 11 Q. So it's not unusual to find DNA of a certain
12 individual on items they may not have touched, but
13 that somebody in contact with them had touched?
- 14 A. I wouldn't say it's common to do that. But it
15 is possible, yeah.
- 16 Q. There are other ways in which a sample can be
17 contaminated, aren't there?
- 18 A. What do you mean?
- 19 Q. Well, are you familiar with any instances of
20 the Q-tip swab itself being contaminated?
- 21 A. The swab that you start with?
- 22 Q. Yes.
- 23 A. I've heard of some instances in Europe years
24 ago.
- 25 Q. Would you happen to be referring to -- I think

1 there's a famous case out of Germany --

2 A. Yes.

3 Q. -- in which there was contamination of the
4 Q-tip, the DNA swab itself, that resulted in a wrong
5 person being accused of being a serial killer. Is
6 that the case you're referring to?

7 A. Yeah. And it came back to somebody that worked
8 in a lab.

9 Q. Okay. And the swab had been basically
10 contaminated by someone who worked in the lab?

11 A. Yes.

12 Q. So mistakes do happen then?

13 A. Yes.

14 Q. Thank you, sir.

15 THE COURT: Mr. Evans?

16 REDIRECT EXAMINATION

17 BY MR. EVANS:

18 Q. Did you see any evidence of mistakes in this
19 case?

20 A. I did not.

21 MR. EVANS: That's all. Thank you, Your Honor.

22 THE COURT: Anything further, Ms. Dewitt?

23 MS. DEWITT: No, Your Honor.

24 THE COURT: You're excused, Mr. French. Thank
25 you, sir. You may step down.

DIRECT EXAMINATION OF DAWN CRAWFORD BY MR. EVANS

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1 Mr. Evans, call your next witness.

2 MR. EVANS: Dawn Crawford.

3 DAWN CRAWFORD

4 being first duly sworn, testified as follows:

5 THE WITNESS: Yes, ma'am.

6 DIRECT EXAMINATION

7 BY MR. EVANS:

8 Q. Would you please introduce yourself and spell
9 your last name for our court reporter.

10 A. My name is Dawn Crawford, C-R-A-W-F-O-R-D. And
11 I am the evidence custodian for Yemassee Police
12 Department.

13 Q. Ms. Crawford, were you the evidence custodian
14 for the past -- well, for how long?

15 A. Since July of 2017.

16 Q. And did you become involved in this case of
17 State vs. Joey Coleman, the evidence that we have?

18 A. I've seen the evidence. Yes, I have.

19 Q. What was your role as the evidence custodian?

20 A. Bringing it into the evidence room, cataloging
21 it, putting it into the computer. And I had to go
22 up to SLED to pick up some evidence.

23 MR. EVANS: May I approach, Your Honor?

24 THE COURT: You may.

25 BY MR. EVANS:

1 Q. I'm going to pass you what's been previously
2 entered into evidence as State's Exhibit No. 8. Do
3 you recognize that?

4 A. Yes, I do.

5 Q. What is that?

6 A. Those are buccal swabs.

7 Q. Did you transport these or deal with these at
8 any time?

9 A. Yes. I went up to Columbia to SLED to pick
10 them up.

11 Q. Who did you pick them up from?

12 A. Without my paperwork, I'm not sure.

13 Q. Would you like to refresh your recollection?

14 A. But it was SLED.

15 MR. EVANS: May I approach, Your Honor?

16 THE COURT: You may.

17 BY MR. EVANS:

18 Q. I'm going to pass you some documents and let
19 you look those over and see if that refreshes your
20 recollection.

21 A. Thank you. When I went to SLED, they were
22 given to me by a Bethany Davidson.

23 Q. And what did you do with them?

24 A. I brought them back to Yemassee Police
25 Department.

- 1 Q. Who did you turn them over to?
- 2 A. I put them in the evidence room that evening.
- 3 And then the next day, I took them over to BCSO lab
- 4 and turned them over to Tim French.
- 5 Q. So between SLED and Mr. French, they were in
- 6 your custody?
- 7 A. They were in my custody and then they were
- 8 locked in the evidence room, yes, overnight.
- 9 Q. Well, you're responsible for what's locked in
- 10 the evidence room?
- 11 A. Yes.
- 12 Q. Was there any tamper or damage evidence --
- 13 evident when you picked them up from SLED?
- 14 A. No, not at all.
- 15 Q. Do you know who brought them to SLED?
- 16 A. Captain Loadholt.
- 17 Q. Also of the Yemassee Police Department?
- 18 A. Yes, Yemassee Police Department.
- 19 Q. And who did he turn them over to?
- 20 A. He turned them over to Jackie Davis.
- 21 Q. At SLED?
- 22 A. At SLED.
- 23 Q. Is that the young lady who turned them over to
- 24 you at SLED or is that somebody else?
- 25 A. No, somebody else did.

1 Q. Who was that?

2 A. Bethany Davidson turned them over to me.

3 MR. EVANS: Those are all the questions I have,
4 Your Honor.

5 Please answer any questions Ms. Dewitt may
6 have.

7 THE COURT: Ms. Dewitt?

8 CROSS-EXAMINATION

9 BY MS. DEWITT:

10 Q. Ma'am, is that your only involvement in this
11 case?

12 A. Yes, ma'am.

13 MS. DEWITT: Thank you, no questions.

14 THE COURT: Anything else?

15 MR. EVANS: No, ma'am. I ask she be excused.

16 THE COURT: You are excused, Ms. Crawford.

17 MR. EVANS: May we approach?

18 THE COURT: You may.

19 (Sidebar conference.)

20 THE COURT: All right. Anything further,
21 Mr. Evans?

22 MR. EVANS: Your Honor, that would be our last
23 witness. I would like to ask that Mr. Coleman stand
24 next to the podium at this time.

25 THE COURT: And face the jury? Okay.

1 MR. EVANS: Yes, ma'am.

2 MS. DEWITT: Next to the podium?

3 MR. EVANS: Right here between my table and the
4 podium. Is that okay, Judge?

5 THE COURT: Yes. Okay.

6 (The Defendant approaches the jury box.)

7 MR. EVANS: Thank you, Your Honor. The State
8 rests.

9 THE COURT: Thank you.

10 Ladies and gentlemen of the jury, there's a
11 matter of law I need to take up with the attorneys.
12 I'm going to be back with you very shortly. I need
13 to remind you, do not discuss the case; it wouldn't
14 be appropriate to do so. And I'll be back with you.
15 Thank you.

16 (The jury exits the courtroom at 2:50 p.m.)

17 THE COURT: All right. For the record, we
18 discussed earlier about Mr. Evans wished to have the
19 jury see the side of Mr. Coleman's face. In the
20 case of State v. Moore, Supreme Court South Carolina
21 case from 1992, the Court found that constitutional
22 safeguards are only invaded when a person is
23 required to give testimonial evidence against
24 himself, and that revealing physical traits that can
25 be made by ordinary observation is not testimony in

1 nature; therefore, it's allowed. It was affirmed by
2 Justices Harwell, Finney, Toal, and Moore.

3 Respectfully, I'm noting your objection for the
4 record. I just wanted to make sure we had that,
5 Ms. Dewitt. Thank you.

6 MS. DEWITT: Thank you, Your Honor.

7 THE COURT: At this time, we need to go ahead
8 and hear motions, Ms. Dewitt. And then I need to
9 talk to your client about whether or not he wishes
10 to testify. Okay?

11 MS. DEWITT: Yes, Your Honor.

12 Your Honor, at this time, the Defense moves for
13 a directed verdict of acquittal for several reasons.
14 I do want to, one, reiterate my argument that the
15 indictments aren't valid. Actually, this Court has
16 no jurisdiction, if they're not valid, to even try
17 the case because there's no witnesses listed on this
18 indictment. They have not been signed by any
19 officer, presenting officer --

20 THE COURT: I don't know where the requirement
21 is that the officer has to sign it. I can tell you,
22 in all the indictments I've seen, it's just usually
23 a typed list of the witnesses.

24 MR. EVANS: If I may?

25 THE COURT: Yes.

1 MR. EVANS: My practice is to leave it blank or
2 leave the agency only because most agencies do have
3 one person who comes regularly, as we do with
4 Yemassee with Chief Alexander. But that's not 100
5 percent. And, oftentimes, I might not know who's
6 coming until the morning of. That's why my practice
7 is to leave it blank.

8 I think I'm going to adjust that practice after
9 this case and have them change it if their name
10 doesn't match. But I think there's a requirement
11 for a name, not necessarily a signature. I just
12 wanted to clarify. I don't believe the law requires
13 a signature; merely a name. I just asked for a
14 signature.

15 MS. DEWITT: And, of course, in this case, I
16 think the real problem was that none of the police
17 officers could say for certain under oath that he or
18 she was the one who presented the case. They just
19 had no recollection after this passage of time, I
20 think.

21 In addition, Your Honor, in viewing the State's
22 evidence in the light most favorable to the State, I
23 would ask for a directed verdict on the two
24 kidnapping charges. Perhaps false imprisonment may
25 be -- may have been a more appropriate charge.

1 I mean, I think in the video, it's clear that
2 the two clerks were behind the register. They did
3 crouch down. They didn't -- they didn't try to go
4 anywhere. But my client also did not -- I mean, he
5 had a -- the defendant -- not the defendant, but the
6 robber in the video certainly had a weapon.

7 But, at the same time, he didn't physically
8 restrain them from leaving; he did not move them
9 about the store; he didn't move them from one
10 location to, say, a storage room. And they weren't
11 removed from the scene.

12 And so I just ask that Your Honor consider that
13 directed verdict motion on the two kidnapping
14 charges in particular. And that would be the bases
15 for the directed verdict motion.

16 THE COURT: Yes, sir?

17 MR. EVANS: Your Honor, as you know from your
18 own charge, which your law clerk has given
19 Ms. Dewitt and I, there are a number of ways that
20 kidnapping can be defined.

21 I'm not aware of any law -- I'll be happy to
22 learn of it, if Ms. Dewitt can correct me -- that
23 does not allow the State to prove kidnapping by fear
24 and being forced, through other actions, to remain
25 in one place and unable to leave. And there

1 certainly was testimony to that.

2 I don't think that's the basis of her argument
3 but, certainly, Mr. Yash Patel did testify that he
4 did not feel free to leave. I think it's evident in
5 the video that neither Mr. Solanki or Mr. Patel felt
6 free to leave.

7 Reading from Your Honor's charge, seize means
8 to take hold of somebody and forcibly confine,
9 limit, restrict, or enclose within bounds, imprison
10 or shut or keep in.

11 THE COURT: I think that clearly was shown as
12 evidence by keeping them in the corner in place,
13 where before, they were freely able to walk around
14 and leave from behind the counter. But at this
15 point, the robber was between them and being able to
16 get out holding a gun to the victim's heads. So I
17 do think it meets the elements.

18 And taking the evidence in the light most
19 favorable to the State, I do think they could find
20 that they were confined by limiting, restricting, or
21 enclosing. So I'll respectfully deny your motion.

22 Anything else?

23 Ms. Dewitt, is now a good time to speak with
24 your client in regards to whether or not he wishes
25 to testify?

1 MS. DEWITT: Your Honor, I believe that my
2 client would like to talk to me privately for just a
3 short time to decide whether or not he wishes to
4 testify.

5 THE COURT: Okay.

6 MS. DEWITT: We've discussed it before. He
7 wanted to wait to hear all the State's witnesses
8 before deciding.

9 THE COURT: Well, he has now. All right.
10 So --

11 MS. DEWITT: Can we have ten minutes?

12 THE COURT: Sure. You can have a few minutes.

13 Let's just take ten minutes. We'll come back
14 at 3:05 and go from there.

15 (Brief recess.)

16 THE COURT: Have you had an opportunity to talk
17 with your client?

18 MS. DEWITT: Yes, Your Honor, I have.

19 THE COURT: Mr. Coleman, would you please
20 stand, sir? I'm just going to swear you in. Just
21 raise your right hand.

22 JOEY COLEMAN

23 being first duly sworn, testified as follows:

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Mr. Coleman, we've come to that

1 part of the trial where you are allowed to present
2 your defense. What I want you to understand is
3 this: The Fifth Amendment to the Constitution
4 states in part that no person in a criminal trial
5 will ever be required to be a witness against
6 themselves. What that means, sir, is no one can
7 force you to testify in this case.

8 But I do want you to understand that if you
9 want to testify, you can. That is certainly your
10 right. I just need you to know, sir, that if you do
11 testify, you'll be subject to cross-examination from
12 the State just as all the other witnesses have. And
13 if you have past crimes --

14 And I understand there's potentially -- you
15 have three potential past convictions, Ms. Dewitt,
16 that could be used against him; is that correct?

17 MS. DEWITT: Yes, Your Honor.

18 THE COURT: So, Mr. Coleman, at this time, have
19 you decided whether or not you wish to testify?

20 THE DEFENDANT: No, ma'am. I wish not to. I
21 plead the Fifth.

22 THE COURT: Pardon?

23 THE DEFENDANT: I wish not to. I plead the
24 Fifth.

25 THE COURT: You don't want to testify. Okay.

1 And is that your choice, sir?

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: I find that you've made that
4 intelligently and with counsel, and I appreciate it.
5 So you can go ahead and take a seat. Thank you,
6 sir.

7 All right. What we're going to do is this
8 then: I'm going to bring the jury back out. We're
9 going to have you go ahead and rest, Ms. Dewitt,
10 before the jury as well. And then I'm going to
11 bring them back tomorrow morning so you can argue
12 and charge in the morning. That will give everybody
13 a break. Okay?

14 Is that acceptable to you, Ms. Dewitt? Is that
15 okay?

16 MS. DEWITT: Yes, Your Honor.

17 THE COURT: And you, too, Mr. Evans?

18 MR. EVANS: Yes, Your Honor.

19 THE COURT: We have to be here anyway. So I
20 think it's -- okay.

21 All right. Let's bring the jury out. And I
22 propose to bring them back at 10:00. So, that way,
23 we'll have plenty of time. Is that okay with
24 everybody?

25 MR. EVANS: Yes, ma'am.

1 MS. DEWITT: Yes, ma'am.

2 THE COURT: All right. Let's bring them back
3 out.

4 (The jury enters the courtroom at 3:10 p.m.)

5 THE COURT: Ms. Dewitt?

6 MS. DEWITT: Your Honor, at this time, the
7 Defense rests.

8 THE COURT: Ladies and gentlemen, at this time,
9 the State and Defense have rested their case. What
10 we have left to do is hear the closing arguments
11 from the lawyers. I have to charge you on the law,
12 ladies and gentlemen, and then we would send it to
13 you. All that takes some time, and there's matters
14 I need to take up with the attorneys.

15 So what I'm going to go ahead and do is suggest
16 we break for the evening and have you-all come back
17 at 10:00 a.m. in the morning. And we are going to
18 be finished at that point. So we'll finish up and
19 that case will be sent to you by lunchtime, I think,
20 probably roughly noonish. Okay?

21 Ladies and gentlemen, I have to warn you again:
22 I know you have heard all the evidence in this case.
23 You haven't heard the arguments from the lawyers;
24 you haven't heard my charge on the law. It would be
25 inappropriate for you to discuss this case with

1 anyone. It would be inappropriate for you to do any
2 outside research.

3 Go home, get a good night's sleep. We have an
4 early day. And I look forward to seeing you-all
5 tomorrow morning at 10:00 a.m. and we will finish
6 the case tomorrow. And, after that, everyone will
7 be released from jury duty. Thank you.

8 (The jury exits the courtroom at 3:12 p.m.)

9 MS. DEWITT: Your Honor, at this time, I just
10 want to renew my motion for directed verdict.

11 THE COURT: Thank you. Based on the earlier
12 ruling, again, it's respectfully denied. I do think
13 there's evidence from which this jury can determine
14 that Mr. Coleman was guilty of armed robbery, two
15 counts of kidnapping, two counts of assault and
16 battery in the first degree, and possession of a
17 weapon during the commission of a violent crime.

18 I know my law clerk has given both of you a
19 copy of the jury charge, as well as the verdict
20 form. I'm going to just go over it for the record
21 very briefly. I charge that the indictment and
22 arrest is not evidence; the presumption of
23 innocence, reasonable doubt; that the jury is the
24 judge of the facts, I'm the judge of the law.

25 I covered direct and circumstantial evidence.

1 I covered credibility of the witnesses. I explained
2 expert witnesses. And then I also do the charge
3 that the defendant did not testify cannot be spoken
4 about back in the jury room. I charged that there
5 are multiple charges in this case; specifically,
6 there are six.

7 I am charging armed robbery, kidnapping,
8 assault and battery in the first degree, and
9 possession of a weapon during the commission of a
10 violent crime. And that's pretty much
11 straightforward. I think it's a pretty
12 straightforward jury charge, unless anyone asks for
13 anything specific.

14 Anything from the State?

15 MR. EVANS: Not yet, Your Honor. You know me,
16 Judge. I don't really --

17 THE COURT: All right.

18 Ms. Dewitt?

19 MS. DEWITT: Thank you, Your Honor. Of course,
20 I haven't read every single word in these proposed
21 instructions of yours.

22 THE COURT: So we'll let you know overnight --

23 MS. DEWITT: I'm guessing somewhere in here it
24 says any doubt has to be resolved in favor of the
25 defendant.

1 THE COURT: Repeatedly. Repeatedly.

2 MS. DEWITT: But if I have additional --

3 THE COURT: We'll just -- what I propose --

4 MS. DEWITT: Certainly, I'll have a draft
5 proposed --

6 THE COURT: Okay. What I propose is, tomorrow
7 morning, if we all can get here by about 20 till or
8 so. We're going to have a new court reporter
9 tomorrow, just to let y'all know. So my
10 understanding is Steve Leblanc is coming. That's
11 what they say. It could be changed. That's just to
12 let y'all know. So we will get ready to go.

13 Yes?

14 MR. EVANS: Your Honor, I did find an error on
15 the verdict form. Assault and battery first is not
16 actually violent. So the way that it's written out
17 now is armed robbery, kidnapping, kidnapping, A&B
18 first, A&B first, and then PWDVC.

19 And there's a reminder, as you usually do: You
20 may not find them guilty of PWDVC unless you find
21 guilty on at least one of the preceding charges.

22 THE COURT: Okay. Can't be one of the --

23 MR. EVANS: It can't be assault and battery
24 first and --

25 THE COURT: Right.

1 MR. EVANS: And I noticed your charge said only
2 kidnapping and armed robbery. So that's correct.
3 But however you want to resolve that.

4 THE COURT: We'll fix it.

5 So I think we're good for the day, right?

6 MS. DEWITT: Yes, ma'am.

7 MR. EVANS: Yes, ma'am.

8 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the trial of the captioned cause, relative to appeal in the Criminal Court for Hampton County, South Carolina, on the 4th of February, 2020.

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

April 23, 2020

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

1	State of South Carolina	)	In the Court
		)	Of General Sessions
2	County of Hampton	)	Indictment Nos.: 2018GS2500440
		)	2018GS2500441
3	State of South Carolina,	)	2018GS2500442
		)	2018GS2500443
4	Plaintiff,	)	2018GS2500444
	vs.	)	2018GS2500445
5		)	
	Joey Dean Coleman,	)	Partial Transcript of Record
6		)	
	Defendant.	)	
7		)	

8

9

February 5th, 2020

10

Hampton, South Carolina

11

12 BEFORE:

13

The Honorable Carmen T. Mullen, Judge, and a

14

Jury

15

16 APPEARANCES:

17

Reed Evans, Assistant State Solicitor
 Attorney for the State/Plaintiff

19

20

Diane Dewitt, Assistant Public Defender
 Attorney for the Defendant

21

22 ALSO PRESENT:

23

Joey Dean Coleman

24

25

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1 Thereupon, the following proceedings were had,

2 BAILIFF: All rise. Court come to order.

3 THE COURT: Please be seated. Good morning. Okay.
4 Mr. Coleman. All right. Just for the record, my law
5 clerk emailed you both the proposed jury charge and
6 verdict form last night and it's my understanding from
7 Ms. Dewitt that she requested a charge on false
8 imprisonment as a lesser included of kidnapping; is that
9 correct?

10 MS. DEWITT: Yes, Your Honor.

11 THE COURT: All right. Well, respectfully the case
12 of State versus Burnston, it is January 24th, 1988,
13 decided March 28th, 1988 where the Court has said the
14 defendant was not entitled to an instruction on common
15 law crime with false imprisonment as a lesser included
16 offense of statutory kidnapping because false
17 imprisonment had been incorporated into the statutory
18 offense of kidnapping so it actually is a portion of one
19 so and that's been cited and used a number of times since
20 1988 so respectfully I am not going to charge it as a
21 lesser included.

22 MS. DEWITT: Thank you, Your Honor.

23 THE COURT: Thank you. Anything else? Any other
24 objection to the charge from the State?

25 MR. EVANS: Not from the State.

1 THE COURT: From the defense?

2 MS. DEWITT: No, Your Honor.

3 THE COURT: All right. And no objection to the
4 verdict form, is that correct, from the State?

5 MR. EVANS: No, ma'am.

6 THE COURT: From the defense?

7 MS. DEWITT: Correct.

8 THE COURT: Very good. My understanding is that the
9 jury is all here so I would like to go ahead and bring
10 them in if you all are ready to go.

11 MR. EVANS: The State's ready, Your Honor.

12 THE COURT: All right. Ms. Dewitt?

13 MS. DEWITT: Yes, Your Honor.

14 THE COURT: Okay. Let's bring them in.

15 (Whereupon, the jury entered the courtroom at 10:05
16 a.m.)

17 THE COURT: Good morning.

18 (Jury: Good morning.)

19 THE COURT: It's a pleasure to see you all, ladies
20 and gentlemen. At this time what we're going to hear is
21 closing arguments from the attorneys. The State will
22 begin, the defense will respond, and then the State will
23 be allowed a brief rebuttal because they carry the burden
24 of proof in this case, and then after that I will charge
25 you on the law that's applicable to this case and we will

1 send the exhibits, my charge on the law and the verdict
2 form back into your jury room with you so you can begin
3 your deliberations, all right? Everyone okay? If at any
4 point, ladies and gentlemen, during any of this anyone
5 needs a break, just raise your hand to me, okay? I
6 appreciate it. Mr. Evans.

7 MR. EVANS: Thank you, Your Honor. May it please
8 the Court.

9 THE COURT: Yes, sir.

10 MR. EVANS: Ms. Dewitt, ladies and gentlemen of the
11 jury.

12 (Playing surveillance video.)

13 MR. EVANS: One minute. One minute to change the
14 lives of those two men forever. That's what we're here
15 about today, ladies and gentlemen. This crime may not
16 have taken a long time to achieve, but it is deadly
17 serious as you have seen for yourselves several times
18 yesterday and just now. This is a case about fear, the
19 fear that Joey Coleman put into Mr. Patel and Mr. Solanki
20 on November 15th, 2018. That's what armed robbery is
21 about. That's what kidnapping is about. That's what
22 assault and battery first degree is about. Fear. The
23 fear that that minute could be your last. And they're
24 lucky that it wasn't. He's lucky that it wasn't. That
25 second shot when he's standing right next to them, we're

1 all fortunate that this isn't a murder case.

2 And this case isn't just about fear. There's a good
3 story here, too. This is also a case about three
4 agencies from three counties working together to find the
5 truth. And we all know Yemassee is a unique case. It's
6 a town in two counties with two other counties right
7 there. As Ms. Dewitt asked couldn't across the water
8 mean any one of a number of places and that's right.
9 That's why we're all fortunate that the good people of
10 the Yemassee PD knew who to call to get it right. They
11 had this video right away. They had a picture. They
12 knew the look of the man they were looking for and Ms.
13 Wilcox gave them a little more, but they didn't have a
14 name. They knew it was a man with a tattoo on his face
15 from Colleton County.

16 But again, we are fortunate the good people or good
17 person of the Colleton County Sheriff's Office Brian
18 Varnado came here to testify to you. This isn't his
19 case. But he was there to do the right thing. He was
20 there to help them out and he got the ball rolling. And
21 the third agency Beaufort County Sheriff's Office, you
22 know what they did. We'll come back to them in a bit.

23 You're going to be asked to decide a number of
24 questions in this case because even though, as I said,
25 only a minute long, he's charged with six different

1 charges. Four crimes, six charges because there's two
2 victims. Armed robbery. Well, Ms. Dewitt told you
3 yesterday this was an armed robbery. They're not going
4 to argue against that. The video tells you that. Armed
5 robbery is when you take something of value from another
6 person by force using a deadly weapon or the appearance
7 of a deadly weapon so in theory you commit armed robbery
8 like this (indicating), hand in your pocket. That's not
9 what we have here. A hand in a pocket didn't produce
10 these (indicating.) A hand in a pocket didn't send a
11 bullet flying through these cigarettes and flying right
12 past the heads of our victims. This was a real armed
13 robbery with a real gun and again, fortunately they're
14 not gonna waste your time by telling you it wasn't so
15 that decision is made for you.

16 This was two counts of assault and battery first
17 degree. What does that mean? Assault and battery first
18 degree can mean a number of things. The Judge is gonna
19 tell you about them. In this case we can prove that to
20 you in two different ways. One, does the defendant
21 injure somebody during the commission of a robbery?
22 Well, we know it's a robbery. You have watched the
23 video. There is clearly injury to both men. Slaps Mr.
24 Patel with his hand and he slaps Mr. Solanki with a gun.
25 She's also going to tell you that assault and battery

1 first degree can be shown by the offer or attempt to
2 injure someone through means likely to cause death or
3 great bodily injury.

4 What does it mean likely to cause death or great
5 bodily injury? How about a loaded gun? How about firing
6 a loaded gun right next to the head of another person.
7 Does that sound like an offer to injure them? So it is
8 assault and battery first degree two counts. It is
9 possession of a weapon during the commission of a violent
10 crime. And this is gonna be the easiest choice you will
11 make all day, because the Judge is going to tell you that
12 possession of a weapon during the commission of a violent
13 crime is exactly what it sounds like. If you commit a
14 crime that is considered violent under the law and you
15 use in this case a gun to do so, you have committed
16 another crime.

17 Well, we know it's an armed robbery. The Judge is
18 going to tell you armed robbery is a violent crime. We
19 know that he used a gun. That one is already done. But
20 what about kidnapping? We have two counts of kidnapping.
21 When you walked in here yesterday or maybe even today you
22 might be thinking to yourself kidnapping, that's when
23 like the Lindbergh baby, somebody is abducted, there's a
24 ransom note, you have negotiations back and forth between
25 the kidnapper and the parents. Well, sure, that is

1 kidnapping. But that's not all that kidnapping is. The
2 Judge is going to charge you on the law and again, like I
3 said yesterday, if she says something doesn't sound like
4 what I'm saying, you listen to her. She's the Judge of
5 the law. But I believe she's going to tell you that
6 kidnapping means a number of different things including
7 to confine, to seize, essentially to make it clear to
8 someone that they can't move.

9 Do these look like two men who are free to move?
10 You heard Mr. Patel say he was so scared after this he
11 couldn't even dial 911 his hands were shaking so bad.
12 They weren't free to go anywhere for that minute and
13 there's no length of time requirement. So it is a
14 kidnapping, it is for all these charges, all six counts.

15 What then is the question that you have to decide?
16 I would submit there is only one question for you today.
17 Was it him? Was it Joey Coleman, or was it someone else?
18 Because you have seen it with your own eyes. You know
19 that someone committed these six crimes. Was it Joey
20 Coleman or was it somebody else? That's the issue of
21 identification, and that's the issue in every case tried
22 in this courtroom. There can be no doubt anymore that
23 this was Joey Coleman.

24 You've watched the video several times. That alone
25 should be enough. But it's not all you have. You heard

1 from this stand Karen Wilcox point him out right away.
2 She doesn't know his name. She remembers his face, a
3 face with a tattoo. That's not all you have. You have
4 Detective Varnado. Again, not his case, not even his
5 county, but Mr. Coleman is from his county. Like
6 Hampton, Walterboro is just a stones throw away from
7 Yemassee. He knew who he was. Knew him immediately.
8 Told the Yemassee PD this is the guy you're looking for.
9 That wasn't challenged. Detective Varnado knows who he
10 is.

11 What else do we have? We have -- I want to make
12 sure I get this right -- from Mr. French we know this was
13 submitted to him, State's Exhibit number 2, bottle of
14 Miller High Life. You can see that in this video. The
15 man who pulled the gun touched this bottle, this one in
16 my left hand just before he started this. He left his
17 DNA on it just like I'm leaving mine on it right now.
18 That was collected by Yemassee PD, sent down to Beaufort
19 County. State's Exhibit number 8, DNA swabs that Captain
20 -- I got that wrong -- that Captain Lovell saw taken from
21 the cheek of Joey Coleman with his own eyes, sealed up,
22 sent first to SLED and then to the Beaufort County
23 Sheriff's Office where Mr. French compared the two,
24 right? Because DNA analysis you can't just find a
25 profile and then search the world. You have to go one to

1 one. So we have a known standard from Mr. Coleman.
2 That's State's Exhibit 8. We have the standard of the
3 robber. That's from the beer bottle. He matches them
4 up. Well, there's a mixture from the beer bottle. Not
5 unexpected. It's passed through commerce. Lots of
6 people touch them, right?

7 You heard Mr. French say that there was a mixture of
8 DNA profiles on the Miller High Life bottle. But what
9 did he say next? He compared that mixture against Joey
10 Coleman and found that it was 126 quintillion times more
11 likely that Joey Coleman was one of those people in the
12 mixture than a coincidence. That's a number so extreme I
13 had to ask him what it meant. 18 zeros he said is one
14 quintillion. That's a billion squared. A billion
15 billions is one quintillion. This is 126 times that. So
16 yes, Joey Coleman's DNA is on that bottle.

17 Ms. Dewitt asked a lot of questions about can't DNA
18 results be tampered with? Or the raw materials that come
19 to DNA? She didn't ask - she didn't challenge the
20 results because she knows Mr. French knows what he's
21 doing. And again, this isn't his case, it isn't his
22 county. It is his agency. He's asked to do a service
23 and he does it because it's the right thing to do. He
24 testified he would not have even accepted a standard, a
25 buccal swab that appeared to have been damaged, tampered

1 with, lost. That's a no go, because then the science
2 doesn't work, but there is no evidence of that. Every
3 question she asked was hypothetical. He had the right
4 tools to do his job and he did it.

5 Well, then, what else? How else did she ask him
6 about the DNA? Couldn't someone -- DNA doesn't tell you
7 when a person touches a particular item, does it? No.
8 Of course not. But what do you have to believe to buy
9 this argument, that Joey Coleman delivered the beer?
10 That he touched that particular bottle earlier in the
11 day, put it back in the cooler and left? Or, and then a
12 man who looks remarkably similar to him happens to grab
13 that particular bottle and commit this heinous act.
14 That's what you would have to believe. And that defies
15 common sense. You are not required to check your common
16 sense at the door, folks. In fact, I would ask that you
17 use it.

18 I think that Ms. Dewitt is also going to challenge
19 Ms. Wilcox and tell you that she's been convicted of
20 crimes, shoplifting when she was young long ago. She's
21 going to tell you that Ms. Wilcox has trouble with her
22 eyes for the last two months is what I heard. But again,
23 this isn't a case where we're only being asked to
24 evaluate Ms. Wilcox. First of all, I think she came off
25 as very impressive. She knows who this was. If she was

1 here to spin a tale and try to put a man away for the
2 wrong reasons because she doesn't like him, don't you
3 think she would have used his name? The fact that she
4 didn't know his name then, doesn't know his name now,
5 makes her more credible and you are entitled to assess
6 her credibility just like every other witness. She's the
7 only one whose credibility was even challenged because
8 most of the witnesses who you saw yesterday were
9 professionals, Yemassee PD, Hampton County Sheriff's
10 Office and Beaufort County Sheriff's Office who are doing
11 their jobs.

12 Again, Ms. Wilcox, if this were a case where she was
13 all we had, that might be one thing but that is not this
14 case. You have everything you need in that minute. She
15 corroborates. And Ms. Dewitt I imagine is going to say,
16 well, she was a suspect. She was Mirandized.

17 (Playing surveillance video.)

18 MR. EVANS: Remember what we're about to see here.
19 The white SUV pulling up, Ms. Wilcox getting in the car.
20 Here he comes, and there she goes to hide behind a pump.
21 Does that look like a suspect? Watch here. She ducks as
22 that car goes past that SUV. She told you all that
23 before she watched the video, that he was still firing as
24 he left. Everything she said is corroborated by this
25 video. What does she say she was at the store for?

1 (Playing surveillance video.)

2 MR. EVANS: Dish soap. You can see it clear as day
3 in Mr. Solanki's hand, that blue bottle there. Again,
4 she didn't watch this video before she testified to you.
5 She told you she went into the store to buy dish soap.
6 That's what she was there for. She went and she made her
7 purchase, she went back outside and heard gun fire and
8 that's exactly what this video shows. So she may have
9 run into trouble in the past, but you should believe her
10 because you can see that she's telling the truth. And
11 she said that man over there is the one that did this.
12 He's the one that came running out to get in the car she
13 was in and fired as he was driving away. That's the man
14 in this courtroom. That's the man who put the fear into
15 Mr. Solanki and Mr. Patel. He wasn't even done. He's
16 still firing as he drives away. Is it to scare people
17 from chasing him? Is it just celebrate? Who knows.
18 That's not a question you have to answer today. But he's
19 the one who made Mr. Patel and Mr. Solanki in fear that
20 they were about to die. He's the one with the tattoo on
21 his face. He's the one in that video. And he's the one
22 that you're going to find guilty.

23 THE COURT: Thank you, Mr. Evans. Ms. Dewitt.

24 MS. DEWITT: Thank you, Your Honor. May it please
25 the Court.

1 THE COURT: Yes, ma'am.

2 MS. DEWITT: Good morning.

3 (Jury: Good morning.)

4 MS. DEWITT: You know, there's no question that an
5 armed robbery occurred on November 15th, 2018 at the
6 Snappy Food which is right up exit 38 by 95 in Yemassee.
7 Most of y'all are familiar with Yemassee I'm sure if
8 you've lived here. It was always my understanding there
9 were actually four counties that meet in Yemassee, it's
10 Beaufort, Jasper, Hampton and Colleton.

11 Now, I think it's perfectly clear, nobody disputes
12 the fact that those clerks, two clerks in there were
13 scared out of their minds and traumatized from what
14 happened. You could see in the video how quickly and all
15 of a sudden it happened and this store that was very busy
16 that day in the middle of the afternoon with lots of
17 people in and out, in and out, in and out, a store right
18 off the interstate and actually not far from the
19 elementary school.

20 But let's talk about what we don't have. In this
21 case you have got no gun. When the police arrested
22 Mr. Coleman the next day, they went in his house. They
23 searched his house. They do not have that God awful
24 sweatshirt the robber is wearing. Looks like it has gold
25 or yellow glitter on it. They found no money. They

1 found no evidence relating him or connecting him to the
2 robbery. They found nothing in the vehicle that was
3 searched. There's been no evidence about that car that
4 was shown in the video. There's no testimony that the
5 police officers even talked to my client. None of the
6 police officers testified they even asked him any
7 questions. There's no testimony they asked him if he
8 committed that crime, because no one bothered to ask him.

9 Mr. Coleman has not pled guilty to this charge
10 because he says he's not the robber in that video. That
11 is not him on the video. He is not the person in the
12 photograph that's in evidence, this photograph that's in
13 evidence that was sent to Officer Varnado. You have seen
14 Mr. Coleman. He was displayed to you by the prosecutor.
15 He does not have a teardrop tattoo on his face.

16 Now, the State produced for you the testimony of Ms.
17 Karen Wilcox. She was quite colorful. Even admitted
18 she's under the influence of some medications or
19 something. She sat on that stand way up here and pointed
20 to Mr. Coleman all the way across the courtroom and ID'd
21 him as the man she talked to that day and then later said
22 she can't see, her vision's blurry, and I submit to you
23 there's no way she could sit in this chair, look all the
24 way across the courtroom and see his face. She can't see
25 his face from here if she has blurry vision. She wasn't

1 wearing any glasses. She didn't have glasses at the time
2 she met the man in the car. The one thing she was
3 consistent on is the teardrop tattoo which Mr. Coleman
4 does not have.

5 Her testimony was she talked to a man who was riding
6 in the front passenger seat of a car. She said she
7 talked to him at his face and clearly saw a teardrop
8 tattoo. I don't know if y'all have ever seen one of
9 those, but they're not that uncommon nowadays. Young
10 people seem to have tattoos. And then she got in the
11 back seat behind the person and rode the very short
12 distance to the store and that was the contact she had
13 with the man, the man she did not know, the man she told
14 the police she hadn't ever seen before.

15 Now, at the time she was interviewed by the police,
16 she was in custody. I can imagine how upset she may have
17 been that day and how emotional I think is the word that
18 she used. She was, that they had her in a custodial
19 setting after Mirandizing her as a possible suspect in an
20 armed robbery. But the consistent thing she always said
21 was teardrop shaped tattoo and you saw Mr. Coleman
22 yourself. He does not have that.

23 Mr. French got up and testified about two items that
24 were submitted to him to be tested for what's called
25 trace DNA. Okay. Trace DNA, and I apologize for trying

1 to make this explanation more simple for you and me and
2 the defendant, we all leave trace DNA. It comes from
3 skin cells on everything we touch. It's all over the
4 place. Two items though were submitted. One was a
5 Minute Maid bottle, two items that the robber touched and
6 took to the register, the other was the Miller beer
7 bottle. Well, the Minute Maid bottle is not in evidence
8 or can. It's not in evidence. It is in the video, but
9 it's not in evidence because none of Mr. Coleman's DNA
10 was on that can that was put on the counter.

11 Mr. French testified there was a match on the Miller
12 beer bottle. He also testified that the DNA can be
13 transferred from your hands to an object or could be in
14 any store, anybody that opens that door who touches an
15 item and puts it back is gonna leave some DNA on it.
16 That DNA he testified to could remain there indefinitely
17 is the word he used. Indefinitely. Especially if it's
18 in a cool setting as opposed to being left out in the
19 heat or exposed to extreme heat. And that's a scary
20 thought. He acknowledged there were some cases he had
21 heard of nationwide, worldwide, even a famous case in
22 which a person was falsely arrested on the basis of trace
23 DNA.

24 Now, I submit to you that trace DNA analysis and
25 evidence is junk science. It doesn't tell us when an

1 item was touched, often doesn't tell us how many
2 different people touched something. It has limits. I
3 want y'all to consider whether or not that weight, the
4 weight of that evidence. The Judge I think will instruct
5 you you have to consider what weight to give evidence and
6 whether or not you think it's junk science or whether or
7 not you think the DNA could have gotten on that bottle in
8 some other way or at some other time. Based on
9 Mr. French's testimony it's highly probable it could have
10 been at some other time.

11 Now, Officer Varnado's testimony was short. He was
12 presented a photo and he said it looks like Joey Coleman
13 and that's about all he said. Well, the Yemassee Police
14 Department took that information and they ran with it
15 basically is what happened.

16 Now, you can look at the photo. The evidence should
17 be back there with you in your deliberations. You look
18 at that photo and you decide if that looks like my client
19 Mr. Joey Coleman. The person in that video may or may
20 not look similar to Joey Coleman to each of you, but
21 Mr. Coleman says that is not him. He's not the person in
22 the photograph. That is the only evidence in the case
23 against Mr. Coleman, in this case where he's charged with
24 numerous serious crimes that occurred at a location right
25 off I-95 which as you know Yemassee is right there at 95,

1 it's across the river from Savannah. Easy hop to jump on
2 that interstate, drive out from Savannah, get back on and
3 get out of town before the police ever even make it to a
4 convenient store in Yemassee.

5 I would ask that you pay careful attention to the
6 Judge's instructions and you make the determination as to
7 whether or not you believe the State of South Carolina
8 has proven each and every element of every crime that
9 Mr. Joey Coleman is charged with, but more importantly,
10 the most important thing, you have to decide in your
11 deliberations whether or not they have proven beyond a
12 reasonable doubt that Mr. Coleman is the man who robbed
13 that store. I ask that you return a verdict of not
14 guilty on these charges. I thank you for your service
15 and I thank you for paying attention to me. Thank you.

16 THE COURT: Thank you.

17 MR. EVANS: No rebuttal, Your Honor.

18 THE COURT: No rebuttal. All right.

19 MISTER FOREPERSON, members of the jury, you have
20 followed very patiently and listened very attentively to
21 the presentation of the evidence in this case, and I want
22 to thank you for that. It now becomes the duty of the
23 trial judge under the Constitution if this State to
24 charge and instruct you on the law that's applicable to
25 this case, and it is your duty as jurors to accept and

1 apply the law as the Court will now state it to you. As
2 jurors, it is your exclusive duty to decide all the
3 issues of fact in this case. You must determine the
4 effect, the value, the weight, and the truth of the
5 evidence. Both the State of South Carolina and the
6 defendant, Mr. Coleman, have the right to expect
7 that you will carefully consider and evaluate the
8 evidence and apply the law of the case to the evidence.
9 And by doing so, both the State and Mr. Coleman will
10 receive a fair and impartial trial in this matter.

11 Now, the State of South Carolina by the Bills of
12 Indictment in this case, charges the Defendant Joey Dean
13 Coleman with the offenses of armed robbery, two counts of
14 kidnapping, two counts of assault and battery in the
15 first degree, and possession of a weapon during the
16 commission of a violent crime.

17 Now, I remind you that the fact that the Defendant
18 was arrested, charged and indicted in this case is not
19 evidence in this case and cannot be considered by you as
20 evidence of guilt in this case, nor does it create any
21 presumption or inference of guilt.

22 An indictment is simply the formal written
23 instrument which contains a charge made against a
24 defendant. It's the formal document by which his case is
25 brought into this courtroom.

1 Now, the Defendant has pled not guilty to these
2 indictments, and that plea puts the burden on the State
3 to prove the Defendant guilty beyond a reasonable doubt.
4 A person charged with committing a criminal offense in
5 South Carolina is never required to prove himself
6 innocent.

7 I charge you that it's an important rule of law that
8 a Defendant in a criminal trial, no matter what the
9 seriousness of the charges may be, will always be
10 presumed innocent of the crime for which an indictment
11 was issued unless guilt is proven by evidence satisfying
12 you, the jury, of that guilt beyond a reasonable doubt.
13 This presumption of innocence does not end when you begin
14 your deliberations, but accompanies the Defendant
15 throughout the trial until you reach a verdict of guilt
16 based on evidence satisfying you of that guilt beyond a
17 reasonable doubt.

18 Now, the presumption of innocence is like a robe of
19 righteousness that's placed about the shoulders of a
20 Defendant and remains with the Defendant until it's been
21 stripped away by evidence satisfying you of the
22 Defendant's guilt beyond a reasonable doubt.

23 Presumption of innocence is not a mere legal theory.
24 It's not just a legal phrase we use. It is a substantial
25 right to which every Defendant is entitled unless you,

1 the jury, are satisfied, from the evidence of the
2 Defendant's guilt beyond a reasonable doubt.

3 So, what is a reasonable doubt in the law? A
4 reasonable doubt is the kind of doubt that would cause a
5 reasonable person to hesitate to act in their most
6 important decisions.

7 The State has the burden of proving the Defendant
8 guilty beyond a reasonable doubt. And again, the term
9 reasonable doubt must be given its plain and ordinary
10 meaning. However, to the extent that I may define it for
11 you again, a reasonable doubt is the kind of doubt that
12 would cause a reasonable person to hesitate to act in the
13 most important of their personal decisions. The
14 Defendant is entitled to every reasonable doubt arising
15 in this case. If, upon any issue of fact essential to a
16 conviction, you have a reasonable doubt as to how that
17 issue should be resolved, you must resolve that
18 reasonable doubt in favor of the Defendant.

19 Now, some of you may have served as jurors in civil
20 cases, where you were told that it was only necessary to
21 prove that a fact is more likely true than not true, such
22 as by the greater weight or what we call the
23 preponderance of the evidence. In criminal cases, the
24 State's proof must be more powerful than that. It must
25 be beyond a reasonable doubt.

1 Suspicion, no matter how strong, is insufficient to
2 convict a person charged with a crime. That the facts
3 and circumstances presented may seem suspicious and the
4 Defendant's guilt may seem probable, this is not
5 sufficient in the law to convict.

6 Proof beyond a reasonable doubt is proof that leaves
7 you firmly convinced of the Defendant's guilt. Now,
8 there are very few things in this world that we know with
9 absolute certainty, and in a criminal cases the law does
10 not require proof that overcomes every possible doubt.
11 If, based on your consideration of the evidence, you are
12 firmly convinced that the Defendant is guilty of the
13 crime or crimes charged, you must find the Defendant
14 guilty. If, on the other hand, you think there is a real
15 possibility that the Defendant is not guilty, you must
16 give the Defendant the benefit of the doubt and find him
17 not guilty.

18 I remind you that during this trial you and I have
19 certain duties to perform. As the Judge, it's my
20 responsibility to preside over the trial of this case,
21 and I also have the duty to rule on the admissibility of
22 the evidence that's offered during this trial. You are
23 to consider only the competent evidence before you. You
24 are to consider only the testimony which was presented
25 from the witness stand and any other exhibits which have

1 been made a part of the record in this case.

2 I have the additional duty to charge you the law
3 that's applicable to this case. I'm the sole judge of
4 the law in this case, and it is your duty as jurors to
5 accept and apply the law as I now state it to you. If
6 you have any idea as to what the law is or what the law
7 ought to be and it does not agree with what I now tell
8 you the law is, you must abandon this idea because you
9 are sworn to accept the law and apply the law exactly as
10 I state it to you.

11 In every case tried in this Court before a jury, the
12 jury becomes the sole and exclusive judge of the facts.
13 A trial Judge cannot intimate, comment on, or make any
14 statement to a trial jury about the facts in a case.
15 Since you, the jury, are the sole judge of the facts in
16 this case, you are not to infer from what I have said
17 during the progress of this trial in ruling upon the
18 admissibility of evidence, or otherwise, or anything that
19 I say now during the course of this instruction to you
20 that I have any opinion about the facts in this case.
21 The law does not allow me to have an opinion about the
22 facts in this case. This is a matter solely for you, the
23 jury, to determine.

24 Now, there are two types of evidence which are
25 generally presented during a trial: direct evidence and

1 circumstantial evidence. Direct evidence is the
2 testimony of a person who claims to have actual knowledge
3 of a fact, such as an eyewitness. It is evidence which
4 immediately establishes a main fact to be proved.
5 Circumstantial evidence is proof of a chain of facts and
6 circumstances indicating the existence of a fact. It is
7 evidence which immediately establishes collateral facts
8 from which the main fact may be inferred. Circumstantial
9 evidence is based on inference and not on personal
10 knowledge or observation.

11 Crimes may be proven by circumstantial evidence.
12 The law makes no distinction between the weight or value
13 to be given to either direct or circumstantial evidence.
14 However, to the extent the State relies on circumstantial
15 evidence, all of the circumstances must be consistent
16 with each other, and when taken together, point
17 conclusively to the guilt of the accused beyond a
18 reasonable doubt. If these circumstances merely portray
19 the Defendant's behavior as suspicious, the proof has
20 failed.

21 The State has the burden of proving the Defendant
22 guilty beyond a reasonable doubt and this burden rests
23 with the State regardless of whether the State relies on
24 direct evidence, circumstantial evidence, or some
25 combination of the two.

1 Now, it's your duty to determine the credibility of
2 witnesses who have testified in this case and credibility
3 simply means believability. It's your duty as jurors to
4 analyze and to evaluate the evidence and determine which
5 evidence convinces you of its truth.

6 In determining the believability of witnesses who
7 have testified in this case, you may believe one over
8 several witnesses or several witnesses over one witness.
9 You may believe a part of the testimony of a witness and
10 reject the remaining part of the testimony of that same
11 witness. You may believe the testimony of a witness in
12 its entirety or reject the testimony of a witness in its
13 entirety. You may consider whether any witness has
14 exhibited to you any interest, bias, prejudice, or other
15 motive in this case. You may also consider the
16 appearance and manner of a witness while on the witness
17 stand.

18 Normally, a person cannot give opinion testimony in
19 a trial. Normally, when a person testifies, they must
20 testify as to what they either saw, heard, did, or sensed
21 by smell or something of that nature. However, there is
22 an exception when someone is qualified because of
23 education and/or experience. They are permitted to give
24 their opinion in certain areas if the Court qualifies
25 them that way and that evidence is for you to use in any

1 way you see fit and give it the weight and credibility
2 you believe is appropriate.

3 Now, I instruct you and emphasize that the fact the
4 Defendant did not testify is not a factor to be
5 considered by you in any way in your deliberation and in
6 your consideration on the question of the guilt or the
7 innocence of the Defendant. It must not be considered by
8 you in any manner whatsoever. A Defendant has the
9 constitutional right to remain silent, and the assertion
10 of this right must not be considered by you in your
11 deliberations. I repeat, under your oath, you are to
12 draw no conclusion whatsoever from the fact the Defendant
13 in this case did not testify. The fact that this
14 Defendant did not testify should not even be discussed in
15 the jury room. The burden of proof, as I stated to you,
16 is on the State. The Defendant is not required to prove
17 his innocence, and the burden of proof remains on the
18 State to prove guilt beyond a reasonable doubt.

19 Ladies and gentlemen, there are six indictments in
20 this case. Each indictment charges a separate and
21 distinct offense. You must decide each indictment
22 separately on the evidence and the law applicable to it.
23 The Defendant may be convicted or acquitted on any or all
24 of the offenses charged and you will be asked, Mr.
25 Foreperson, to write a separate verdict of guilty or not

1 guilty for each indictment.

2 Now, the first charge against the Defendant is armed
3 robbery. In order to prove this offense, the State must
4 first prove beyond a reasonable doubt that the Defendant
5 took personal property from the person or presence of
6 another person.

7 Property is in the presence of a person if it is
8 within the person's reach, inspection, observation, or
9 control so that the person could, if not overcome with
10 violence or prevented by fear, keep possession of the
11 property.

12 The State must also prove beyond a reasonable doubt
13 that the Defendant carried the property away intending to
14 permanently deprive the owner of the property and to keep
15 the property for the Defendant's own use. The slightest
16 removal of the property or the complete possession of the
17 property, even for an instant, by the Defendant is
18 sufficient to show a taking and carrying away of the
19 property.

20 The taking and carrying away of the property must
21 have been done with violence or putting the owner of the
22 property in fear of violence.

23 Finally, the State must prove beyond a reasonable
24 doubt that the Defendant was armed with a deadly weapon
25 during the robbery. A deadly weapon is an article,

1 instrument, or substance which is likely to cause death
2 or great bodily harm. Whether an instrument has been
3 used as a deadly weapon depends on the facts and
4 circumstances of each case.

5 The following are examples of instruments which
6 may be deadly weapons: a pistol, a shotgun, a rifle, a
7 dirk, a dagger, a knife, slingshot, metal knuckles, a
8 razor, gasoline, a fire bomb or Molotov cocktail, and
9 lighter fluid. Ladies and gentlemen, a gun may be a
10 deadly weapon even if it's not operating.

11 Now, the Defendant is also charged with two counts
12 of kidnapping, and to prove this charge the State must
13 prove beyond a reasonable doubt that the Defendant
14 knowingly and unlawfully seized, confined, inveigled,
15 decoyed, kidnapped, abducted, or carried away another
16 person without authority of law.

17 To do a thing unlawfully is to do it willfully
18 against the law. Knowingly means with knowledge or
19 consciously, not accidentally.

20 Seize means to take hold of suddenly or forcibly.
21 Confined means to limit, restrict, or enclose within
22 bounds, imprison, or shut or keep in. Inveigle means to
23 lure, entice or lead astray by false representations,
24 promises, or other deceitful means. Decoy means to lure
25 by, or as if by, decoy. A decoy is something to entice a

1 person into a trap.

2 Kidnap is to remove a person against his will by
3 unlawful force or by fraud. Abduct means to carry off
4 secretly or by force for an illegal purpose. Carry away
5 means to remove.

6 Now, the State does not have to prove that the
7 Defendant did all of these things. Instead, if you find
8 beyond a reasonable doubt that the Defendant did any of
9 these things, you may find the Defendant guilty of
10 kidnapping.

11 Something done without authority of law is something
12 which the law does not sanction, permit, allow, condone,
13 or provide justification for. The kidnapping does not
14 have to be for any personal or monetary gain or illegal
15 purpose, but may be for any reason whatsoever.

16 Ladies and gentlemen, the Defendant is also charged
17 with two counts of assault and battery in the first
18 degree. A person commits the offense of assault and
19 battery in the first degree if the person unlawfully
20 injures another person, and the act occurred during the
21 commission of a robbery, burglary, kidnapping, or theft.

22 A person may also commit the offense of assault and
23 battery in the first degree if the person unlawfully
24 offers or attempts to injure another person with the
25 present ability to do so, and the act occurred during the

1 commission of a robbery, burglary, kidnapping, or theft.

2 Last, ladies and gentlemen, the Defendant is charged
3 with possession of a weapon during the commission of a
4 violent crime. The State must prove beyond a reasonable
5 doubt, to prove this charge, that a Defendant was in
6 possession of a firearm or visibly displayed what
7 appeared to be a firearm during the commission of a
8 violent crime.

9 A firearm means any machine gun, automatic rifle,
10 revolver, pistol, or any weapon which will, is designed
11 to, or may be readily converted to expel a projectile.

12 Now, in order to find the Defendant guilty of
13 possession of a weapon during the commission of a violent
14 crime, you must first find the Defendant is guilty of
15 committing a violent crime. Ladies and gentlemen, under
16 the laws of South Carolina, I instruct you that
17 kidnapping and armed robbery are violent crimes.

18 Lastly, the State must prove beyond a reasonable
19 doubt that the weapon furthered, advanced, or helped in
20 the commission of the crime.

21 MISTER FOREPERSON, members of the jury, as you
22 retire to begin your deliberations, I wish to express the
23 hope that you all are mindful of the importance of your
24 responsibility here today. You're not called upon very
25 often to serve as jurors, and the proper performance of

1 that duty requires each you to reach the height of
2 freeing your mind of all improper influence.

3 Please don't get the idea that I'm trying to
4 intimate to you how I think you should decide this case.
5 As I have already told you, under the laws of this State
6 you, the Jury, are the sole judge of these facts and it
7 would be highly improper for me to influence you in your
8 performance of that duty.

9 So again, I'm not trying to tell you what your
10 verdict should be. But ladies and gentlemen, as the
11 presiding officer of this Court, I am vitally concerned
12 that whatever verdict you find will be the result of you
13 going back into your jury room and confining your
14 consideration to the evidence and the law that you have
15 heard here in this courtroom, weighing it fairly and
16 impartially, as I have every confidence you will. Ladies
17 and gentlemen, you have no support or sympathy to anyone.

18 Mr. Foreperson, I remind you your verdict must be
19 unanimous. It must be the verdict of all 12 jurors and
20 to that end my law clerk has prepared a verdict form. It
21 has the case caption on it. The State of South Carolina
22 versus Joey Dean Coleman, and it asks six questions all
23 of which you must answer.

24 The first one says, as to the charge of armed
25 robbery, gives the indictment number, we find the

1 Defendant, Joey Dean Coleman either not guilty or guilty.
2 Ladies and gentlemen, please don't infer the order that I
3 put not guilty or guilty. Every trial we just reverse
4 them, all right? The second question, as to the charge
5 of the kidnapping of Yashkumar Diupbhai Patel indicted
6 under, and the indictment number, we find the Defendant,
7 Joey Dean Coleman, either not guilty or guilty, and
8 you'll do a check mark. As to the charge of the
9 kidnapping of Hetalsinh Solanki, indictment number, we
10 find the Defendant, Joey Dean Coleman, again, not guilty
11 or guilty. As to the charge of possession of a weapon
12 during the commission of a violent crime, we find the
13 Defendant, Joey Dean Coleman, and I remind you, ladies
14 and gentlemen, that Mr. Coleman cannot be found guilty of
15 this charge without the jury first finding him guilty of
16 either kidnapping or armed robbery as it was asked on the
17 first page. And then the last two questions five and six
18 say as to the charge of the assault and battery in the
19 first degree of Mr. Patel and then the sixth one is as to
20 the charge of assault and battery first degree as to
21 Mr. Solanki, we find the Defendant either not guilty or
22 guilty.

23 After that, Mr. Foreperson, there is a place for you
24 to sign and date the form. When the jury has reached a
25 unanimous verdict, I need you to knock on the jury room

1 door and we're gonna accept you back into the courtroom,
2 all right? Sir, I will also tell you that you will have
3 my charge, the verdict form, and any evidence that's been
4 introduced into this case. I can tell you that if you
5 don't have it back there, you are not entitled to it so
6 you can't have it if you ask me.

7 Secondly, I will tell you that while we had a couple
8 court reporters here over the last couple of days taking
9 down everything, I want you to know that there is no
10 printed or typed transcript of this case. What we do is
11 we have an audio backup. If you want to hear a certain
12 testimony replayed, what I can do is bring you back into
13 the jury room and I will play you that witness'
14 testimony. You just need to understand that if you ask
15 for a specific witness' testimony, I have to play that
16 witness' entire testimony. In other words, the direct,
17 the cross, the redirect, any recross, all right?

18 Lastly, if you want to see the video, again, I do
19 not believe we have a computer to send back with you so
20 if, Mr. Foreperson, you want to see the video or portions
21 of the video again, I can bring you back into the
22 courtroom and I will play it for you again, okay? But we
23 don't have a scrubbed computer just to send back to you,
24 okay?

25 Ladies and gentlemen, I appreciate your patience.

1 I'm going to tell you one last time to go back to your
2 jury room and not discuss this case yet. If there is
3 something further on the law that the lawyers want me to
4 charge you, I'm gonna bring you out here and I'm gonna
5 charge you further. If not, Mr. Foreperson, when you get
6 the jury charge, the verdict form, and the evidence back
7 in the jury room, that will be your indication to start
8 your deliberations, all right? That means there's
9 nothing further that they need to charge on you, okay?
10 Everyone fine? Very good. Ladies and gentlemen, again,
11 I'm gonna excuse you back to your jury room. Sir, just
12 wait for the verdict form and the evidence to come back,
13 okay? Thank you, sir.

14 (Whereupon, the jury entered the jury room at 11:07
15 a.m.)

16 THE COURT: Any additions or exceptions to the law
17 from the State?

18 MR. EVANS: No, Your Honor.

19 THE COURT: From the defense?

20 MS. DEWITT: None, Your Honor.

21 THE COURT: All right. Y'all come up and make sure
22 we have the evidence that was entered.

23 (Whereupon, the verdict form, evidence and jury
24 instructions sent into the jury room at 11:10 a.m.)

25 (Break during deliberations.)

1 (Jury question at 11:30 a.m.)

2 THE COURT: Please be seated. All right. Two
3 issues. Also we need to get the alternates. So let's
4 first let's bring the alternates out.

5 (Whereupon, the alternates entered the courtroom at
6 11:25 a.m.)

7 THE COURT: Ladies, thank you for being here. I
8 needed to excuse you. At this point you are permitted to
9 talk to the lawyers. Sometimes investigators want to
10 talk to you, maybe law enforcement and ask you your
11 opinion. They are allowed to do that, but you are
12 certainly not required to talk to anyone about this case.
13 If you have no interest in speaking to anyone, just say
14 no thank you and keep walking, okay? If anyone were to
15 persist, they will not, but if they did, simply call to
16 the Clerk of Court's Office, you'll ask for Ms. Nettles,
17 and I will take care of it, okay? But again, thank you,
18 ladies. We appreciate it.

19 THE CLERK: Judge, if they need a work excuse, we
20 have them downstairs.

21 THE COURT: We have them downstairs for you, okay?
22 Thank you, ladies. Where is Mr. Coleman?

23 THE CLERK: He's coming, Your Honor.

24 THE COURT: Okay. You read the jurors' note?

25 MS. DEWITT: I did, Your Honor.

1 THE COURT: Okay. What is your position on the
2 three questions they asked?

3 MS. DEWITT: I think they certainly have a right to
4 view the video again. I would think if anybody could
5 have zoomed in, it would have been done during the trial
6 already.

7 MR. EVANS: Yes, ma'am. I think altering the
8 evidence that they saw in the actual case, that could
9 present an issue so I prefer to --

10 THE COURT: Just show them the video?

11 MR. EVANS: Show them the video.

12 THE COURT: I would agree. In evidence, his hands
13 were not in evidence so I think absolutely no.

14 MS. DEWITT: You know, they already had a while to
15 look at him yesterday when the Solicitor presented him to
16 the jury.

17 THE COURT: Right. Okay. Mr. Coleman, the jury has
18 come back and asked three questions. The first is, can
19 we see the video again? I'm going to say yes because
20 they have already seen it. The second, can we zoom in
21 when the hoodie is off? No. Not in evidence. And, can
22 he walk in front of all jurors and show his hands while
23 doing it? That was not in evidence so I'm not gonna
24 permit that to happen unless Ms. Dewitt wants you to,
25 okay? Ms. Dewitt, you don't want to?

1 MS. DEWITT: No, Your Honor.

2 THE COURT: I understand.

3 MR. EVANS: Judge, I'll just need to bring --

4 THE COURT: Yeah. When you go back there, will you
5 grab the disk so he can cue it up before we bring them
6 out here really quickly, okay?

7 BAILIFF: You want me to go get it now?

8 THE COURT: Yes.

9 MR. EVANS: Judge, I assume you're gonna want me to
10 play all the portions that were, as if it were a direct
11 examination, play all the portions that were shown to
12 them?

13 THE COURT: Yes. Hand that back to them, but they
14 need to save it because I have to mark it as an exhibit,
15 okay?

16 BAILIFF: Okay.

17 THE COURT: When you showed it, you showed it on
18 both, correct?

19 MR. EVANS: Yes.

20 THE COURT: I thought it was easier just seeing it
21 on the TV. I don't know if you agree with me on that,
22 but then again, I also have the screen in front of me so
23 I think that's probably the best, okay?

24 MR. EVANS: Okay.

25 THE COURT: Have you got it cued up?

1 MR. EVANS: I will.

2 THE COURT: Also, when you come back, will you also
3 bring the note back with you again because I'm gonna read
4 to them and tell them why I can't do certain things,
5 okay? When Reed tells me it's ready.

6 MR. EVANS: It's ready.

7 THE COURT: Is it turned on? Everyone's is on? My
8 screen isn't on.

9 MR. EVANS: It's on. Melinda, is it there?

10 THE CLERK: No.

11 THE COURT: Mine is on. Okay. That's displayed.
12 Okay. Bring the jury in and bring out the note, if you
13 would.

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

16 THE COURT: You want it on the big screen? Ladies
17 and gentlemen, while they are cueing that up, you sent me
18 three questions. Much like I told you, if you ask me for
19 something that wasn't entered into evidence, you're not
20 entitled to it. So as far as my response, the first
21 question was, can we see the video again? And yes,
22 because it was presented to you. So we're going to play
23 that for you and as many times as you need to see it, you
24 tell us, okay? The next question you have is, can you
25 zoom in when the hoodie is off? And my answer is it

1 wasn't presented to you that way so I can't do that. So
2 I apologize, but I can't. And then lastly you asked, can
3 he walk in front of all the jurors and show his hands
4 while doing it? Again, that was not in evidence during
5 the actual trial of this case so it's not appropriate.
6 So that's just to kind of explain to you. I hope you
7 understand that.

8 So we're gonna go ahead and replay the video, and
9 again, Mr. Foreperson, as many times as you want to, as
10 the jury wants to see it, you're welcome, okay? So you
11 just tell me. We're gonna dim the lights a little bit,
12 can we, to make it a little easier to see, if possible.
13 And again, you're welcome, ladies and gentlemen, if you
14 want to look up here or over here and if there's anything
15 specific or specific parts that you want to see, you need
16 to let us know or if you want him to stop it, you
17 certainly can ask for that as well, okay?

18 FOREMAN: Okay.

19 THE COURT: Okay.

20 (Playing surveillance video.)

21 JUROR: Stop.

22 THE COURT: I heard one of the jurors say stop so we
23 need to back up a little bit. Do you want -- I can back
24 it up again or keep going.

25 JUROR: Keep going.

1 THE COURT: Keep going. Okay.

2 JUROR: Stop. Back it up just a little bit. Right
3 there before he turns.

4 THE COURT: Mr. Foreman, y'all good?

5 FOREMAN: Yes.

6 THE COURT: All right. Ladies and gentlemen, I'll
7 send you back to the jury room to continue your
8 deliberations, all right? Thank you.

9 (Whereupon, the jury entered the jury room to
10 continue deliberations at 11:50 a.m.)

11 THE COURT: We'll be at ease. I need to keep this.
12 We'll make this a Court's Exhibit. We need maybe bring
13 them in some. I understand from Ms. Nettles it takes
14 about an hour and a half from now so my thought process
15 originally was to ask them at noon telling them, Melinda,
16 that it would be here by 1:30 if we're lucky. Am I
17 guessing properly?

18 THE CLERK: Yes, ma'am, because the only place we
19 have is Coconut's and we're gonna hit them at their rush
20 hour.

21 THE COURT: Okay. There's no pizza?

22 THE CLERK: Pizza Hut closed.

23 THE COURT: Anyone wants to start a business in
24 Hampton, you know what you can do. I might just start a
25 place.

1 THE CLERK: Yes, ma'am.

2 THE COURT: We will be at ease.

3 (Whereupon, Court's Exhibit, Jury questions, marked
4 for identification.)

5 (Verdict at 12:00 p.m.)

6 THE COURT: I understand we have a jury verdict.

7 All right. Do we have Mr. Coleman? All right. So the
8 jury has reached a verdict. Is the State ready for me to
9 accept the jury back in?

10 MR. EVANS: The State's ready, Your Honor.

11 THE COURT: The defense ready?

12 MS. DEWITT: Yes, Your Honor.

13 THE COURT: Thank you. You can bring the jury back
14 in please, sir.

15 (Whereupon, the jury entered the courtroom at 12:05
16 p.m.)

17 THE COURT: Mr. Foreperson, I understand the jury
18 has reached a verdict?

19 FOREPERSON: Yes, ma'am.

20 THE COURT: Please hand it to the bailiff, sir.

21 FOREMAN: (Proffering.)

22 THE COURT: All right. If you will please stand,
23 Mr. Coleman.

24 JOEY COLEMAN: (Complies.)

25 THE COURT: In the case of the State of South

1 Carolina versus Joey Dean Coleman, verdict form. As to
2 the charge of armed robbery, we find the Defendant, Joey
3 Dean Coleman guilty. As to the charge of the kidnapping
4 of Yashkumar Diupbhai Patel we find the Defendant, Joey
5 Dean Coleman guilty. As to the charge of kidnapping of
6 Hetalsinh Solanki we find the Defendant, Joey Dean
7 Coleman guilty. As to the charge of possession of a
8 weapon during the commission of a violent crime we find
9 the Defendant, Joey Dean Coleman guilty. As to the
10 charge of assault and battery in the first degree of
11 Yashkumar Diupbhai Patel we find the Defendant, Joey Dean
12 Coleman guilty. As to the charge of assault and battery
13 in the first degree of Hetalsinh Solanki we find the
14 Defendant, Joey Dean Coleman guilty. It's signed by our
15 foreperson and dated. Mr. Coleman, you may be seated.
16 Ms. Dewitt, go ahead and take a seat. Ms. Dewitt, would
17 you like me to poll the jury?

18 MS. DEWITT: Yes, Your Honor.

19 THE COURT: Thank you. Ladies and gentlemen, what
20 I'm gonna do is when I say your name and your last name,
21 I need you to waive so I know who I'm talking to, and I'm
22 gonna ask you two questions. I'm gonna ask you, is this
23 your verdict? And I need a yes or no. And then, is this
24 still your verdict? A yes or a no. Okay? I'm gonna go
25 through everybody, all right? So, juror number 34, is

1 this your verdict?
2 JUROR #34: Yes.
3 THE COURT: Is this still your verdict?
4 JUROR #34: Yes, ma'am.
5 THE COURT: Jury number 167, is this your verdict?
6 JUROR #167: Yes.
7 THE COURT: Is this still your verdict?
8 JUROR #167: Yes.
9 THE COURT: Juror number 115, sir, is this your
10 verdict?
11 JUROR #115: Yes.
12 THE COURT: Is this still your verdict?
13 JUROR #115: Yes.
14 THE COURT: Juror number 119, is this your verdict?
15 JUROR #119: Yes.
16 THE COURT: Is this still your verdict?
17 JUROR #119: Yes.
18 THE COURT: Juror number 36, sir, is this your
19 verdict?
20 JUROR #36: Yes.
21 THE COURT: Is this still your verdict?
22 JUROR #36: Yes.
23 THE COURT: Thank you, sir. Juror number 32, is
24 this your verdict?
25 JUROR #32: Yes.

1 THE COURT: Is this still your verdict?
2 JUROR #32: Yes.
3 THE COURT: Juror number 10, is this your verdict?
4 JUROR #10: Yes.
5 THE COURT: Is this still your verdict?
6 JUROR #10: Yes.
7 THE COURT: Juror number 9, is this your verdict?
8 JUROR #9: Yes.
9 THE COURT: Is this still your verdict?
10 JUROR #9: Yes.
11 THE COURT: Juror number 52, is this your verdict?
12 JUROR #52: Yes.
13 THE COURT: Is this still your verdict?
14 JUROR #52: Yes.
15 THE COURT: Juror number 118, is this your verdict?
16 JUROR #118: Yes, ma'am.
17 THE COURT: Is this still your verdict?
18 JUROR #118: Yes.
19 THE COURT: Juror number 58, is this your verdict?
20 JUROR #58: Yes.
21 THE COURT: Is this still your verdict?
22 JUROR #58: Yes.
23 THE COURT: And lastly, juror number 37, is this
24 your verdict?
25 JUROR #37: Yes.

1 THE COURT: It this still your verdict?

2 JUROR #37: Yes.

3 THE COURT: All right. Is there anything further
4 requested from this jury from the State?

5 MR. EVANS: No, ma'am.

6 THE COURT: From the defense?

7 MS. DEWITT: No, Your Honor.

8 THE COURT: Thank you. My understanding is that we
9 don't have anything else to try the rest of this week,
10 we're just doing other matters; is that correct, Mr.
11 Evans?

12 MR. EVANS: That is correct.

13 THE COURT: Ladies and gentlemen, I get to release
14 you now and send you away with my thanks. You not only
15 helped us resolve this matter, but when I start with a
16 roster, I have a number of cases on it to be tried and
17 because we have jurors waiting and willing to serve, we
18 are able to dispose of those matters by many other ways,
19 either by conditional discharges, by guilty pleas, or
20 something along those lines, so I want you to know that
21 you took care of not only this case, but obviously many
22 other ones.

23 At this time I am gonna go ahead and release you.
24 If you need a work release for what you've been doing up
25 here, I need you when you leave to go down to the Clerk

1 Of Court's Office and just ask for one. Also, ladies and
2 gentlemen, at this time you are permitted to go home and
3 talk about this case. If someone asks you about it, you
4 can speak about it. I will also tell you that sometimes
5 lawyers and investigators or someone may want to ask you
6 what your thoughts are. Ladies and gentlemen, you're not
7 required to talk to anyone. They're allowed to ask you
8 that if they choose to, but again, you don't have to talk
9 in any way. If you are not interested in speaking to
10 someone, just say no thank you, okay?

11 Now, at this time what I'm gonna do is I am gonna go
12 ahead and sentence Mr. Coleman. You're welcome to stay
13 or not. I always tell the jury, ladies and gentlemen,
14 you have done your job. Your job is to determine the
15 facts and your job is to determine whether or not the
16 Defendant was guilty. You have done that and now it is
17 my job, it is on me to sentence him under the guidelines
18 that I'm given. So if you would like to stay, you're
19 welcome to and can keep your seats, but if not, now is
20 the time for me to excuse you. Make sure you all get
21 back to your cars and go, but it is completely up to you,
22 ladies and gentlemen, okay? However, if you do want to
23 go, now is the time to go, okay?

24 MR. EVANS: May I approach, Your Honor?

25 THE COURT: You may.

1 MS. DEWITT: And, Your Honor, I guess I have a
2 motion to make for the record.

3 THE COURT: You may.

4 MS. DEWITT: I assume you want that now as opposed
5 to after my client is sentenced.

6 THE COURT: Yes.

7 MS. DEWITT: At this time I would make a motion for
8 a new trial on the grounds that the evidence is
9 insufficient to support the verdict, Your Honor.

10 THE COURT: All right. Respectfully as I stated
11 before in the directed verdict motion I do think there is
12 evidence certainly that this jury could determine the
13 facts in this case and obviously they have spoken and
14 they found him guilty of all six charges. We're gonna
15 let it stand. It is noted for the record.

16 MS. DEWITT: Thank you.

17 THE COURT: Thank you. Okay. Does the State have a
18 position on sentencing?

19 MR. EVANS: Your Honor, if I may refresh you, I know
20 we went over his record a bit earlier --

21 THE COURT: Yes.

22 MR. EVANS: -- but just to put that on the record
23 now, the most significant three charges on his prior
24 record, Judge, going back to September 23rd, 2010, he
25 pled guilty to burglary third degree first offense in

1 front of Judge Buckner. Then on September 12th -- He
2 received a YOA sentence for that. September 12th --

3 THE COURT: Looks like he was 19 when that happened.

4 MR. EVANS: They have 20, Judge. His birthday was
5 9/21/90, so he had turned 20 two days earlier, or
6 actually to the plea, 19 during the event.

7 THE COURT: Okay.

8 MR. EVANS: So September 12th, 2011, still 20 years
9 old, based on an incident that happened just a couple
10 weeks before, burglary second degree non violent in front
11 of Judge Cooper. Judge Cooper from Manning, I believe.
12 He received a sentence in which basically his YOA was
13 revoked and he was to go on probation once that YOA was
14 completed. Then March 19th, 2018. Those first two were
15 in Colleton County. This third in Barnwell County, pled
16 guilty to PWID cocaine first offense. Received a
17 sentence of five years suspended to probation for 30
18 months. He is still on probation for that charge, Your
19 Honor. I think that's what I want you to remember the
20 most is that this act -- You've seen the video. I don't
21 need to -- You know what you saw. I don't need to rehash
22 that for you. But the fact that he committed this while
23 out on probation really I think says all that the State
24 needs to remind you of.

25 THE COURT: Okay. Thank you.

1 MS. DEWITT: I would ask that you hear from me and
2 Mr. Coleman.

3 THE COURT: Absolutely. I was just going to ask
4 probation. So he's got an open probation case?

5 PROBATION AGENT: Yes, ma'am.

6 THE COURT: This is a violation, correct?

7 PROBATION AGENT: Yes, ma'am. I just terminated.

8 THE COURT: Okay. Ask for it to be terminated.
9 Okay. All right. Ms. Dewitt, I'm happy to hear from
10 you, from Mr. Coleman, certainly any family members that
11 would like to speak or whomever.

12 MS. DEWITT: Your Honor, I did talk to the probation
13 agent who looked up Mr. Coleman's record and he had no
14 pending violations of his probation at the time that he
15 was arrested on these charges. No positive drug test.
16 He was working and he was reporting. As you know,
17 Mr. Coleman is only 29 years old. He's not married. He
18 does have a three year old daughter. He has a GED and
19 actually he's a very good auto mechanic. I have talked
20 with Mr. Coleman's uncle. He was raised by his mother
21 and his aunt and uncle. I know they are very good
22 people. Live in Walterboro. They said Joey was doing
23 quite well. He was working in Summerville. Had a
24 girlfriend there. He stayed with his girlfriend on the
25 days and nights he worked in Summerville.

1 The uncle told me he was spending his off days for
2 more crabbing at a particular spot on the Ace River Basin
3 which is off of - it's on the Combahee River there in
4 Charleston. Mr. Coleman, in fact, had been crabbing the
5 day he was arrested and had just gotten to his uncle's
6 house to drop off some crabs that he caught for them.

7 Mr. Coleman has seen that video repeatedly during
8 the time I represented him and my predecessor Mr. Plexico
9 also had shown him the video from the store repeatedly
10 and every time that video has been shown to Mr. Coleman,
11 he said that's not me. I didn't do that. He didn't rob
12 the store every time we have showed him the video.
13 According to Mr. Coleman's uncle, he doesn't have any
14 mental health problems.

15 So that's what I wanted the Court to know.
16 Mr. Coleman has continuously said that's not him in the
17 video. He described to me in detail what he had done the
18 day he was arrested. That's how he remembered he had
19 been off for two days. During the day of the robbery and
20 arrest, basically he had been crabbing alone and had no
21 alibi in regards to the fact nobody was with him on this
22 day so he could not be someplace else.

23 I will say this, too, Your Honor. Mr. Coleman as my
24 client has been very polite. He's been extremely
25 courteous to me. He's been very respectful to me. I

1 have spent a good bit of time just talking to him about
2 his background and how he grew up and what he does for a
3 living and how he obtained his mechanic skills and I
4 found him to be actually a pleasant client, interested in
5 his case who appreciated the time I took with him in
6 going over the evidence and discussing the trial process
7 to him and I assumed this case from another lawyer when
8 he was released and I will tell you that no plea offers
9 were made for my client. It was either plead guilty to
10 everything pending or try the case.

11 And that's what I would like the Court to know
12 before Mr. Coleman is sentenced. He's only 29. I have
13 already raised four boys. I have a soft spot for young
14 men who are experiencing difficulties and I know in
15 talking with him I can tell you that I hope the
16 Department of Corrections can put his mechanic skills to
17 use and I do think he's redeemable and can serve whatever
18 time the Court gives him and come back out and be a
19 productive member of society. I would love to see him
20 put his mechanic skills to use because good mechanics are
21 hard to find.

22 THE COURT: No question.

23 MS. DEWITT: Thank you.

24 THE COURT: Does he wish to address me? Or I
25 understand if he doesn't.

1 MS. DEWITT: No, Your Honor.

2 THE COURT: Okay. All right.

3 MR. EVANS: Your Honor, may I very briefly on the
4 subject of plea offers.

5 THE COURT: No. We don't need to do that. We are
6 not going to do that.

7 MR. EVANS: Yes.

8 THE COURT: I've got to tell you I don't like a back
9 and forth. We said this before. I think the State
10 presents what they want to say, the defense, and we're
11 done, okay?

12 On the charge of armed robbery, the sentence is 30
13 years. On the charge of kidnapping, the sentence is 30
14 years. On the charge of the second kidnapping charge, 30
15 years, on the charge of possession of a weapon during a
16 violent crime the sentence is five years, on the charge
17 of assault and battery in the first degree, the first
18 one, the sentence is 10 years, assault and battery in the
19 first degree the second charge again 10 years. Those are
20 all to run concurrent to each other, and I'm giving him
21 credit for the time he served. Good luck to you, sir.

22 MR. EVANS: Thank you, Your Honor.

23 MS. DEWITT: Thank you, Your Honor. I guess the
24 jail provides the specific number of days?

25 THE COURT: I just gave him credit so it's on there.

1 MS. DEWITT: Thank you.
2 THE COURT: Thank you.
3 WHEREUPON, THE TRIAL WAS CONCLUDED.
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1 CERTIFICATE OF REPORTER

2 (STATE OF SOUTH CAROLINA)

3 (COUNTY OF LEXINGTON)

4

5 I, THE UNDERSIGNED, Steven E. LeBlanc, Sr., R.P.R.,
6 and Official Circuit Court Reporter for the Eleventh Judicial
7 Circuit in and for the State of South Carolina, do hereby
8 certify that I reported the proceedings in the before
9 captioned case in the Court of General Sessions in and for the
10 State of South Carolina on the 5th day of February, 2020.

11 I FURTHER CERTIFY that the forgoing 55 pages
12 constitute a true and accurate partial record of said
13 proceedings.

14 I FURTHER CERTIFY that I am neither related, counsel
15 to, nor of interest to any party hereto.

16 IN WITNESS WHEREOF, I have hereunto set my hand at
17 Lexington County, this 6th day of May, 2020.

18 
19 By: s/Steven E. LeBlanc

20 Steven E. LeBlanc, Sr., R.P.R.
21 Eleventh Circuit Court Reporter
22 State of South Carolina.

23

24

25

STATE OF SOUTH CAROLINA)

County of Hampton)

IN THE COURT OF COMMON PLEAS

Joey Dean Coleman #347816)Full name and prison number (if any) of Applicant **FILED**)

AM/PM)

2021-CP.25. 421

v.)

DEC 29 2021)

APPLICATION FOR

State of South Carolina)

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC)

POST-CONVICTION RELIEF)

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Hampton County Jail Hampton County, SC
2. Name and location of Court which imposed sentence Hampton County Court house Hampton, SC
3. Name(s) of co-defendant(s) (if any) Damian Fennell, Dalvin Ferguson, Karen Wilcox
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2018 GS2500441 (Kidnapping); 2018 GS2500442
 - (b) (Kidnapping); 2018 GS2500444 Assault & Battery 1st degree

(c) 2018GS2500445 (Assault & Battery 1st degree)

5. The date upon which sentence was imposed and the terms of the sentence:

(a) February 5, 2020 - 30 yrs

(b) _____

(c) _____

6. Check whether a finding of guilty was made:

(a) after a plea of guilty _____

(b) after a plea of not guilty ✓

(c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

yes

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. December 8, 2021

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such

results:

i. 2021-UP-431

ii. _____

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) NA/A

(b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) ineffective assistance of trial Counsel
- (b) : Main Concern and seeking Relief, Grounds that the
- (c) evidence is insufficient to support the verdict:
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) failure to raise adequate defense
- (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. _____
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

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) PCR Proper remedy
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? NO
 (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. Diane Dewitt,
SCCID
 ii. 1330 Lady Street, Suite 401
Columbia, SC 29201
 iii. Lara Caudy, SCCID

(b) the proceedings at which each such attorney represented you:

i. Trial and sentencing
 ii. Direct Appeal
 iii. _____

19. State clearly the relief you seek in filing this application:

New Trial

any other appropriate Relief

20. Are you now under sentence from any other court that you have not challenged?

STATE OF SOUTH CAROLINA)

County of Hampton, SC)

VERIFICATION

I, Joey Coleman, 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.

Joey Coleman

SWORN to and subscribed before me this 22nd
day of December, 2021.

[Signature] (L.S.)
Notary Public

My Commission Expires: 2/26/2028

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Joey Coleman, 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.

Joey Coleman
Applicant

SWORN or affirmed to and subscribed before me this
22nd day of December, 2021.

[Signature]
Notary Public

My Commission Expires: 02/26/2028

indicted, and Judge Mullen sentenced him to concurrent sentences of thirty years for armed robbery and each kidnapping charge, ten years for each assault and battery charge, and five years for the weapon charge.

Applicant filed a direct appeal. Appellate Defender Lara M. Caudy filed a brief pursuant to Anders v. California raising the following issue:

Did the trial judge err by admitting an eyewitness's identification of Appellant as the armed robber when the unnecessarily suggestive police identification procedure utilized while the witness was in custody and suspected of being involved in the robbery caused a substantial likelihood of misidentification rendering the identification unreliable as a matter of law?

The South Carolina Court of Appeals dismissed pursuant to Anders, and the Remittitur was sent January 5, 2022.

SUMMARY OF RELEVANT TRIAL FACTS

Applicant's charges arose from an incident that occurred at the Snappy Foods convenience store on November 15, 2018. At trial, Yashkumar Patel testified he was working at the store that day with another clerk named Hiren Solanki. He stated he was looking at his phone when he heard a customer ask for money. (R. 179). Patel stated the person pulled out a gun and shot between him and Solanki. He testified the man went behind the counter, ordered them to the ground, and continued to point the gun at them. (R. 181). Patel heard two more gunshots. Shortly thereafter, Solanki told him he could get up because the person was gone. (R. 182, 188). The incident was captured on the store's surveillance cameras, and a video of the shooting was entered into evidence and played for the jury. (R. 184-87). Patel could not identify Applicant as the perpetrator, but the State entered a still shot of the perpetrator's face from the video. (R. 187-88).

Karen Wilcox testified she went to the Snappy Foods store that day with someone she knew; she noticed a passenger in the front seat that she did not recognize who had a teardrop tattoo

under his eye. Wilcox testified she went inside the store once they arrived; as she was leaving, she heard gunshots and ran to hide. Wilcox testified the passenger of the car—whom she identified as Applicant—was the person robbing the store. (R. 192-204).

Law enforcement recovered a beer bottle that the perpetrator had been holding in the video, and an expert in DNA analysis testified the bottle contained a mixture of DNA that included Applicant's DNA. He testified the match to Applicant was "126 quintillion times more likely than a random match to an unrelated individual. (R. 256).

CURRENT APPLICATION

On December 29, 2021, Applicant filed this application for post-conviction relief alleging he was being held in custody unlawfully for the following reasons:

- A. "Ineffective Assistance of Trial Counsel"
 - a. "Failure to raise adequate defense."
- B. "Evidence is insufficient to support the verdict."

As relief, Applicant requests a new trial. Attached to this return and incorporated herein are the Hampton County Clerk of Court records, Applicant's records from the SC Department of Corrections, Applicant's trial transcript, and Applicant's appellate records. Respondent reserves the right to amend this return upon receipt of any additional relevant materials.

PARTIAL MOTION TO DISMISS

Applicant alleges he is entitled to post-conviction relief based on "grounds that the evidence is insufficient to support the verdict." Respondent submits that, as framed, this allegation does not set forth a cognizable claim. Specifically, PCR is not a proper avenue to challenge the sufficiency of evidence. See Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974); S.C. Code Ann § 14-27-20(a)(6). Accordingly, Respondent moves to dismiss this claim pursuant to Rule 12(b)(6), SCRPC.

INEFFECTIVE ASSISTANCE OF COUNSEL

Applicant alleges counsel was ineffective for failing to raise an adequate defense. To establish ineffective assistance of counsel, the PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness, and (2) the applicant sustained prejudice because of counsel's deficient performance. Strickland v. Washington, 466 U.S. 668, 687-88 (1984); Cherry v. State, 300 S.C. 115, 117-18, 386 S.E.2d 624, 625 (1989). "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." Watson v. State, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). To establish prejudice, the applicant must prove "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.

Here, the record likely does not refute or disprove Applicant's allegation of ineffective assistance of counsel; therefore, Respondent requests an evidentiary hearing on this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (providing an evidentiary hearing shall be held when a PCR application "alleges specific instances of ineffective assistance of counsel which are not conclusively refuted by the record before the lower court").

ANY FUTURE AMENDMENTS AND INVOCATION OF DISCOVERY

Respondent requests Applicant specify any claims he intends to raise at the PCR evidentiary hearing in advance of the evidentiary hearing. The State reserves the right to request that any amendments withheld until the last minute be stricken because of undue prejudice to the State or, alternatively, the State will request a continuance. See Love v. State, 428 S.C. 231, 245, 834 S.E.2d 196, 203 (2018) (Kittredge, J., dissent) ("If, however, the proposed amendment . . . would truly prejudice the State, the better course of action would be to continue the matter and

thus remove any possibility of prejudice resulting from the belated amendments.”). Respondent likewise reserves the right to request a continuance and oppose witness testimony and exhibits that are withheld until the last-minute resulting in undue prejudice to the State.

ALL OTHER CLAIMS

Each and every allegation contained in the application not expressly admitted, qualified, or explained in this return is hereby denied.

CONCLUSION

WHEREFORE, having made its Return, Respondent requests the Court grant Respondent’s partial motion to dismiss and then conduct an evidentiary hearing on the allegation of ineffective assistance of counsel.

Respectfully Submitted,

ALAN WILSON
Attorney General

DONALD J. ZELENKA
Deputy Attorney General

DANIELLE DIXON
Assistant Attorney General

By:



Danielle Dixon
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211

October 6, 2023

STATE OF SOUTH CAROLINA
COUNTY OF HAMPTON

IN THE COURT OF COMMON PLEAS

2021-CP-25-00421

Joey D. Coleman, #347816

Applicant,

vs

State of South Carolina,

Respondent,

CERTIFICATE OF SERVICE BY MAIL

FILED

AM/PM

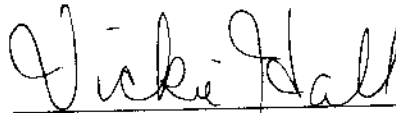
OCT 10 2023

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

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 Respondent's Return and Partial Motion to Dismiss in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Chelsey Faith Marto, Esquire
The Law Office of Chelsey F. Marto
Post Office Box 8795
Columbia, SC 29201

DATED this 6th day of October, 2023.



Vickie Hall, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON) FOR THE FOURTEENTH JUDICIAL CIRCUIT
) **FILED**)
) **AM/PM**)
Joey Coleman, #347816,) Case No.: 2021-CP-25-00421
Applicant,) **NOV 15 2023**)
v.) **APPLICANT'S AMENDED APPLICATION**)
State of South Carolina,) **MYLINDA D NETTLES**)
Respondent,) **CLERK OF COURT**)
) **HAMPTON COUNTY, SC**)

NOW COMES Applicant, Joey Coleman, amending his application filed December 29, 2021. In addition to the allegations raised in his initial application, Mr. Coleman, through PCR Counsel, submits the following:

Amended Application Issues

In a PCR action, the applicant bears the burden of proving allegations contained in the application. *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). When an applicant asserts ineffective assistance of counsel as a ground for relief, the applicant must show “counsel’s conduct so undermined the proper functioning of the adversarial process that [it] cannot be relied upon as having produced a just result.” *Strickland v. Washington*, 466 U.S. 668, 686 (1984); *Butler*, 286 S.C. at 442, 334 S.E.2d at 814. Ineffective assistance of counsel is governed by the Sixth Amendment, as explained by the United States Supreme Court in *Strickland v. Washington*.

Pursuant to the first prong of the *Strickland* analysis, the applicant must prove defense counsel’s performance was deficient. *Id.* at 686; *Cherry v. State*, 300 S.C. 115, 117, 386 S.E.2d 624, 625 (1989). To show deficiency, the applicant must prove by a preponderance of the evidence that counsel’s actions fell outside of the zone of “reasonableness under prevailing professional norms.” *Strickland*, 466 U.S. at 688. *See also* Rule 71.1(e), SCRPC (“The applicant has the burden of establishing his entitlement to relief by a preponderance of the evidence.”).

Reasonableness is determined by the “variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how to best represent a criminal defendant,” and the scope of the reasonableness inquiry is limited to facts counsel had available at the time of representation. *Id.* at 689. “Counsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.”

Yarborough v. Gentry, 540 U.S. 1, 5 (2003) (citing *Strickland*, 466 U.S. at 690); see *Dunn v. Reeves*, 141 S. Ct. 2405, 2410 (2021) (noting counsel’s strategic decisions are to be afforded “‘strong presumption’ of reasonableness that the defendant must overcome); *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011) (explaining a defendant must show defense counsel failed to act reasonably considering all the circumstances in order to overcome the presumption of adequate representation). Judicial scrutiny of counsel’s performance remains deferential towards defense counsel with a presumption that counsel acted competently. *Strickland*, 466 U.S. at 688-89.

Second, counsel’s deficient performance must have prejudiced the applicant so 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. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Strickland*, 466 U.S. at 694. The court makes this determination based upon the totality of the evidence. *Id.* at 695. 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. *Strickland*, 466 U.S. at 696.

Mr. Coleman submits that Counsel was constitutionally ineffective based upon the following grounds:

1. Counsel was constitutionally ineffective for failure to investigate and raise Applicant's mental health issues in mitigation.

Mr. Coleman claims Counsel was ineffective for failing to mitigate the sentence. Counsel may be found deficient for failing to sufficiently investigate and present mitigating evidence. *See Council v. State*, 380 S.C. 159, 172, 670 S.E.2d 356, 363 (2008) (finding it unreasonable for counsel not to further investigate the defendant's background and present even minimal mitigating evidence obtained); *Wiggins v. Smith*, 539 U.S. 510, 521 (2003) (finding it unreasonable when Counsel failed to investigate mitigating evidence beyond a couple retained records, including the presentence investigation report and social service records); *Williams v. Taylor*, 529 U.S. 362, 398 (2000) (finding that Counsel was unreasonable for failing to evaluate the totality of available mitigation evidence). An applicant is prejudiced by this deficiency if there is a reasonable probability that a different sentence would have been imposed but for Counsel's failure to investigate and present mitigating evidence. *Council v. State*, 380 S.C. 159, 171, 670 S.E.2d 356, 362 (2008).

Mr. Coleman submits that he has an established record of struggling with multiple different mental health issues, including depression, bipolar disorder, and schizophrenia. However, in mitigation during sentencing, Counsel told the Court that Mr. Coleman's uncle said Mr. Coleman does not have any mental health issues. This was not true and had Counsel investigated Mr. Coleman's mental health history, he would have known about his mental health issues. Had the Court known of these issues, they would have issued a different sentence. Accordingly, relief should be granted on this ground.

2. Counsel was constitutionally ineffective for failure to move to suppress or, in the alternative, effectively cross-examine Gregory Alexander regarding the beer bottle because of an issue with the chain of custody.

Counsel was constitutionally ineffective for failure to move to suppress the beer bottle

because of an issue with the chain of custody. In the alternative, Counsel should have better cross-examined Mr. Alexander regarding the broken chain of custody on the beer bottle.

Mr. Coleman submits that the beer bottle was the only item his DNA evidence was allegedly found on. However, the DNA evidence was taken to the wrong facility. (R. 247). Specifically, the sample should have been brought to the Beaufort County laboratory like the rest of the samples, instead of SLED, where it was brought. (R. 247). This brought into question the chain of custody as well as the reliability of the results. Counsel should have argued this point in suppressing the DNA procured off the beer bottle. At the least, Counsel should have engaged in a more thorough cross-examination challenging the reliability of the results. Failure to do so was deficient and Applicant was prejudiced by that deficiency. Accordingly, relief should be granted on this ground.

3. Counsel was constitutionally ineffective for failure to effectively cross-examine the first suspect concerning credibility and her identification of Mr. Coleman and to raise this issue during closing argument.

Mr. Coleman asserts that Counsel was constitutionally ineffective for failure to properly cross-examine the original suspect and to attack her credibility during closing. Specifically, the initial suspect in this case was the person who implicated Mr. Coleman while being interviewed by the police as a suspect, not a witness. Counsel should have exploited this credibility issue during cross-examination and during closing argument. Specifically, he should have presented to a jury that Mr. Coleman was only charged because the initial suspect did not want to have to face charges herself. Counsel was deficient on this ground and had Counsel approached this issue better on cross and in closing, Applicant would have succeeded at trial. Thus, relief should be granted on this ground.

Conclusion

Based upon the above, Mr. Coleman requests that this Court grant relief, vacate the convictions, and remand the case to the court of general sessions for a new trial.



Chelsey F. Marto
Bar No. #104191
For Applicant Joey Coleman

October 31, 2023

FILED

STATE OF SOUTH CAROLINA AM/PM IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON) FOR THE FOURTEENTH JUDICIAL CIRCUIT

NOV 15 2023

Joey Coleman, #347816, MYLINDA D NEWELL Case No.: 2021-CP-25-00421
Applicant, CLERK OF COURT
v. HAMPTON COUNTY, SC) Affidavit of Service by Mail
State of South Carolina,)
Respondent.)
_____)

1. I am the attorney for Applicant in the above-captioned matter.
2. Regular communication by mail exists throughout the state of South Carolina and this is a proper circumstance of service by mail.
3. I have this day served a copy of the Amended Application on the above-captioned matter on the following person by depositing the same in the United States mail with the proper postage affixed thereto:

Office of the Attorney General
Attn: Danielle Dixon, Esquire
PCR Division
P.O. Box 11549
Columbia, SC, 29211



Attorney for Applicant

October 31, 2023

STATE OF SOUTH CAROLINA
COUNTY OF COLLETON

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
2021-CP-25-00421

Joey Coleman,)
)
 Plaintiff,)
)
 vs.)
)
 State of South Carolina,)
)
 Defendant.)
 -----)

TRANSCRIPT OF HEARING

November 27, 2023
Walterboro, South Carolina

B E F O R E:

The Honorable Roger Young, Judge Presiding

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

For the Plaintiff -
Chelsey Marto, Esquire
1122 Lady Street, Suite 206
Columbia, South Carolina 29201
864-404-5583

For the State -
Bryan Hall, Esquire
1000 Assembly Street
Columbia, South Carolina 29201
803-734-3970

Cathy L. Young, CVR-M
Official Circuit Court Reporter
Post Office Box 4604
Beaufort, South Carolina 29903

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P R O C E E D I N G S

* * * * *

MR. HALL: Your Honor, the State calls Joey Coleman.

(Applicant comes forward.)

THE COURT: Okay.

MR. HALL: All right. Good afternoon, Your Honor. Assistant Attorney General Bryan Hall for the State. This is the case of Joey Coleman vs. State of South Carolina, 2021-CP-25-00421.

Mr. Coleman was indicted back in March of 2019 by the Hampton County Grand Jury for armed robbery, indictment number 2018-GS-25-00440; two counts of kidnapping, 2015-GS-25-00441 and 00442; possession of a weapon during the commission of a violent crime, 2015-GS-25-00443; and two counts of assault and battery in the first degree, 2018-GS-25-00444 and 00445. Mr. Coleman proceeded to a jury trial before the Honorable Carmen Mullen on February 3rd, 2020. Assistant Solicitor Reed Evans prosecuted the case and Diane DeWitt represented Mr. Coleman.

Mr. Coleman was convicted and sentenced to a concurrent sentence of 30 years for armed robbery and kidnapping, and ten years for the assault and

1 battery charges, and five years for the weapons
2 charge. Mr. Coleman filed a direct appeal and was
3 represented by Appellate Defender Lara Caudy. The
4 Court of Appeals dismissed his appeal and the
5 remittitur was sent January 5th, and this PCR was
6 filed on December 30th of 2021. The State filed its
7 return on October 10th of 2023, and an amended PCR
8 was filed by Mr. Coleman's counsel on October 31st,
9 2023. Mr. Coleman is proceeding on the following
10 allegations: ineffective assistance of counsel for
11 failure to investigate and raise Mr. Coleman's
12 alleged mental health issues and mitigation; failure
13 to move -- or failure to move to suppress or cross-
14 examine Gregory Alexander's testimony regarding the
15 beer bottle for chain of custody concerns; and
16 failure to effectively cross-examine the first
17 suspect concerning credibility and her
18 identification of Mr. Coleman and failure to raise
19 this issue during closing arguments. Your Honor,
20 the State has sent all of the records for Mr.
21 Coleman's PCR electronically last week. Mr. Coleman
22 is present and represented by Chelsey Marto and the
23 State is ready to proceed.

24 MS. MARTO: Good afternoon, Your Honor. I
25 did want to make sure you received the amendment in

1 this case before we begin. I don't know what all
2 was received.

3 THE COURT: Yeah, amended application?

4 MS. MARTO: Yes, sir.

5 THE COURT: Yeah, I've got that.

6 MS. MARTO: So with that, we would call Mr.
7 Joey Coleman to the stand.

8 (Applicant is sworn.)

9 **Joey Coleman,**
10 **having been duly sworn, testifies as follows:**

11 * * * * *

12 **DIRECT EXAMINATION**

13 BY MS. MARTO:

14 Q. Good afternoon, sir.

15 A. Good afternoon.

16 Q. So with what charge did you go to trial on?

17 A. Armed robbery and assault.

18 Q. Okay. And what did the State basically say
19 happened in that case?

20 A. I mean, to my knowledge, to be honest with
21 you, I felt like I was convicted over a beer bottle
22 more rather when other -- other mixtures was mixed
23 with the DNA. Why was mine, you know, considered a
24 high remedy to being, you know, like it was mine.
25 Why did mine get picked out of three, and you was so

1 sure. That's really my argument, in a way.

2 Q. So did the State say that you committed an
3 armed robbery at a convenience store?

4 A. That's what they alleged -- they charged me
5 with, yes, ma'am.

6 Q. And you were represented by Diane DeWitt,
7 correct?

8 A. Yes, ma'am.

9 Q. How do you think she did at trial?

10 A. When it comes to the mental health, I feel
11 like she could have proceeded further in getting to
12 know me and understanding my mental health more
13 rather.

14 Q. So one of your issues is Counsel didn't
15 raise mental health issues during sentencing, right?

16 A. Yes, ma'am.

17 Q. Now what mental health issues do you wish
18 she had raised?

19 A. Well, the serious one is more rather
20 schizophrenia. I feel like it's very dangerous to
21 me and my wellbeing. More rather like it went
22 undiagnosed. See, like I can talk to you like I'm
23 talking to you now, be respectful, but it's little
24 triggers in me that will make me snap to the point
25 where I don't remember anything. So when you're

1 telling me, I'm like, no, it's not true. So that's
2 the deficiency with the mental health with me.

3 Q. You received, I think, the max sentence for
4 armed robbery, correct?

5 A. Yes, ma'am, thirty.

6 Q. Do you think that Counsel raising your
7 mental health issues could have led to a better
8 sentence?

9 A. Yes, ma'am.

10 Q. And then you were also talking about the
11 beer bottle. Now why do you want that beer bottle
12 suppressed?

13 A. Because I feel like in a way when they took
14 DNA, y'all took two samples. Page 247 in the
15 transcript I have Chief Gregory Alexander stated
16 that I asked him to take the DNA swab to SLED which
17 they already took one to Beaufort laboratory, so now
18 you're stating in the transcript that you made a
19 mistake. So therefore I feel like the chain of
20 custody was broken because it was two DNAs went to
21 two different facilities. So in those errors, I
22 feel like the chain of custody was broken more
23 rather.

24 Q. So because of that broken chain of custody,
25 you want it suppressed?

1 A. Yes, ma'am.

2 Q. You said earlier that you thought that was
3 the reason why you were convicted?

4 A. How I feel, yes, ma'am. I do.

5 Q. Then I think the final issue is so you
6 weren't the first suspect in this case, correct?

7 A. I wasn't.

8 Q. Do you know who was?

9 A. I mean they had other folks, but I'm not too
10 well-known with -- or their wellbeing, so no, I'm
11 really not sure, you know.

12 Q. Do you recall a woman who was, I think,
13 pinned as a suspect testify at your trial?

14 A. There was a female locked up in the case
15 that was conversating with the Chief, but to my
16 knowledge I really didn't go any further about
17 situating, but I have statements in my transcript.
18 You could further review it.

19 Q. Okay. So one of the issues you raised in
20 your amended application is that you thought that
21 one of the witnesses or suspects should have been
22 better cross-examined by Counsel; is that correct?

23 A. Yes, ma'am. I feel like that, yes, ma'am.

24 Q. And what do you think that they would have
25 been cross-examined on?

1 A. More rather -- all right, you know, when
2 she's on the stand, I remember she stated that she
3 could barely see. She had her wrong glasses. I'm
4 not sure if it was him, so are little areas I feel
5 like could have been challenged in a way that
6 wasn't. So I kind of felt like my previous lawyer
7 was just trying to get me on through, and y'all
8 already conversated what was going to be the
9 outcome, so I felt like that was a lack of
10 deficiency in those areas to miss.

11 Q. And so that witness is the one that
12 identified you; is that correct?

13 A. Allegedly, yes, ma'am.

14 Q. And so you thought that raising issues of
15 her not being able to see you would have brought the
16 State's case into jeopardy?

17 A. Yes, ma'am.

18 Q. Is there anything else you wish Counsel had
19 highlighted in that cross-examination and closing?

20 A. Nothing, just what has been stated mostly.
21 Nothing else really.

22 Q. Okay. And it's just those three issues that
23 you're looking to raise today, right?

24 A. Yes, ma'am. They stood out to me.

25 MS. MARTO: Okay. No further questions, Your

1 Honor.

2 THE COURT: Mr. Hall?

3 CROSS-EXAMINATION

4 BY MR. HALL:

5 Q. Good afternoon, Mr. Coleman.

6 A. Good afternoon, sir.

7 Q. How are you? Mr. Coleman, how far did you
8 go in school?

9 A. Tenth grade, GED.

10 Q. Okay. And you say that you have undiagnosed
11 schizophrenia; is that correct?

12 A. Yes, sir.

13 Q. Have you ever seen a doctor for that issue?

14 A. Never really had the time to, no, sir.

15 Q. Okay. Prior to you being arrested on these
16 charges, you had never seen a doctor then?

17 A. I was taken trips back and forth to Hampton
18 County Mental Health but after I got sentenced it
19 was over with.

20 Q. But that was while you were in jail you were
21 taking the trips back and forth?

22 A. Yes, sir.

23 Q. Do you have any documentation of that?

24 A. To be honest, I reached out. I called
25 trying to get information on it. They wanted to

1 send some papers for me to sign to authorize it.
2 The timing was off, the Court timing so, no, sir, I
3 wasn't able to acquire no ---

4 Q. So no documentation?

5 A. No, sir.

6 MR. HALL: No further questions, Your Honor.

7 **REDIRECT EXAMINATION**

8 BY MS. MARTO:

9 Q. Sir, you're stating that you wished -- did
10 Counsel ever ask you about your mental health?

11 A. Not so I can remember.

12 Q. If she had, would you have been able to
13 explain maybe some of your symptoms?

14 A. Yes, ma'am.

15 Q. Do you think that would have impacted
16 sentencing?

17 A. A whole lot, yes, ma'am.

18 Q. Okay.

19 MS. MARTO: No further questions, Your Honor.

20 **RECROSS-EXAMINATION**

21 BY MR. HALL:

22 Q. Mr. Coleman, you said that your attorney
23 never asked. Did you ever tell her?

24 A. At that time, sir, a lot was going on. I
25 felt she should have known because I was locked up

1 in this County here a lot of times for like little
2 incidents and stuff like that, so I felt like it was
3 already on the record.

4 Q. Mr. ---

5 A. Excuse me, I assumed it was already on
6 record.

7 Q. Mr. Coleman, how would your attorney have
8 known if you didn't tell her?

9 A. I mean really I felt if it's the 14th
10 Circuit -- I felt like all the systems run
11 concurrently, so I assumed that she knew.

12 Q. So you assumed that she knew, but you didn't
13 tell her?

14 A. Yes, to be honest with you, yes, sir.

15 MR. HALL: No further questions.

16 THE COURT: You may step down.

17 MS. MARTO: Your Honor, we'll call Diane DeWitt.

18 (Witness is sworn.)

19 Diane DeWitt,

20 having been duly sworn, testifies as follows:

21 * * * * *

22 DIRECT EXAMINATION

23 BY MS. MARTO:

24 Q. Good afternoon. So you represented Mr.
25 Coleman at his trial, right?

1 A. Yes, I did.

2 Q. And do you know how many times roughly you
3 met with him?

4 A. I had two really long meetings with him at
5 the jail. One was about four hours, another one,
6 the Friday before his trial I think, six hours,
7 something like that.

8 Q. Okay.

9 A. And then smaller meetings he and I had in
10 offices at the courthouse.

11 Q. So did Mr. Coleman seem to understand what
12 you were telling him?

13 A. Yes. I was appointed when he had his prior
14 counsel relieved, and I found him to be -- with me,
15 I never had any problems with Mr. Coleman. He was
16 very courteous. He had good manners. He was
17 interested in everything I had to say. He was
18 interested in the court process from the beginning
19 to the end. You know, even what happens post-
20 conviction, if he were to be convicted, we went over
21 every piece of evidence against him in his case,
22 repeatedly watched the videotape from the armed
23 robbery, which was in color. It was a real good
24 video. We just plain sat and talked, and I listened
25 to him and went through his background history. And

1 let's see, he asked all -- he asked really
2 intelligent questions. I mean, quite frankly, he
3 was perfectly competent. He helped me -- during the
4 trial, he helped me pick the jury. He would comment
5 once in a while, whisper something to me, and that
6 he would comment on my performance after I cross-
7 examined the witnesses, so he participated in his
8 trial.

9 Q. Did he ever raise any mental health issues
10 or concerns with you?

11 A. No. I had gone through his background with
12 him. Yeah, he was -- he could get in trouble at the
13 jail the whole time he was there. He seemed to have
14 two major complaints and had written lots of letters
15 to the Clerk of Court and to the Public Defender
16 that he'd had a service appointment a month or two
17 before his trial. So he'd had his prior public
18 defender a long time and had written him lots of
19 letters. He'd written a letter to the Chief of
20 Police for the agency that arrested him. So one of
21 his complaints seemed to be that other people were
22 involved and they were bonded out and not in jail or
23 were being treated less harshly than him pre-trial.
24 That was one complaint. The other was that the
25 judge would not give him a personal recognizance

1 bond no matter how many times his lawyer took him in
2 front of her for bond reduction hearings. She would
3 not give him a very low bond or a personal
4 recognizance bond for the robbery and kidnapping
5 charges.

6 Q. Did he ever give you a reason to think he
7 had mental health issues?

8 A. No.

9 Q. Now are you familiar with the beer bottle
10 that is being discussed in this case?

11 A. In the video, yeah, there's -- the person
12 at the store put a beer bottle and also it seems to
13 me it was a Minute Maid Lemonade on the counter.

14 Q. And Mr. Coleman's DNA was found on the beer
15 bottle, correct?

16 A. Yes, which was somewhat confusing, and I
17 think the transcript probably speaks for itself, but
18 there was a combination of DNA found on the beer
19 bottle, and the DNA by person used a computer
20 program, software program, to, I guess, sort the DNA
21 and the report and testimony was that there was a
22 match to Mr. Coleman.

23 Q. And now the transcript shows that the bottle
24 was sent for testing into the wrong facility
25 initially, correct?

1 A. Well, everything used to -- for our part of
2 the State anyway used to go to Columbia. And so --
3 but Columbia had a big backlog, and the Beaufort DNA
4 Lab, which is nearly as old as SLED's, apparently
5 was open and upon request once in a while would take
6 evidence from the Yemassee Police Department, which
7 it's a very small police department and close to
8 Beaufort. Part of Yemassee is in Beaufort County.
9 So somehow I guess the Chief called the Sheriff and
10 got them to take that evidence.

11 Q. Now because it was sent to a lab close to
12 you, do you think that was grounds for a motion to
13 suppress evidence?

14 A. No. No. I don't think the chain of custody
15 was broken on it, if that's what you're asking me.
16 The solicitor in the case, he's a really good
17 solicitor, very particular about proving every
18 single, technical detail on chain of custody.

19 Q. Now Mr. Coleman wasn't the first suspect in
20 this case, was he?

21 A. Well, okay, Police -- Yemassee is also very
22 small if you haven't driven through it. Two or
23 three minutes. The Yemassee Police Department did
24 not know who the person on the videotape was. Okay.
25 Because the videotape is very clear. You can see

1 the person robbing the store clearly. And none of
2 the Yemassee Police Department -- officers
3 recognized the robber. There was the lady who had
4 been in the car, that was Ms. Wilcox who later
5 testified, she was still -- she was at the store
6 still, I think, or had gotten a ride and went on
7 home. But everybody knew Ms. Wilcox because she'd
8 go into the store often. And she'd always lived in
9 Yemassee, I think, her whole life. And so Police
10 went to Ms. Wilcox and she gave them some
11 information about how she came to be riding and she
12 had called that the person robbing the store had
13 gotten out. So I'm not sure what the question was.
14 Eventually what happened was they think that from
15 the videotape from the store a police officer was
16 able to take a still photograph, sent it to -- Ms.
17 Wilcox kept saying that the man in the car robbed
18 the store was from across the river in Yemassee,
19 that means Colleton County. And so a photograph got
20 sent to Colleton County Sheriff's Office to see if
21 any of them recognized him.

22 Q. But she was detained in custody and read her
23 her Miranda Rights, correct?

24 A. Yes.

25 Q. And so what was your strategy on cross-

1 examination; do you recall?

2 A. Oh, everything. If you read the transcript,
3 I made a motion to suppress the photographic lineup
4 and identification in it. And then on cross-
5 examination, the fact that she said -- something
6 about her eyesight or not having her glasses that
7 day, so I made a big deal about her ID of him in the
8 courtroom, the fact that she couldn't see far enough
9 to actually see his face from where she was sitting
10 in the witness stand to the table. I attacked her
11 ID because he was the only black person sitting at
12 the table next to me during the trial, so obviously
13 he's the one who was charged anyway with armed
14 robbery, had to be Mr. Coleman, he's sitting next to
15 me. I asked her -- I think I asked her if she was
16 under the influence of any prescription medications
17 or illegal drugs during her testimony because she
18 acted like it. She was not a very good witness.

19 Q. Did you challenge her credibility based upon
20 the fact that she was brought to the Police Station?

21 A. Yes, and that she knew the police officer
22 and had had prior run-ins with the Police. I think
23 she had some minor convictions and she admitted
24 those. I mean I can't think of anything I left out
25 in my cross-examination of her.

1 Q. And did you -- do you recall whether or not
2 you challenged her credibility again in closing?

3 A. Yes. I know that we did. The other thing I
4 did for Mr. Coleman, I mean besides -- I had gone to
5 the scene, prepared paperwork on the motions and
6 all, and I spent what I thought was quality time
7 with my inmate client. And he was helpful too. But
8 I contacted his uncle because first time I had met
9 with Mr. Coleman, he had been crabbing at the time
10 of the robbery and couldn't have done it, and so I
11 started to think how I could verify that, crabbing
12 by himself at a specific place but all alone where
13 there would be no witnesses. And so -- and that he
14 caught crabs and he took them home. He drove his
15 uncle's car. He took them home and would have put
16 them in the sink at his uncle's house and his uncle
17 would have seen them when he came home from work.
18 So that's initially why I called the uncle. Of
19 course, the alibi did not pan out. But I noticed
20 that in the sentencing in my -- the mitigation after
21 the judge's sentencing, I told her that what the
22 uncle had told me about Mr. Coleman and told me he
23 had never had mental health issues that he knew of.
24 So I did apparently talk to the uncle about those
25 things and about Mr. Coleman's background and why he

1 was living with his uncle as opposed to, say, a
2 parent.

3 Q. Did you attempt to verify the uncle's claim
4 of mental health issues with Mr. Coleman?

5 A. I'm sure that I did because I always ask
6 those questions. One of the things that we spent
7 time on was just sitting and talking to each other
8 so I could get to know Mr. Coleman. And he wasn't
9 married. I knew he had a three-year-old. I knew
10 where he worked. I knew -- I guess with the kind of
11 work or training he had gotten the first time he was
12 in prison. I think he served a youthful offender's
13 sentence, and the kind of work he had done after
14 being released from prison. So I'm not aware of any
15 mental health issues that he had other than the fact
16 that he thought he should have been released on bond
17 and he wasn't. You know, jail is a tough place when
18 it's crowded and you're there a long time. And
19 other than other than his uncle, I don't think he
20 had many visitors.

21 MS. MARTO: No further questions, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. HALL:

24 Q. Good afternoon, Ms. DeWitt. How long have
25 you been practicing law?

1 A. Forty years.

2 Q. And how long in that forty years has been
3 devoted to criminal law?

4 A. Let's see, first five as a Legal Aid
5 lawyer. The next five I was Beaufort's Chief Public
6 Defender. I had almost 30 years -- 27 years in
7 private practice where one of my specialties was
8 criminal law and I tried criminal cases. And then
9 as I was closing out my practice, I was PD for
10 Jasper, Hampton, and Allendale counties. So until
11 the shutdown happened, a month after Mr. Coleman's
12 trial. So I'd say 35 years basically.

13 Q. So 35 of the 40 you worked criminal?

14 A. Yes.

15 Q. And can you tell us briefly how you got this
16 case? Were you appointed?

17 A. I was appointed. What happened was Mr.
18 Coleman was brought in front of the judge because
19 his prior public defender thought he was entering a
20 plea to negotiate a deal he had with the solicitor.
21 And when they got in front of the judge, Mr. Coleman
22 did not want to enter a plea. It was for 15 years,
23 but the kidnapping was being dismissed. He did not
24 want to enter the plea and, instead, one of his
25 demands was that his lawyer be relieved, and so I

1 think I was the only other attorney -- I think I was
2 the only lawyer available to be appointed through
3 the public defender's office at the time. So that's
4 how I got the case. But the judge -- the judge
5 specifically appointed me. That's a surprise, too,
6 the Chief PD.

7 Q. And the time that you spent with Mr. Coleman
8 before trial, you believe that was enough time to
9 try this case?

10 A. Yes, I do.

11 Q. Can you just -- actually, I want to get into
12 some of the evidence in this case. It's come out
13 that there was a beer bottle that linked Mr. Coleman
14 to this robbery. Do you recall a Timothy French
15 testifying? He was Beaufort County's DNA analysis
16 expert?

17 A. Yes.

18 Q. And do you recall him testifying that the
19 DNA swabs collected from the beer bottle was 126 ten
20 trillion times more likely to be from Mr. Coleman
21 than from a regular person, although there were --
22 presence of other DNA on the bottle?

23 A. Yes.

24 Q. And regarding the beer bottle, do you recall
25 Michael Strauss testifying? Do you need refreshing?

1 A. Who was he?

2 Q. So Michael Strauss is an officer with the
3 Yemassee PD's office. He testified at trial that
4 the person that brought it to the store placed it on
5 the counter. He took the beer bottle to evidence
6 and submitted it to Beaufort County for DNA
7 analysis. From then, the bottle was given to Tim
8 French who you just testified that you recall his
9 testimony about the DNA analysis. From there, do
10 you recall Captain Joe Bomar testifying at trial?
11 He was also with Yemassee PD's office. Mr. Loadholt
12 testified that when Mr. Coleman was arrested, the
13 nurse at the jail took DNA swabs from Mr. Coleman,
14 and that the DNA sample from the buccal swabs were
15 taken to SLED in Columbia. And shortly after Mr.
16 Loadholt testified, -- well, let me just -- based on
17 that testimony, did you have any chain of custody
18 concerns at that point in the trial based on that
19 testimony?

20 A. No, because I think there's additional
21 testimony -- if you read the transcript instead of
22 just picking and choosing parts, if you read the
23 entire testimony on the chain of custody, it's in
24 the record.

25 Q. All right. And then lastly, Bomar

1 testified, Chief Gregory Alexander of the Yemassee
2 Police testified. Essentially Gregory testified
3 that although Loadholt took the swab to SLED in
4 Columbia, they realized that was a mistake. And
5 once they realized that it was a mistake, Chief Mark
6 Keel told them to take the DNA to Beaufort, and then
7 the DNA was taken to Beaufort. Chief Gregory
8 Alexander testified that although it was an initial
9 mistake with the DNA being sent to SLED, that
10 eventually it found its way back to Beaufort County
11 where it was properly analyzed. Did you have any
12 concerns then based on the testimony of those three
13 witnesses regarding chain of custody?

14 A. I think that when you read the whole
15 transcript about the chain of custody, it's all
16 there. It's present.

17 Q. Regarding Ms. Wilcox's testimony, initially
18 before trial, we called a Biggers hearing to
19 challenge her implication, correct?

20 A. Yes.

21 Q. And during that hearing, the Court found
22 that -- well, first she didn't find Mr. Coleman in a
23 six photo ID line-up. And the Court found that that
24 line-up under implication was not under the
25 suggestive based on the testimony originally, right?

1 A. Right, correct.

2 Q. And at trial when you cross-examined her on
3 her vision, as you mentioned that she was preparing
4 her glasses and she's under medication and she said
5 that she had memory problems; do you recall that?

6 A. Correct.

7 Q. And you also cross-examined her on her prior
8 offenses which involved crimes of dishonesty,
9 correct?

10 A. Yes.

11 Q. And then in closing, you also further
12 covered all of those points, and that's at
13 transcript 298, correct?

14 A. Yes.

15 Q. And briefly, did you -- did Mr. Coleman ever
16 indicate to you that he had mental health problems
17 during the course of your representations?

18 A. No.

19 Q. And had he mentioned that, you would have
20 brought it up during mitigation, correct?

21 A. I would have gotten any records he had from
22 Coastal Empire or wherever he might have gone from
23 the jail. And possibly gotten -- possibly gotten a
24 request for a mental competency evaluation. But he
25 gave me no reason to think he was not competent to

1 stand trial. I mean he talked to me like an
2 educated person, like he had a whole lot more formal
3 education than he actually did and was interested in
4 his case, and asked really smart questions. So he
5 didn't give me any reason to go into that further.

6 MR. HALL: No further questions, Your Honor.

7 MS. MARTO: No redirect, and no further
8 witnesses, Your Honor.

9 THE COURT: You may step down.

10 THE WITNESS: May I be excused?

11 THE COURT: Yes, ma'am.

12 MR. HALL: Nothing further from the State, Your
13 Honor.

14 THE COURT: Okay. Any arguments?

15 **CLOSING BY MS. MARTO**

16 MS. MARTO: Yeah, just briefly, Your Honor. We
17 would request you grant relief based upon the three
18 issues we've raised today. My client testified that
19 he does have symptoms to indicate schizophrenia and
20 that wasn't brought up at the trial. We would also
21 request that you grant relief based on the
22 allegation that there was a break in the chain of
23 custody concerning the beer bottle and that Counsel
24 should have more clearly cross-examined and
25 challenged in closing the initial suspect's

1 testimony concerning her credibility. And because
2 of that, we request you grant relief today and take
3 the matter under advisement. Thank you.

4 **CLOSING BY MR. HALL**

5 BY MR. HALL: Your Honor, briefly the State
6 asks that you deny Mr. Coleman's PCR. Regarding the
7 events of health allegations, we heard from Mr.
8 Coleman's mouth himself that he did not tell his
9 attorney about the alleged mental health analysis.
10 The burden is on Mr. Coleman to prove that one
11 Counsel knew about the mental health issues, and he
12 hasn't done that, and he hasn't provided any
13 documentation of that. Regarding the edification,
14 you heard Counsel testify that she did in fact
15 cross-examine the witness regarding not only the
16 witness's vision but the witness's memory as well as
17 the influence of drugs at trial. She also raised
18 that issue with the jury in closing arguments.
19 Regarding chain of custody, you heard from Counsel
20 that the trial transcript speaks for itself. Three
21 witnesses from various Police Departments testified
22 that chain of custody had been met and established.
23 And so, Your Honor, we ask you to deny this
24 application as Mr. Coleman has not met his burden of
25 showing deficiency of counsel.

1 JUDGE'S RULING

2 THE COURT: Well, I agree while there are
3 allegations, there really isn't any proof to back up
4 any of the allegations. They're just
5 unsubstantiated. For instance, there is no
6 diagnosis that he actually has any mental health
7 issues. And those things that got raised and
8 explored by trial Counsel, mitigation, chain of
9 custodies and -- I find that this case fails for
10 proof, so I will deny his petition for post from
11 conviction relief and ask the State to prepare an
12 order.

13 MR. HALL: Your Honor, do you have a timeframe
14 for when you would like that?

15 THE COURT: Two weeks.

16 MR. HALL: Thank you.

17 (Whereupon, the hearing was concluded.)

18 - - -END OF TRANSCRIPT- - -

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

Cathy L. Young

My Commission expires: 3-28-2029

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HAMPTON	)	FOR THE FOURTEENTH JUDICIAL
	)	CIRCUIT
Joey D. Coleman, SCDC #347816,	)	Case No. 2021-CP-25-00421
Applicant,	)	
v.	)	ORDER OF DISMISSAL
State of South Carolina,	)	
Respondent.	)	

FILED
 AM/PM
 DEC 18 2023
 MYLINDA D. NETTLES
 CLERK OF COURT
 HAMPTON COUNTY, SC

This matter is before the Court pursuant to an application for post-conviction relief (PCR) filed by Joey Coleman (Applicant) on December 30, 2021. On November 28, 2023, an evidentiary hearing convened before the Honorable Roger M. Young, Sr. Applicant was present and represented by Chelsey F. Marto, Esquire. Assistant Attorney General Bryan T. Hall represented Respondent. At the hearing, Applicant testified on his own behalf and called as a witness Diane P. DeWitt, Esquire (Counsel). Respondent did not call any witnesses. Following a thorough review of the trial transcript and the testimony and evidence presented at the evidentiary hearing, this Court finds Applicant did not meet his burden of proof. Thus, this Court denies relief and dismisses this application with prejudice.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections serving a thirty (30) year sentence. In March 2019, the Hampton County Grand Jury indicted Applicant for armed robbery (2018-GS-25-00440); two (2) counts of kidnapping (2018-GS-25-00441; -00442); possession of a weapon during the commission of a violent crime (2018-GS-25-00443) and two (2) counts of assault and battery in the first degree (2018-GS-25-00444; -00445). These charges

arose from an incident that occurred at Snappy Foods convenience store on November 15, 2018, in which Applicant was seen on surveillance video robbing the store at gun point.

On February 3, 2020, Applicant proceeded to a jury trial before the Honorable Carmen Mullen. Assistant Solicitor Reed Evans prosecuted the case on behalf of the Fourteenth Circuit Solicitor's Office. The jury convicted Applicant as indicted. Judge Mullen sentenced Applicant to a concurrent sentence of thirty (30) years imprisonment for armed robbery; thirty (30) years for both counts of kidnapping; ten (10) years on both counts of assault and battery in the first degree; five (5) years for possession of a weapon during the commission of a violent crime. On February 13, 2020, Applicant filed a timely notice of appeal. On December 8, 2021, the Court of Appeals dismissed the Applicant's appeal after consideration of Applicant's pro se brief and review pursuant to *Anders v. California*, 386 U.S. 738 (1967).¹ The Remittitur was sent on January 5, 2022.

CURRENT APPLICATION

Applicant timely commenced this PCR action on December 30, 2021, alleging he is being held in custody unlawfully for the following reasons:

- Ineffective assistance of counsel for failure to raise adequate defense.
- Evidence is insufficient to support the verdict.

On October 10, 2023, Respondent filed a return. On November 11, 2023, Applicant filed an amended application, raising the following issues:

- Ineffective Assistance of Counsel
 - a. Failure to investigate and raise Applicant's mental health issues in mitigation.
 - b. Failure to move to suppress, or in the alternative, effectively cross-examine Gregory Alexander regarding the beer bottle for an issue with chain of custody.

¹ *State v. Coleman*, 2021-UP-431 (S.C.Ct. App. filed Dec. 8, 2021).



- c. Failure to effectively cross-examine the first suspect [Karen Wilcox] concerning credibility and her identification of Applicant and failure to raise this issue during closing argument.

At the hearing, Applicant proceeded solely on the allegations contained in his amended application. Before this Court are the Hampton County Clerk of Court records of the subject conviction; Applicant's records from the South Carolina Department of Corrections; appellate records; the trial transcript; and the records of the current PCR action.

TESTIMONY PRESENTED AT THE EVIDENTIARY HEARING

At the evidentiary hearing, Applicant averred Counsel should have investigated his mental health issues and presented them for purposes of mitigation. Applicant alleged he suffers from undiagnosed Schizophrenia, and if Counsel had investigated and presented this issue, Applicant could have received a reduced sentence. On cross-examination, Applicant testified that he has never seen a doctor for mental health issues outside of the Hampton County Detention Center, does not have any documentation of a mental health issue, and did not inform Counsel of a mental health issue but believes Counsel should have known.

Applicant asserted Counsel should have moved to suppress the beer bottle obtained at the crime scene because of chain of custody concerns and the presence of other DNA on the bottle. Applicant testified that Counsel should have cross-examined eyewitness, Karen Wilcox, on her identification of Applicant and her vision. Applicant alleges Counsel failed to effectively challenge the witness' identification and failed to argue against the identification in closing argument.

Diane P. Dewitt (Counsel) testified she met with Applicant numerous times and had sufficient and adequate time to meet and discuss the case. Counsel testified she explained to Applicant the charges the State brought against him, the elements of each charge, and the State's burden to prove each element. Counsel testified she received discovery from the State and reviewed the following evidence with Applicant: a surveillance video from the convenience store;

DNA analysis conducted on a beer bottle held by the robber; Karen Wilcox's statement and photo-identification of Applicant; and Sergeant Varnadoe's identification of Applicant from a picture of the surveillance video. Counsel testified that she conducted further investigations into Applicant's alibi that he was crabbing with his uncle at the time of the robbery. According to Counsel, the alibi was disproved by Applicant's uncle.

Counsel testified Applicant did not inform her of any mental health issues. Counsel testified she had no concerns about Applicant's competency, mental health, or his ability to understand the information Counsel explained. Counsel testified that she asked Applicant's uncle about Applicant's mental health, to which Applicant's uncle indicated Applicant does not have any mental health problems. On cross-examination, Counsel testified that she would have raised mental health issues during mitigation if Applicant had informed her of any mental health issues.

On cross-examination, Counsel testified she did not object to or challenge Chief Gregory Alexander's testimony regarding the beer bottle because the solicitor was thorough in establishing the chain of custody. Counsel testified she did not believe there was a basis to object to the chain of custody for the beer bottle. Counsel testified she recalled Timothy French, qualified as an expert in DNA analysis, testifying that the DNA swab collected from the beer bottle was one hundred twenty-six (126) quintillion times more likely to be from Applicant than a random person.

Counsel testified she moved for a *Niel v. Biggers* hearing to challenge Karen Wilcox's identification of Applicant. Counsel also testified she cross-examined Wilcox on her blurry vision, influence of medications, her memory, and the fact that Wilcox did not wear her prescribed glasses during trial. Counsel testified she further cross-examined Wilcox on her identification of Applicant as the only black man in the courtroom. On cross-examination, Counsel testified she also raised those issues during closing arguments as reflected by the trial transcript.



FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the trial transcript in its entirety and has heard the testimony at the PCR hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony. After a careful review based on the *Strickland* standard set forth below, this Court finds Applicant has failed to meet his burden of proof. Below are this Court's findings of facts and conclusions of law as required by section 17-27-80 of the South Carolina Code (2017).

Ineffective Assistance of Counsel

In a PCR action, an applicant bears the burden of proving the allegations. Rule 71.1(e), SCRCP; *Butler v. State*, 286 S.C. 441, 334 S.E.2d 813 (1985). An applicant alleging ineffective assistance of counsel must prove "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." *Strickland v. Washington*, 466 U.S. 668 (1984); *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. "The test for effective assistance of counsel is whether the representation was within the range of competence demanded of attorneys in criminal cases." *Watson v. State*, 287 S.C. 356, 357, 338 S.E.2d 636, 637 (1985). Courts presume counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Butler*, 286 S.C. at 441, 334 S.E.2d at 813. An applicant must overcome this presumption to receive relief. *Cherry v. State*, 300 S.C. 115, 386 S.E.2d 624 (1989). To establish ineffective assistance of counsel, a PCR applicant must prove (1) counsel's performance fell below an objective standard of reasonableness and (2) the applicant sustained prejudice as a result of counsel's deficient performance. *Strickland*, 466 U.S. at 687-88; *Cherry*, 300 S.C. at 117-18, 386 S.E.2d at 625.

Failure to Investigate and Present Mental Health Issues for Mitigation



This Court finds Applicant failed to prove Counsel was ineffective for failing to investigate his mental health issues and failing to present such issues for purposes of mitigating the sentence. At the PCR hearing, Applicant testified he never informed Counsel of any mental health issues and did not have documentation of such issues. This Court finds **credible** Counsel's testimony that Applicant did not inform her of any mental health issues during representation, and she had no knowledge or concerns about Applicant's mental health. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

***Failure to Move to Suppress or Effectively Challenge
DNA Evidence from Beer Bottle for Chain of Custody***

This Court finds Applicant failed to prove Counsel was ineffective for failing to move to suppress or effectively cross-examine Gregory Alexander for chain of custody concerns on DNA analysis from the beer bottle collected at the scene. At trial, Michael Strauss testified he collected, took into evidence, and submitted to the Beaufort County lab the beer bottle that the robber placed on the counter shortly before the robbery. (R. 159-160). Captain Joe Loadholt testified that when Applicant was arrested, a nurse at the detention center took a buccal swab of Applicant for DNA analysis, and Loadholt took the buccal swab to SLED in Columbia. (R. 226-228). Gregory Alexander, Chief of the Yemassee Police Department, testified that he did not take the buccal swabs but was familiar with them. (R. 246). Alexander testified the solicitor mistakenly told him to take the buccal swabs to SLED for comparison with the swabs collected from the beer bottle. (R. 246-47). Alexander testified the solicitor was mistaken because the solicitor did not realize the Yemassee PD had already taken the swabs from the beer to the Beaufort County lab for analysis. (R. 247). Alexander testified that when the mistake was realized, Chief Mark Keel of SLED informed Alexander that the buccal DNA swabs would have to be taken to Beaufort County to be compared with the swabs from the beer bottle since SLED did not take the original DNA. (R. 248).



Alexander testified that Dawn Crawford picked up the buccal swabs from SLED and took them to Beaufort. (R. 248). Dawn Crawford testified that she transported the buccal swabs from SLED in Columbia to the Yemassee PD, then to the Beaufort County Sheriff's Office lab. (R. 266-67). Timothy French, Beaufort County Sheriff's DNA analyst, testified he received the DNA swabs from Dawn Crawford, and the evidence was sealed and unopened. (R. 255).

Based on the trial transcript, this Court finds the chain of custody was established by the testimony presented at trial. Further, this Court finds **credible** Counsel's testimony that she did not believe there was a basis to move to suppress or cross-examine Gregory Alexander for chain of custody concerns because the testimony at trial established the chain of custody. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

***Failure to Effectively Cross-Examine Karen Wilcox and
Raise Concerns During Closing Argument***

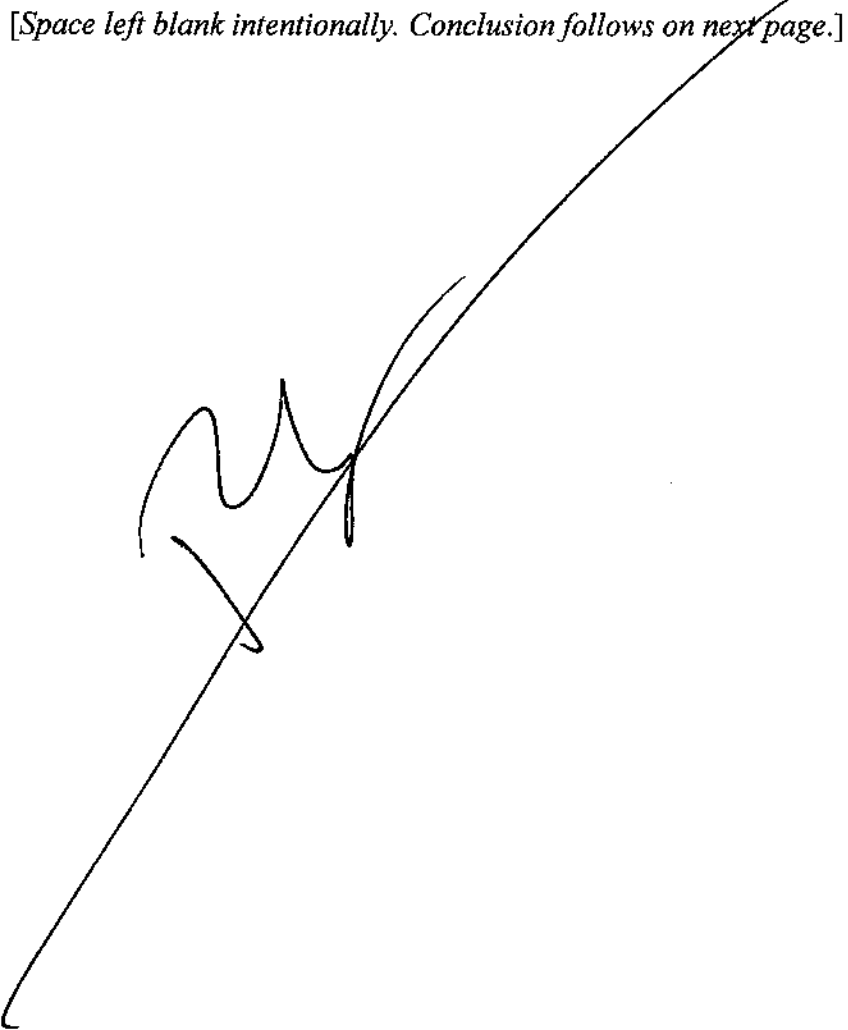
This Court finds Applicant failed to prove Counsel was ineffective for failing to effectively cross-examine Karen Wilcox on her identification of Applicant and failing to raise this issue during closing argument. Counsel moved for a pre-trial hearing pursuant to *Neil v. Biggers*², in which Counsel challenged Wilcox's identification of Applicant from a six (6) photo lineup while in police custody. (R. 56-04). The trial court found the evidence supported a finding that the photo lineup was not unduly suggestive, and Wilcox's identification was reliable and admissible. (R. 104-05). During trial, Counsel cross-examined Wilcox on her view of Applicant's face; the medications Wilcox was taking; and Wilcox's identification of applicant while being in police custody. (R. 203-04; 205-06; 210-11). Counsel questioned Wilcox about her blurry vision, and the fact that Wilcox was not wearing her prescription eyeglasses while testifying at trial (R. 210-211). Counsel

² *Neil v. Biggers*, 409 U.S. 188 (1972).



also cross-examined Wilcox on her prior convictions for shoplifting and obtaining goods under false pretenses. (R. 209). Counsel argued these issues before the jury during closing arguments, raising concerns about Wilcox being under the influence of medications, having blurry vision, and not wearing her eyeglasses. (R. 298-99). This Court finds the trial transcript refutes Applicant's allegation that Counsel did not effectively cross-examine Wilcox and did not raise concerns regarding the identification during closing argument. Thus, Applicant did not meet his burden of proving Counsel's performance was deficient. Accordingly, relief is DENIED.

[Space left blank intentionally. Conclusion follows on next page.]



CONCLUSION

Based on the foregoing, this Court finds Counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant relief. Thus, this application is DENIED and dismissed with prejudice.

Should Applicant wish to secure appellate review, he must file and serve a notice of appeal within thirty days of receipt by counsel of written notice of entry of judgment. *See* Rule 203, SCACR. Applicant has the right to an appellate counsel's assistance in seeking review of the denial of PCR. *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). If an applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on applicant's behalf. Rule 71.1(g), SCRCP. Attention is directed to Rule 243, SCACR, for appropriate procedures for appeal.

THEREFORE, IT IS SO ORDERED:

1. This application for PCR is denied and dismissed with prejudice; and
2. Applicant must be remanded to and remain in the custody of the State.

AND IT IS SO ORDERED ON THIS 12/17 day of 2023.

CSB, South Carolina

ROGER M. YOUNG, SR.
Presiding Judge
Fourteenth Judicial Circuit

WITNESSES

YPO

[Signature]

DOCKET NO. 2018GS2500440

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

March Term 2019

THE STATE

vs.

Joey Dean Coleman

Indictment For

Armed Robbery, robbery while
armed or allegedly armed with a
deadly weapon

SC Code: 16-11-330(A)

CDR Code: 0139

ARREST WARRANT NUMBER

2018A2520500065

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: *RYAN SAUNDERS*
MAR 13 2019

VERDICT

[Signature]

Foreperson of Petit Jury

Date:
INDICT

395
After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2018GS2500440

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did commit robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of Section 16-11-330(A), et al. of the Codes of Law of South Carolina.

TRUE BILL

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

YPO

[Signature]

DOCKET NO. 2018GS2500441

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

March Term 2019

THE STATE

vs.

Joey Dean Coleman

Indictment For

Kidnapping

SC Code: 16-3-910

CDR Code: 0095

ARREST WARRANT NUMBER

2018A2520500066

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: *Ryan Scrubbs*
MAR 13 2019

VERDICT

Ed Walker

Guilty 2/5/2020

Foreperson of Petit Jury

Date:
INDICT

397
After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2018GS2500441

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Kidnapping

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did seize, confine, inveigle, decoy, kidnap, abduct or carry away Yashkumar Diupbhai Patel without authority of law, all in violation of Section 16-3-910, et al. of the Codes of Law of South Carolina.

TRUE

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

YDD

[Signature]

ARREST WARRANT NUMBER

2018A2520500067

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: *[Signature]*
MAR 13 2019

VERDICT

[Signature]

Guilty 2/5/2020
Foreperson of Petit Jury
Date:
INDICT

DOCKET NO. 2018GS2500442

The State of South Carolina
County of Hampton

COURT OF GENERAL SESSIONS

March Term 2019

THE STATE

vs.

Joey Dean Coleman

Indictment For
Kidnapping

SC Code: 16-3-910

CDR Code: 0095

399
After being fully advised as to my
legal rights, I hereby waive
presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

Defendant

Witness:

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2018GS2500442

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Kidnapping

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did seize, confine, inveigle, decoy, kidnap, abduct or carry away Hetalsinh J Solanki without authority of law, all in violation of Section 16-3-910, et al. of the Codes of Law of South Carolina.

TRUE BILL

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

DOCKET NO. 2018GS2500443

401
After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

YPO
The State of South Carolina
County of Hampton

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I
hereby appear in my own proper person and plead guilty to the within indictment or to

THE STATE

vs.

Joey Dean Coleman

Indictment For

Poss. weapon during violent crime,
If not also sentenced to life without
parole or death

SC Code: 16-23-490

CDR Code: 0549

ARREST WARRANT NUMBER

2018A2520500068

ACTION OF GRAND JURY

TRUE BILL

Ryan Scales
Foreperson of Grand Jury
Date: MAR 13 2019

Defendant

VERDICT

Witness:

Guilty 2/5/2020
Foreperson of Petit Jury
Date:
INDICT

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

)
)
)

INDICTMENT

2018GS2500443

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Poss. weapon during violent crime, if not also sentenced to life without parole or death

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime, to wit: Armed Robbery; and Joey Dean Coleman was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, to wit: Armed Robbery, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

TRUE BILL

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

DOCKET NO. 2018GS2500444

403
After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

The State of South Carolina
County of Hampton

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I
hereby appear in my own proper person and plead guilty to the within indictment or to

ARREST WARRANT NUMBER

2018A2520500069

THE STATE

vs.

Joey Dean Coleman

ACTION OF GRAND JURY

Indictment For

Assault & Battery 1st Degree

SC Code: 16-3-600(C)(1)(b)

CDR Code: 3412

TRUE BILL

Ryan Sauls
Foreperson of Grand Jury
Date: MAR 15 2019

Defendant

VERDICT

Witness:

Guilty 2/5/2020
Foreperson of Petit Jury

Date:
INDICT

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

INDICTMENT

2018GS2500444

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Assault & Battery 1st Degree

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did offer or attempt to injure Yashkumar Diupbhai Patel, either by means likely to cause death or great bodily injury; or during the commission of a robbery, burglary, kidnapping, or theft; or both; all in violation of Section 16-3-600(C)(1)(a)(ii), et al. of the Codes of Law of South Carolina.

TRUE BILL

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor

WITNESSES

DOCKET NO. 2018GS2500445

After being fully advised as 405
legal rights, I hereby waive
presentment to the Grand Jury.

The State of South Carolina
County of Hampton

Defendant

COURT OF GENERAL SESSIONS

March Term 2019

I
hereby appear in my own proper
person and plead guilty to the within
indictment or to

THE STATE

vs.

Joey Dean Coleman

ARREST WARRANT NUMBER

2018A2520500070

ACTION OF GRAND JURY

Indictment For

Assault & Battery 1st Degree

SC Code: 16-3-600(C)(1)(b)

CDR Code: 3412

TRUE BILL

Foreperson of Grand Jury

Date:

MAR 13 2019

Defendant

VERDICT

Witness:

Guilty 2/5/2020
Foreperson of Petit Jury

Date:

INDICT

C.C.C. PLS. and G.S.

FILED
AM/PM

FEB - 5 2020

MYLINDA D NETTLES
CLERK OF COURT
HAMPTON COUNTY, SC

STATE OF SOUTH CAROLINA)

COUNTY OF HAMPTON)

INDICTMENT

2018GS2500445

At a Court of General Sessions, convened on March 13, 2019, the Grand Jurors of Hampton County present upon their oath:

Assault & Battery 1st Degree

That in Hampton County, South Carolina, on or about November 15, 2018, the Defendant, Joey Dean Coleman, did offer or attempt to injure Hetalsinh J Solanki, either by means likely to cause death or great bodily injury; or during the commission of a robbery, burglary, kidnapping, or theft; or both; all in violation of Section 16-3-600(C)(1)(b), et al. of the Codes of Law of South Carolina.

TRUE BILL

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Solicitor