

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM BERKELEY COUNTY

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BENJAMIN J. JACKSON,

APPELLANT.

APPELLATE CASE NO. 2012-210107

RECORD ON APPEAL

LANELLE CANTEY DURANT
Appellate Defender

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

Attorney for Appellant

ALAN WILSON
Attorney General

JULIE KATE KEENEY
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

RECEIVED

SEP 30 2013

SC Court of Appeals

INDEX

INDEX	i
TRIAL TRANSCRIPT (dated March 8, 2012).....	1
OBJECTIONS TO EXHIBITS #34 AND #35 BY MR. ALFARO	9
OPENING STATEMENT BY MR. PITTMAN	13
OPENING STATEMENT BY MS. KENNEDY	15
TESTIMONY	
HAROLD WADFORD	
Direct examination by Mr. Alfaro	19
Cross-examination by Ms. Kennedy.....	24
HAZEL DUNNING	
Direct examination by Ms. Pittman	26
RICK OLLIC	
Direct examination by Mr. Alfaro	39
MICHAEL CORTTE	
Direct examination by Mr. Alfaro	55
Cross-examination by Ms. Kennedy.....	69
CLOSING ARGUMENT BY MR. ALFARO	72
CLOSING ARGUMENT BY MS. KENNEDY	89
CHARGE ON THE LAW	99
VERDICT	118
SENTENCING	125
INDICTMENTS	128
STATE'S EXHIBIT# 2	140
CERTIFICATE OF COUNSEL.....	141

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF BERKELEY	)	Case No(s) : 2010GS0801692,
	)	2010GS0801693,
State of South Carolina,	)	2010GS0801694,
	)	2010GS0801695,
Plaintiff,	)	2010GS0801696,
	)	2010GS0801697
-VS-	)	
	)	
Benjamin J. Jackson, III,	)	TRANSCRIPT OF RECORD
	)	
Defendant.	)	
	)	

March 08, 2012
Berkeley, South Carolina

B E F O R E:

HONORABLE J. C. BUDDY NICHOLSON, Judge.

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

BRIAN ALFARO, Esquire
Solicitor

ARIEL PITTMAN, Esquire
Deputy Solicitor

PATRICIA A. KENNEDY, Esquire
Chief Public Defender

Recorded by: Sharon Vizer-Hanks
Circuit Court Reporter

Transcribed by: Teresa B. Johnson
Circuit Court Reporter

I N D E XDIRECT CROSS REDIRECT RECROSS

March 5, 2012

Jury Qualification	9
Jury Selection	25
Jackson v. Deno Hearing	35

State witnesses:

Mark Mason

by Mr. Alfaro	38
by Ms. Kennedy	49

Michael Cortte

by Mr. Alfaro	60
by Ms. Kennedy	79
by Mr. Alfaro	93
by Ms. Kennedy	97

Defense witnesses:

Benjamin Jackson

by Ms. Kennedy	98
by Mr. Alfaro	108
by Ms. Kennedy	110

Motions	111
---------	-----

Ruling of the Court	113
---------------------	-----

I N D E XDIRECT CROSS REDIRECT RECROSS

March 6, 2012

Court Remarks	122		
Opening Statements			
by Mr. Pittman	124		
by Ms. Kennedy	126		
State witnesses:			
Harold Wadford			
by Mr. Alfaro	130		
by Ms. Kennedy		135	
Hazel Dunning			
by Mr. Pittman	137		
by Ms. Kennedy		161	
by Mr. Pittman			167
Phillip Balentine			
by Mr. Pittman	168		
by Ms. Kennedy		174	
Harold Marvin			
by Mr. Pittman	176		
by Ms. Kennedy		180	
Rick Ollic			
by Mr. Alfaro	183		
by Ms. Kennedy		200	

I N D E XDIRECT CROSS REDIRECT RECROSS

March 6, 2012 (con't)

State's witnesses (con't):

Steve Cline

by Mr. Alfaro	211		
by Ms. Kennedy		226	
by Mr. Alfaro			228

Thomas Buckhannon

by Mr. Alfaro	231		
by Ms. Kennedy		237	

Jason Potteiger

by Mr. Alfaro	239		
by Ms. Kennedy		250	

Michael Cortte

by Mr. Alfaro	253		
by Ms. Kennedy		279	
by Mr. Alfaro			318
by Ms. Kennedy			319

Dean Kokinda

by Mr. Pittman	320		
by Ms. Kennedy		336	

Remarks to Defendant	341		
----------------------	-----	--	--

I N D E XDIRECT CROSS REDIRECT RECROSS

March 8, 2012

State Rests	348
Defense Rests	348
Motions	340
Closing Arguments	
by Mr. Alfaro	350
by Ms. Kennedy	366
Jury Charge	377
Verdict	396
Motions	399
Sentencing of the Court	401
Certificate of Reporter	409

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
STATE EXHIBITS			
S-1	Advisement of Rights	40	41
S-2	Statement of Benjamin Jackson	60	72
S-3	Photo of Church	116	130
S-4	Photo of Church	116	130
S-5	Photo of Church	116	130
S-6	Photo of Church	116	130
S-7	Photo of Church	116	130
S-8	Photo of Car	116	130
S-9	Photo of Car	116	130
S-10	Photo of Car	116	130
S-11	Photo of Car	116	130
S-12	Photo of Car	116	130
S-13	Photo of Car	116	130
S-14	Photo of Car	116	130
S-15	Photo of House	116	130
S-16	Photo of House	116	130
S-17	Photo of House	116	130
S-18	Photo of House	116	130
S-19	Photo of House	116	130
S-20	Photo of House	116	130
S-21	Photo of House	116	130
S-22	Photo of House	116	130

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
STATE EXHIBITS (con't)			
S-23	Photo of House	116	130
S-24	Photo of House	116	130
S-25	Photo of House	116	130
S-26	Photo of House	116	130
S-27	Photo of House	116	130
S-28	Photo of House	116	130
S-29	Photo of House	116	130
S-30	Photo of House	116	130
S-31	Photo of House	116	130
S-32	Photo of House	116	130
S-33	Photo of Shells	116	-
S-34	Photo of Shells	116	-
S-35	Shells	116	-
S-36	Shells	116	-
S-37	Palmetto tree emblem from car	116	130
S-38	Misc Papers in bag	116	130
S-39	Pill bottle and pills	116	130
S-40	Check number 8293	116	130
S-41	Wallet and contents	116	130
S-42	911 call - CD	116	130
S-43	Pursuit report	229	-

EXHIBITS PAGE

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
------------	--------------------	-----------	-----------

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

1 list.

2 COURT REPORTER: I'll make you a copy.

3 THE COURT: You'll make me a copy?

4 COURT REPORTER: Sure.

5 MR. ALFARO: There are four -- there are four
6 items that we have not agreed to, two photographs
7 and two which we've premarked as Exhibits 34 and 35
8 -- 33 and 34 for identification. Those are
9 photographs of shotgun shells.

10 THE COURT: What's your objection?

11 MS. KENNEDY: Your Honor, it's -- there's --
12 obviously, Mr. Jackson is charged with Possession of
13 a Weapon during the Commission of a Violent Crime.
14 No weapon has ever been recovered. When they
15 executed the search warrant at his house, they
16 recovered two different or three different
17 containers that had bullets in them. There's
18 obviously no --

19 THE COURT: We'll just have to deal with that
20 when it comes up.

21 MS. KENNEDY: All right.

22 THE COURT: I thought it was something to do
23 with the photograph that --

24 MS. KENNEDY: Uh, no, sir. It's just the
25 bullets.

1 **THE COURT:** All right. On whether it's
2 relevant or not.

3 **MR. ALFARO:** Yes, sir. The things that she's
4 challenging the relevancy of are two photographs of
5 the shell casings found inside the house and the
6 actual casings themselves or shells themselves.

7 **THE COURT:** Shotgun shells?

8 **MR. ALFARO:** Yes, sir.

9 **MS. KENNEDY:** Yes, sir.

10 **THE COURT:** Have they been fired or not been
11 fired?

12 **MR. ALFARO:** Uh, they are unfired.

13 **THE COURT:** Unfired shotgun shells.

14 **MR. ALFARO:** Yes, sir.

15 **THE COURT:** Okay. Well, we'll just deal with
16 that whenever you get to the point of offering them.
17 How are you going to make a connection between
18 finding -- lot of people have shotgun shells in
19 their house.

20 **MR. ALFARO:** Well, Your Honor, the -- the --

21 **THE COURT:** I know he testified yesterday he
22 had a long gun.

23 **MR. ALFARO:** Yes, sir.

24 **THE COURT:** That could be a rifle, a shotgun
25 or anything?

1 **MR. ALFARO:** Yes, sir. And the State's
2 position as far as the relevancy would be that no
3 weapon is recovered in this incident. The testimony
4 from the victim is going to be that it was a long
5 gun or a rifle or shotgun.

6 **THE COURT:** It was the victim who
7 distinguished whether it was a rifle or a shotgun?

8 **MR. ALFARO:** She's not going to be able to
9 say which one it would be, Your Honor.

10 **THE COURT:** Okay.

11 **MR. ALFARO:** The position -- the State's
12 position would be that there's no weapon found and
13 the fact that the defendant has shells in his
14 residence that is consistent with that type of weapon
15 to make it relevant to the issue of whether he
16 actually had possession of the weapon in the crime
17 that he's charged with.

18 **THE COURT:** What's your position?

19 **MS. KENNEDY:** Thank you, Your Honor. Our
20 position would be that it's far more prejudicial
21 than probative. That's simply our objection. No
22 weapon was --

23 **THE COURT:** I'll make a decision after I hear
24 some of the testimony. Okay.

25 **MR. ALFARO:** I think --

1 **THE COURT:** Somebody could say the man had a
2 shotgun at the crime scene and that's different.
3 But he said a long gun. And a long gun could mean
4 anything. A shotgun, rifle or --

5 **MR. ALFARO:** Yes, sir. I believe the
6 testimony --

7 **THE COURT:** Any type of -- I assume a long
8 gun means anything with a long barrel.

9 **MR. ALFARO:** Yes, sir.

10 **THE COURT:** I don't know. You doubt that.
11 You think it has to have a long barrel?

12 **MR. ALFARO:** I think there has a difference
13 between a pistol and a long barrel.

14 **THE COURT:** Okay. I will agree with that.
15 Not being able to distinguish shotgun shells versus
16 308s or whatever. As defense counsel says, it may
17 be relevant. I'm not sure that the probative value
18 outweighs the, uh, prejudicial effect.

19 **MR. ALFARO:** Yes, sir.

20 **THE COURT:** But we'll make that -- I'll make
21 that decision after I hear some testimony. Anything
22 else we can take up while we're waiting on this
23 juror?

24 **MS. KENNEDY:** I don't think so, Your Honor.

25 **THE COURT:** Okay.

1 the attorneys will make closing arguments. They
2 will argue their case to you, their prospective of
3 the evidence and their interpretation of the
4 evidence. And then after the closing arguments, I
5 will charge you on the law. And then after I finish
6 charging you on the law that is applicable in this
7 particular case, you will begin your deliberations.
8 I sort of want to explain to you the process.

9 We will generally run from 9:30 to 5:00 or
10 5:30. It depends on when we have an opportunity to
11 stop. We will stop somewhere close to one o'clock
12 for lunch. I'll give you an hour and a half for
13 lunch. We may quit at 12:30. We may quit at a
14 quarter til 1:00. But at some convenient stopping
15 point close to one o'clock, we will stop everyday.
16 The case will probably take -- I don't know exactly
17 -- maybe a day and a half, two days, maybe two and a
18 half days. I don't know. It depends on how fast
19 the testimony moves along.

20 Solicitor.

21 **MS. PITTMAN:** To most of us, church is
22 considered a haven, safe place, sanctuary. For the
23 victim in this case, Hazel Dunning, on May 18th,
24 2010, church turned into a place of terror at the
25 hands of the defendant, Benjamin Jackson.

1 Ladies and Gentlemen of the jury, my name is
2 Ariel Pittman. I represent the State. The
3 defendant is charged with Armed Robbery, Burglary
4 second degree, Possession of a Firearm during a
5 Violent Offense, Grand Larceny, Burglary second
6 degree and Failure to Stop For a Blue Light.

7 You will hear from the victim in this case,
8 Hazel Dunning, who will tell you how she went to
9 church that day to do some cleaning. She will
10 describe how she entered the kitchen area and, out
11 of nowhere, felt the barrel of the gun against her
12 head and then pointed in her face. She will
13 describe how someone said to her to give her [sic]
14 her f----- keys and her cell phone or they were
15 going to blow her f----- head off. His choice of
16 words. Not mine. She will tell you how he told her
17 to lay down and not get up or he would blow her head
18 off.

19 You will hear from other witnesses who will
20 describe how they knew that wasn't Ms. Dunning
21 driving away that day because the car was driving
22 off in such a wild manner, speeding away. The
23 defendant's crime doesn't stop there though. You
24 will hear how a few days later, a police officer
25 spotted the defendant driving the vehicle and

1 attempted to pull him over. Initially, the
2 defendant stopped. When he was approached by
3 another officer, he sped off leading the police on a
4 lengthy chase which didn't end until he crashed the
5 vehicle and sped off into the woods.

6 He made a mistake though when he ran off so
7 quickly. He left behind enough evidence for police
8 to go straight to his residence and execute a search
9 warrant. They found the items belonging to the
10 victim that were on her car and in her car at the
11 time of the robbery.

12 Ladies and Gentlemen, at the close of this case
13 and after the presentation of all the evidence, we
14 ask that you end the victim's nightmare that started
15 that day at church and find the defendant guilty on
16 all counts.

17 **THE COURT:** Ms. Kennedy.

18 **MS. KENNEDY:** Thank you, Your Honor.

19 Deputy Solicitor.

20 Solicitor.

21 Ladies and Gentlemen, how are you? My name is
22 Patty Kennedy as you heard when we were doing jury
23 selection yesterday. Seated with me at counsel
24 table is Keisha White. We represent Benjamin
25 Jackson in the case that the State is about to put

1 before you concerning all the charges the Assistant
2 Solicitor just related to you.

3 As we come before you today, we know that you
4 will do your duty as jurors. You will act according
5 to your oath. The oath just says that you have to
6 be fair, objective and impartial as you judge all
7 the facts in this case.

8 Now, again, as you have heard, Mr. Jackson is
9 charged with a series of offenses, some of which are
10 more serious than others. But that having been
11 said, each of them is critical to Mr. Jackson. The
12 reason is that each of them carries a penalty. And
13 it's your job to decide whether or not he's guilty
14 or not guilty of the charges. You control his
15 liberty.

16 A trial is supposed to be about seeking the
17 truth. The way it works -- and you see a lot of it
18 on television. But the way it works is the State
19 will put up its case, put its evidence up. We can
20 put up evidence or we can just simply challenge what
21 the State says in terms of what their version of the
22 facts would be. And that's important for you to pay
23 attention to all of that.

24 They have to prove to you beyond a reasonable
25 doubt that Mr. Jackson is guilty of all the things

1 that he's been charged with. They have to do that
2 fact by fact, element by element, which is what
3 Judge Nicholson would explain to you by the end of
4 trial. They must convince you beyond a reasonable
5 doubt that he is guilty.

6 There are certain facts that we won't
7 challenge. I'll just tell you in the very
8 beginning. We're not going to challenge the fact
9 that Mr. Jackson was driving Ms. Dunning's SUV on
10 June -- excuse me -- May 26th. We're not. Okay.
11 He was driving. We're not going to challenge the
12 fact that he was driving that car when Berkeley
13 County Sheriff's Department officers approached him
14 and activated their blue lights.

15 We're not going to challenge the fact that
16 there were certain items in that car when it was
17 recovered that belonged to Mr. Jackson. Nor are we
18 going to challenge the fact that there were certain
19 items that were recovered from Mr. Jackson's house
20 that belonged to Ms. Dunning.

21 We will concede at the outset that Mr. Jackson
22 was driving the car that he knew or should have
23 known had been stolen. As the Assistant Solicitor
24 indicated to you, all of this happened on May the
25 18th at the St. Stephens Evangelical Church. Mr.

1 Jackson was not driving the car until some eight
2 days later. Eight days after the fact is when the
3 officers noticed him driving the car. Eight days
4 after all of these other things occurred. Now, it's
5 up to the State to connect all the dots. They have
6 to make the transition from May 18th to May the
7 24th. They have to show you in an absolute and
8 irrefutable way that Mr. Jackson was the one that
9 entered that church that day and committed all the
10 other offenses that he's been charged with. And I
11 submit to you, Ladies and Gentlemen, that they can't
12 do that. And if they can't do that, then it's your
13 obligation under the law and pursuit to your oath to
14 find him not guilty.

15 Uh, at the end of this process, I will have the
16 opportunity to come back and talk with you again.
17 We will review all the evidence that you have heard.
18 The case will be turned over to you for your
19 deliberations. Until that time, I ask you again to
20 be fair, objective and impartial as you sit in
21 judgement on this case. Thank you.

22 **THE COURT:** All right. Before we get started
23 with the testimony, I want to put on the record I
24 understand the parties have agreed to admissibility
25 of the State's exhibits 1 through 32 and 37 through

1 42. Is that correct from the State?

2 **MR. ALFARO:** Uh, yes, Your Honor.

3 **THE COURT:** Is that correct from the defense?

4 **MS. KENNEDY:** Yes, Your Honor.

5 **THE COURT:** All right. The Court admits
6 exhibits -- State's Exhibits 1 through 32, 37
7 through 42 without objection. You may call your
8 first witness.

9 **(WHEREUPON, State's Exhibits 1 through 32 and 37**
10 **through 42 are admitted into the record.)**

11 **MR. ALFARO:** Thank you, Your Honor. The
12 State calls Harold Wadford.

13 **THE CLERK:** Please raise your right hand.
14 Place your left hand on the Bible.

15 **HAROLD WADFORD**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Please be seated. State your full
18 name. Spell your last name for the record.

19 **THE WITNESS:** Harold Lee Wadford. W-A-D-F-O-
20 R-D.

21 **DIRECT EXAMINATION**

22 **BY MR. ALFARO:**

23 **Q** Good morning, Mr. Wadford. Would you please
24 tell the jury where you work?

25 **A** St. Stephens Police Department.

1 **Q** And how long have you been with the St. Stephen
2 Police Department?

3 **A** Approximately nine years now.

4 **Q** And what is your current rank and current duty
5 assignment over at St. Stephen Police Department?

6 **A** Uh, current rank is Sergeant. I do the
7 warrants and work on patrol.

8 **Q** And were you working in that capacity on May
9 the 18th of 2010?

10 **A** I was on patrol that day.

11 **Q** And did you have the opportunity to respond to
12 an incident at the St. Stephen Evangelical Church?

13 **A** Yes, sir.

14 **Q** And are you aware of where that church is
15 located?

16 **A** Yes, sir. It's at 150 Church Road.

17 **Q** Is that located within the city limits of St.
18 Stephen?

19 **A** Yes, sir.

20 **Q** And which county is that in?

21 **A** Berkeley county.

22 **Q** And do you recall what type of incident you
23 responded to at that location?

24 **A** I responded for a, uh, armed robbery to a
25 person and a vehicle being stolen.

1 Q All right. And approximately what time was
2 that call dispatched to you?

3 A 9:48 approximately.

4 Q And how long did it take you to get there?

5 A Four minutes, approximately four minutes.

6 Q And when you arrived at the scene, was the
7 suspect still there?

8 A No, sir.

9 Q Was the victim still there?

10 A Yes, sir.

11 Q Did you have an opportunity to speak with the
12 victim?

13 A Yes, sir. I spoke with Ms. Dunning. We got a
14 statement and got the description of the suspect.

15 Q Is that Hazel Dunning?

16 A Yes, ma'am. Yes, sir.

17 Q And can you describe for the jury what her
18 mental state, mental condition was at the time that you
19 spoke with her.

20 A She was a little shaken up, but her mental
21 status was like normal. Talking. Just a little shaken
22 up from the incident that just occurred.

23 Q And did she provide you with a statement as to
24 what had taken place?

25 A Yes, sir.

1 Q And when you arrived at the scene, in addition
2 to speaking with Ms. Dunning, were there any other
3 witnesses at the scene?

4 A Uh, the only other one that I spoke to that was
5 there was her son. But I did not get a statement from
6 him due to the situation.

7 Q What situation was that?

8 A He was more hysterical than what she was. I
9 didn't want to make him any worse.

10 Q Were you able to determine if he was inside the
11 church when the robbery took place?

12 A Not 100 percent positive on that part.

13 Q And were you able to determine what had taken
14 place?

15 A Only by what Ms. Dunning stated to me is the
16 only information I have.

17 Q And when you determined what was happening --
18 what had happened at the scene, was any information about
19 that incident broadcasted out or BOLO'd out to any other
20 agencies or other officers?

21 A Yes, 'sir. It was BOLO'd out that it was a Ford
22 Expedition, white with tan in color, had a sandals
23 situation sticker on the back with a Palmetto tree and a
24 Clemson sticker. And the tag number was notified to our
25 dispatch for surrounding agencies with Berkeley county.

1 Q You recall what color that vehicle was?

2 A It was white with a tan bottom edge.

3 Q And as part of that BOLO, was it information
4 included as to, uh, why that vehicle was important or --

5 A Yes, I advised that it was involved in an armed
6 robbery to a person. It was taken from the church in
7 reference to the incident.

8 Q And while you were at the scene, were you able
9 to locate any, uh, -- the weapon that had been used?

10 A No, sir.

11 Q Were you able to determine a general
12 description of the suspect?

13 A From what was stated to me by Ms. Dunning, it
14 was a black male, approximately 5'11 to 6'2, 150 to 180
15 pounds, wearing a white t-shirt, with a rifle.

16 Q And did you attempt to patrol the area to try
17 to locate the suspect?

18 A The other officer that was on duty patrolled
19 the area and went towards Jamestown, which was the
20 direction that the vehicle was stated to have gone. I
21 stayed on scene with the victim getting information and
22 stuff.

23 Q To your knowledge, did anyone have any contact
24 with the suspect?

25 A Not that date.

1 Q Any contact with the vehicle?

2 A No, sir.

3 Q Did you personally participate in the followup
4 investigation of this case?

5 A Uh, no, sir. Everything was turned over pretty
6 much to Berkeley county after that.

7 Q That being the Sheriff's Office?

8 A Yes, sir.

9 Q Thank you.

10 **CROSS-EXAMINATION**

11 **BY MS. KENNEDY:**

12 Q Good morning, Sergeant Wadford. How are you?

13 A I'm doing good.

14 Q Uh, the information that you were given and
15 even when you responded to the church, there was no
16 identification, correct?

17 A Identification on --

18 Q On the person who might have --

19 A Just a description.

20 Q Just a description.

21 A Yes.

22 Q No name.

23 A No name.

24 Q And the description, as you indicated, black
25 male, 5'11 to 6'2, 150 to 180 pounds.

1 A Yes, ma'am.

2 Q That's all.

3 A Wearing a white t-shirt.

4 Q There's no -- there was no outstanding physical
5 characteristic?

6 A That was the only thing that was stated to me
7 on that date.

8 Q Okay. And no indication as to what his name or
9 identity might be?

10 A No, ma'am.

11 Q And at what point in time or when did you all
12 turn this investigation over to the Berkeley County
13 Sheriff's Office?

14 A I don't know the exact date that they took it
15 over. I know they started -- they were there on the
16 scene that same day. I don't know exactly what date they
17 actually got the full investigation.

18 Q Just out of curiosity, what is the protocol for
19 that?

20 A For?

21 Q Turning it over.

22 A Just requested for assistance cause we're a
23 small agency.

24 Q Okay. Okay. All right. And y'all initiated
25 that?

1 **A** Yes.

2 **Q** Okay. That's all I have. Thank you very much,
3 sir.

4 **THE COURT:** Any redirect?

5 **MR. ALFARO:** No, Your Honor.

6 **THE COURT:** Mr. Wadford, you may step down.
7 Thank you very much.

8 Any objection to having him excused?

9 **MR. ALFARO:** None from the State.

10 **MS. KENNEDY:** None from the defense, Your
11 Honor.

12 **THE COURT:** You may be excused if you so
13 choose. Call your next witness please.

14 **MS. PITTMAN:** The State calls Hazel Dunning.

15 **THE CLERK:** Please raise your right hand and
16 place your left hand on the Bible.

17 **HAZEL DUNNING**

18 having first been sworn, testifies as follows:

19 **THE CLERK:** Please be seated. State your
20 full name. Spell your last name for the record.

21 **THE WITNESS:** Hazel T. Dunning, D-U-N-N-I-N-G.

22 **DIRECT EXAMINATION**

23 **BY MS. PITTMAN:**

24 **Q** Ms. Dunning, how old are you?

25 **A** I am 62.

1 Q Are you from St. Stephen?

2 A Uh, yes.

3 Q How long have you been in St. Stephen?

4 A Uh, basically all my life. I would say maybe
5 around 35, 40. About 40 years. No. 40 years. I'm
6 sorry. My older son is 40.

7 Q And do you have any children?

8 A Uh, yes. Two sons.

9 Q Two sons. How old are they?

10 A 40 and 36.

11 Q And what are their names?

12 A Charles Dunning, II and Robert Stephen Dunning.

13 Q Are you employed?

14 A Yes. I'm self-employed.

15 Q Where are you employed?

16 A I'm self-employed. I clean houses and I clean
17 the church. From St. Stephen all the way to Moncks
18 Corner, I do jobs.

19 Q So you say you clean at St. Stephen
20 Evangelical?

21 A Yes.

22 Q And how long have you been going to that
23 church?

24 A Around 35 years.

25 Q You are a member there?

1 **A** Yes.

2 **Q** And were you at that church cleaning on May
3 19th, 2010?

4 **A** Yes.

5 **Q** Is that a normal day for you to be at the
6 church cleaning?

7 **A** Uh, yes. Well, I normally go either on Mondays
8 or Tuesdays. And, uh, it happened that we went on
9 Tuesday that day because that Monday, we didn't do much
10 work.

11 **Q** Do you volunteer there or is that a paid --

12 **A** Paid.

13 **Q** How long ago did you take that job there?

14 **A** Uh, I can't say how far back. I know it was an
15 older lady that was doing it before me and something
16 happened to her and they asked me to do it. And I want
17 to say that I been doing it for about five or six years.

18 **Q** And when you are at the church cleaning, about
19 how long does it usually take you to get the job done?

20 **A** Sometimes it's three to four hours. Depends on
21 what I have to do. It may be a little bit longer.

22 **Q** Uh, are you usually by yourself or is someone
23 with you?

24 **A** Uh, my son is normally with me. Some days I
25 have went by myself. But that day, he was with me.

1 Q Which son is that?

2 A Robert.

3 Q Does he help you clean?

4 A Yes.

5 Q What does he usually do?

6 A Uh, I have him to do the vacuuming and take out
7 some of the trash sometimes, but he normally runs the
8 vacuum.

9 Q Okay. When you are there cleaning, is it just
10 you and Stephen [sic] there usually?

11 A Normally, it is. But, uh, that day, uh, it
12 happened to be, uh, -- we was having construction -- new
13 construction done to the church.

14 Q So there were other people present?

15 A Yes.

16 Q Were they workers?

17 A Yes.

18 Q About how many workers were present?

19 A I have no idea. Uh, I don't know how many was
20 there that day. Normally, it was maybe about a dozen
21 people or more.

22 Q And when you are there working, are the doors
23 locked or unlocked?

24 A Normally, they are locked. But that day, they
25 were unlocked because of all the workers and stuff.

1 Normally -- in the back cleaning, in the cleaning
2 section. They are, normally, in and out.

3 Q So normally the church doors are locked so that
4 not anyone can just come in?

5 A Oh, yeah. The church stays locked.

6 Q That day, they were unlocked because the
7 construction workers were present?

8 A Yeah, all the workers and all, they were in and
9 out the bathrooms and stuff when I was back in the
10 building there to -- it was a kitchen area back there.

11 Q And why was the construction workers present
12 there again? There was renovations going on?

13 A Yes. We were having -- we were having a new
14 sanctuary built.

15 Q No one else was supposed to be there that day
16 at the church except for you, your son and some of those
17 construction workers?

18 A Correct.

19 Q So a person would have to be working at the
20 church at that time to have permission to go in?

21 A Uh, yeah.

22 Q And on that day, what time did you get there?

23 A Anywhere from 9:00 to 9:30. But I think that
24 day, we were running somewhere around 9:30 or so. We
25 don't have a set time. We can go at any time of day.

1 Q And when you got there around 9:00 or 9:30,
2 were the workers present?

3 A Yes.

4 Q Can you describe where you parked your car when
5 you got there?

6 A Uh, the -- we were having service in the back
7 building where I was at at the time because we were, you
8 know -- anyway, the other section was being built. I
9 pulled up. I always back in by that door out the way
10 because of being out of the way of the construction
11 workers coming in and out. So I backed my vehicle up in
12 there next to a door.

13 Q And can you describe what your car looked like?

14 A It was a white Expedition, Eddie Bauer with tan
15 on the bottom.

16 Q Were there any identifying markings on the
17 vehicle specific to you?

18 A Uh, yes, I had the Sandals in the right hand
19 corner of the back window, the Palmetto tree in the left
20 hand corner of the back window. And I'm pretty sure the
21 Clemson one was right in the center of the back. Also I
22 had another little, uh, Palmetto tree that was silver
23 colored down by the license tag stuck on the back of the
24 vehicle. My, uh, trailer hitch was not in there at the
25 time because I had a cover, a Ford emblem cover that was

1 on the bottom.

2 Q Was there any damage to your vehicle at the
3 time?

4 A No, ma'am.

5 Q Did you leave anything in your car when you
6 entered the church to go clean?

7 A Uh, yes. I left my purse and a lot of other
8 personal belongings and papers and pictures and stuff
9 that I had. Uh, I had a trailer hitch, I had a cooler.
10 I had a Palmetto throw that was in the back seat, a GPS
11 and a radar detector, and I think -- oh, my roadside
12 assistance kit that I carry and my book that belongs to
13 the vehicle was in there with my different identification
14 and everything in it.

15 Q Okay. And when you got to the church, did you
16 have to unload anything from the car, any cleaning
17 supplies?

18 A Normally, they have all the cleaning stuff. At
19 that time, I didn't unload. I wasn't really there that
20 long to really get out to go out and get my stuff out. I
21 mean, I was, you know, doing some other stuff before I
22 would have did that.

23 Q Can you describe for the jury a little more
24 about where the building was and where you parked in
25 relation to the building and the door?

1 **A** The building sits behind where the new
2 construction was being done. It's a metal, big metal
3 building. And it has a breezeway in between the church
4 and that. On the side, it's got a side door. It's got
5 some air conditioner units and stuff, big old units
6 sitting out there on that site. I went in the side door
7 that morning.

8 **Q** What did you do after you parked your car?

9 **A** Uh, I think I had gotten a phone call from one
10 of my friends. I was on the phone with her because her
11 aunt was up in the hospital. But anyway, I talked to her
12 for a while, a few minutes. On the inside of the church,
13 you have no signal with the phone. So I talked to her
14 and then I went on in and I got the trash and I had taken
15 some trash out from the kitchen area. And that's
16 whenever I went back in and that's when my day went to
17 crap.

18 **Q** Uh, you said your day went to crap. Did
19 anything usual happen to you that day?

20 **A** Uh, that's whenever someone came in behind me
21 and asked me for my keys. I thought it was one of the
22 workers. I thought they wanted to move my vehicle. I
23 turned around. I think I hit the barrel of the gun. And
24 that's when the gun was in my face. They wanted my f'ing
25 keys or I'll blow your head off.

1 Q How are you able to tell it wasn't someone that
2 you knew?

3 A I knew the voice. I knew right then that it
4 was not anybody there at the church.

5 Q And you had a rifle pointed at you?

6 A It was a long barrel gun. To me, I was looking
7 up the barrel of it. The barrel of it was small to me.
8 It wasn't huge. It was a small barrel.

9 Q Uh, and he had that gun pointed right at you?

10 A Yes, he had it at my head the whole time.

11 Q How close was it to your face?

12 A Oh, it was there in my face. Basically, all I
13 could see was the barrel of the gun.

14 Q Did you think he might shoot you?

15 A I had no idea, but yes, I feared for my life.

16 Q So you were in fear of your life?

17 A Uh, yes, ma'am.

18 Q Did he say anything else to you?

19 A Uh, no. His only words is -- I think the only
20 words he knew were f'ing and blowing your head off.

21 Q Did you comply with his demands?

22 A Uh, yes.

23 Q What did you do?

24 A Uh, I handed him my keys.

25 Q Did you give him anything else?

1 A He wanted my cell phone, f'ing cell phone and
2 blow your f'ing head off.

3 Q So he got those things from you. And then what
4 did he make you do?

5 A He made me lay down on the floor.

6 Q Do you remember what he was wearing?.

7 A White t-shirt, dark colored pants. By looking
8 up the gun and stuff, I didn't want to look him directly
9 in the face. But I could tell by the eyes. I could see
10 his eyes. I thought he may have had a cap on his head,
11 but I can't be for sure. It was something dark.

12 Q And all this happened to you in the kitchen
13 area?

14 A Yes.

15 Q And is it loud in the kitchen area?

16 A Yes, it is.

17 Q Why is it loud in there?

18 A Uh, we have a lot of freezers, refrigerators,
19 an ice machine. And then, of course, the air conditioner
20 is going and it's loud.

21 Q Okay. How did you feel at the time? What were
22 you thinking?

23 A I was fearing for my life and I didn't know
24 what was going to happen.

25 Q Where was your son during the robbery?

1 **A** He was up the stairs. He went up there to get
2 the vacuum cleaner out. He heard the commotion and the
3 guy cussing and hollering at me. And he stood still. He
4 just stood there.

5 **Q** What did you do after the defendant left?

6 **A** My son heard the vehicle spin off. He run down
7 the stairs to alert the workers. He was scared that --
8 he thought that the guy had took me with him. He just
9 scared him. And he -- anyway, by the time I got up and I
10 walked out the door, he was just thankful to see me.

11 **Q** Did you call the police?

12 **A** Yeah. Well, I think another guy -- I think
13 Phillip Balentine called the police because he had my
14 phone. Of course, my son, he was punching in with his.

15 **Q** Okay. And do you know how long it took the
16 police to arrive?

17 **A** Uh, it wasn't too long. It may have been about
18 five or ten minutes afterwards.

19 **Q** What information did you give to the police?

20 **A** They asked us what had happened and about the,
21 you know, the gun and what color my vehicle was and what
22 all was on it.

23 **Q** Did you give a written statement?

24 **A** Uh, yes, I did.

25 **Q** Was your car returned to you?

1 A Uh, yes, they recovered it.

2 Q Do you know when that car was returned to you?

3 A About two weeks afterwards.

4 Q When you bought that car, how much did you pay
5 for it?

6 A It was 40 to 42.

7 Q How long did you own the car before it was
8 stolen?

9 A I bought it brand new in '06 or last of '05.

10 Q In what condition was the car in when it was
11 stolen?

12 A It was in good condition. Clean.

13 Q And what kind of condition was it in when it
14 was returned to you?

15 A It was heartbreaking. It was messed up. It
16 was dirty on the inside and the outside was wrecked.

17 Q Was there anything missing from the car? Had
18 it been changed in any way?

19 A Uh, yes. They had taken the stickers and stuff
20 off the back of it. They had taken the luggage rack off
21 the top of it. And, of course, all my stuff was gone
22 from out the inside of it. Well, basically, all my
23 stuff. I had a couple of umbrellas and all in the door
24 that he left. And the radar detector was still in it.

25 Q What kind of damage was there to the vehicle?

1 **A** It was wrecked over on the, uh, -- had a -- it
2 was wrecked on the right bumper, front bumper. The
3 driver's side was all wrecked. It had a tire that was
4 warped.

5 **MS. PITTMAN:** Court's indulgence. (Pause.)

6 **BY MS. PITTMAN:**

7 **Q** When he had the gun he pointed at you, where
8 were your hands?

9 **A** Where was my hands?

10 **Q** Yes. Did you have your hands up?

11 **A** I had them up.

12 **Q** And ---

13 **A** Yes.

14 **Q** --- what did he have you do with your hands up?
15 How long were you that way?

16 **A** I was that way the whole time until I laid down
17 on the floor. My keys was in my back pocket. Whenever I
18 had to hand those to him and then my phone. Then my
19 hands were up.

20 **Q** And then when he had you lay down on the
21 ground, how long did he have you lay there?

22 **A** I don't know how long I laid there. He just
23 told me to lay there and if I didn't lay there, he'd blow
24 my f'ing head off. And I laid there for -- and prayed
25 that my son would stay put where he was at, that he would

1 **A** Uh, I had a guy named Allen Huggins with me.
2 And I think that was it at that time.

3 **Q** Okay. Court's indulgence.
4 That's all I have, Mr. Marvin. Thank you very
5 much.

6 **A** You're welcome.

7 **THE COURT:** Any redirect?

8 **MS. PITTMAN:** No, Your Honor.

9 **THE COURT:** Okay. Mr. Marvin, you may step
10 down. Thank you very much.

11 **THE WITNESS:** Yes, sir.

12 **THE COURT:** Call your next witness.

13 **MR. ALFARO:** The State calls Rick Ollic.

14 **THE CLERK:** Please raise your right hand.
15 Place your left hand on the Bible.

16 **RICK OLLIC**

17 having first been sworn, testifies as follows:

18 **THE CLERK:** Please be seated. State your
19 full name. Spell your last name for the record.

20 **THE WITNESS:** First name is Rick. Last name
21 is Ollic. That's O-L-L-I-C.

22 **DIRECT EXAMINATION**

23 **BY MR. ALFARO:**

24 **Q** Good morning.

25 **A** Good morning.

1 Q Could you tell the jury where you currently
2 work.

3 A Currently employed at the Berkeley County
4 Sheriff's Office.

5 Q How long have you been at the Sheriff's Office?

6 A 26 years.

7 Q What's your current rank and your current
8 duties and responsibilities?

9 A I'm currently the Investigator Captain over the
10 Detective Division Forensics Crime Scene. I also handle
11 victim advocacy and crime prevention.

12 Q And even though you are captain, do you still
13 participate in the investigations that go on?

14 A I do.

15 Q And were you serving in that capacity in May --
16 late May or May and June of 2010?

17 A I was.

18 Q And were you part of an investigation, uh, into
19 an armed robbery that took place on May 18th, 2010 at the
20 St. Stephen Evangelical Church?

21 A I was.

22 Q And how did you become involved in that?

23 A Uh, we had -- we received a request from the
24 St. Stephen Police Department, an agency assist to come
25 to help them investigate a case that occurred at the St.

1 Stephen Evangelical Church.

2 Q Is it normal for your agency to come in to
3 assist St. Stephen in those types of cases?

4 A Yes, we assist them in most all their request.
5 We have a larger department and we have more access. We
6 try to access the local agencies the best we can.

7 Q And had they requested your assistance in this
8 case?

9 A They did.

10 Q And did you have the opportunity to go to the
11 scene of a crime?

12 A I did.

13 Q And how long after the incident would you say
14 you got there?

15 A We received the request. It was several hours
16 after the incident occurred. We went out to the location
17 to see if there was any potential witnesses or anybody we
18 could talk to about the crime.

19 Q And your involvement in the case, did you, uh,
20 -- were you made aware of what the, uh, description of
21 the stolen vehicle was?

22 A Yes. I knew that a white Ford Expedition had
23 been stolen from the victim.

24 Q And had you made -- the day that you went to
25 the scene, were there any attempts to try to locate that

1 vehicle?

2 **A** We did. We have information it had left the
3 scene and went down Highway 45. So we decided to go out
4 and check that area -- it was a late vehicle -- to see if
5 it was abandoned. We checked and we did not locate it.

6 **Q** So the vehicle was not located that day?

7 **A** It was not located that day.

8 **Q** At that point, did your agency take over the
9 investigation?

10 **A** Pretty much. We worked hand in hand. There
11 was an officer with St. Stephen. We pretty much started
12 the investigation and ran it as an investigation through
13 our agency.

14 **Q** And in taking over the investigation or
15 becoming involved in the investigation, was a detective
16 designed to be the lead detective in that case?

17 **A** Detective Cortte was assigned to the
18 investigator over the entire investigation.

19 **Q** And would it be fair to say -- not fair to say.
20 Did other detectives, including yourself, continue to
21 assist him in that investigation?

22 **A** Yes. Myself, other detectives and other
23 supervisors assisted in the investigation.

24 **Q** And at some point, did you obtain any
25 additional information regarding the description of the

1 vehicle?

2 **A** Yes, I learned that the vehicle had a specific
3 hitch that was called a plug-in. It as a Ford hitch. It
4 was plugged in.. It had some back-up -- four back-up
5 sensors, which was, you know -- an Expedition may come
6 with it, but I remember those two things. It did have
7 some other markings on the vehicle, some stickers of palm
8 trees, those type of things were on the vehicle that we
9 had actually put out to look for that vehicle.

10 **Q** At some point, did you come into contact with
11 that stolen vehicle?

12 **A** Yes, I had been on a call out and was coming
13 back on the night of May the 28th around midnight. I
14 came in contact with a vehicle fitting that description
15 on Highway 17. I was at the red light at Walgreens.
16 Right at the red light here in the city of Moncks Corner.

17 **Q** And when you saw the vehicle, did you -- was
18 there something about it that caught your eye?

19 **A** Uh, I noticed -- when I saw the vehicle, I
20 noticed that it had a Ford hitch plug-in to it. It had
21 four back-up sensors. I noticed that it had a paper tag
22 on it and there was tape -- on these paper tags, there's
23 normally a place where they write the date. There was a
24 piece of tape with a date written on it. It just alerted
25 me that this possibly could be that vehicle.

1 Q And when you first saw it, you said you were
2 near the Walgreens?

3 A That's correct.

4 Q Were you driving or had you -- were you
5 stopped?

6 A We initially were -- we were initially stopped
7 at the light. As I was coming up, I noticed that -- I
8 didn't notice all these particulars until we started
9 moving again once the light turned green.

10 Q And when the light turned green and you started
11 moving, which direction did you go?

12 A When we left from the Walgreens, we started
13 heading down Highway 52 toward northern Berkeley county
14 is when I could see the back of the vehicle more clearly.
15 I noticed what I testified to, the tape on the paper tag.
16 I noticed the plug-in to the hitch and the sensors. Also
17 noticed that it was being driven by a black male.

18 I eased up to the vehicle about where Pizza Hut
19 was. Geographically, that's not very far from the red
20 light. I looked over and the driver looked at me and I
21 looked at him. Then I proceeded to get back behind him
22 again.

23 Q And when you said that you looked at the driver
24 and the driver looked at you, did y'all make eye contact?

25 A We both looked at each other. He looked over

1 at me and I was looking at him.

2 Q Were you able to see his face?

3 A I was.

4 Q Did you recognize him at the time?

5 A I did not recognize him at the time.

6 Q And you said that -- did you see him when you
7 -- did you see his face when you were stopped at the
8 Walgreens?

9 A I was a little bit behind him. I didn't
10 actually get a good look at him there until we drove up
11 and I pulled up beside him.

12 Q And so what happened next?

13 A I followed him on. At that point, I realized
14 this might be the vehicle in question that was involved
15 in that St. Stephen Evangelical case. I called over the
16 radio. I asked for some backup from any patrol units
17 that were in the area.

18 Q At the point that you called for backup, how
19 many occasions did you have to actually see his face?

20 A I saw him once that time. I was right beside
21 him. I saw him then. Of course, when I made the stop, I
22 actually saw him looking in the rear view mirror.

23 Q So you requested backup if there were any
24 patrol officers in the area.

25 A Correct.

1 **Q** What type of vehicle were you in?

2 **A** I drive a Ford Explorer, which is an unmarked
3 vehicle.

4 **Q** Okay. Is your vehicle equipped with blue
5 lights?

6 **A** It is. It's equipped with blue lights. It's a
7 typical emergency vehicle except it's unmarked. It does
8 not look like a police vehicle.

9 **Q** At some point, did you stop the vehicle?

10 **A** I did. We drove on. I was listening to find
11 out how close the backup unit was. We -- I followed him
12 on across out to northern Berkeley county. I crossed
13 over the bridge. Then, he proceeded to go on Highway 17A
14 where 52 and 17A will fork. He made the right-hand fork,
15 which is 17A heading towards Jamestown. I initiated my
16 blue lights at that time. He initially stopped at that
17 point.

18 **Q** And at the point that you activated your blue
19 lights and he stopped, did you have any backup officers?

20 **A** I waited for just a brief moment. Sergeant
21 Cline was pretty close in the area. I could see him in
22 my distance. So I waited until I had backup there to
23 approach the vehicle. It was late at night. For officer
24 safety purposes, I decided to wait on a backup unit to
25 approach the vehicle.

1 **A** That's correct.

2 **Q** Had Sergeant Cline made it to your location
3 yet?

4 **A** Yes, he had made it to my location. We made it
5 our decision on our approach on the vehicle to go up to
6 the vehicle.

7 **Q** And earlier when I asked about when you saw his
8 face, you said you saw his face when you got at the stop.
9 At this point, when Sergeant Cline showed up, had you
10 seen his face again in the mirror?

11 **A** Yeah, I was observing -- waiting for the backup
12 unit to get here. I was observing what the driver was
13 doing. I could see him keep peeking into the rear view
14 mirror to see what I was doing.

15 **Q** And from the time you started seeing his face
16 in the rear view mirror, how long before Sergeant Cline
17 got there?

18 **A** It was pretty momentary. I would say a few,
19 maybe 30 to 45 seconds. He had pulled up. He had exited
20 his vehicle. We were planning to make our approach on
21 the call.

22 **Q** And, uh, what happened when Sergeant Cline got
23 there?

24 **A** Uh, as soon as we decided to make our approach,
25 we saw the brake lights bump one time and then it took

1 off.

2 Q And what happened after he took off?

3 A Uh, as timing would have it, other backup units
4 were in the area coming to this location. I had called
5 it in as a potential vehicle that was in the St. Stephen
6 Evangelical case. And a chase began.

7 Q Were you involved in that chase?

8 A I was not involved in the chase due to the fact
9 is our policy, we normally let the primary marked unit
10 chase the secondary unit, which calls in where they are
11 going and what's going on during the time of the chase.
12 I just basically went in the general direction, but did
13 not participate in the chase.

14 Q And did Sergeant Cline participate in the
15 chase?

16 A He was participating to what degree as a
17 supervisor in that chase, yes.

18 Q And was he the first person to take off after
19 the car, after the SUV?

20 A As I recall, he was the first unit, then there
21 were other units that came along.

22 Q And when he took off after the SUV, were his
23 blue lights and siren on?

24 A Yes, they were.

25 Q And did other officers join the chase?

1 Q And did you continue to monitor the pursuit on
2 your radio?

3 A I did. I monitored up until they ended.

4 Q And do you know how the chase ended?

5 A Yes, he ended up -- the vehicle ended up
6 wrecking off of Orvin Street which is in St. Stephen
7 right off Highway 45.

8 Q And I'm going to show you State's Exhibit
9 number 9. That's going to come up on the screen behind
10 you as well. Is that the condition of the SUV when you
11 initially saw it, initially pulled it over?

12 A No, this -- this damage was not there when I
13 first stopped it. This would have been after the chase
14 ended.

15 Q Okay. And you said that the chase ended when
16 there was a wreck?

17 A There was, with hitting a parked car in a yard
18 and also struck a tree and stump with the vehicle.

19 Q Okay. And I'm going to let you turn back
20 around. Did you get the opportunity to go to the scene
21 where the chase ended?

22 A I did.

23 Q And what did you do at the scene?

24 A Basically was calling for a K-9 unit. The
25 person driving the vehicle was no longer in the vehicle.

1 He ran into the wood line. I was waiting on K-9 and
2 other people to come and see if we could run a trap to
3 see if we could apprehend him.

4 Q And did you assist in that track?

5 A I did not.

6 Q And while they were tracking for the driver,
7 did you participate in the search or the inventory of the
8 stolen SUV?

9 A Sergeant Cline was inventorying the vehicle and
10 found a wallet with credit cards and a student ID,
11 picture ID. And he showed this to me.

12 Q And I'm going to show you what's in evidence as
13 State's Exhibit 41 and ask you to take a look at that.
14 I'm going to ask you a couple of questions about it.

15 A Yes, this would have been the wallet that was
16 found in the SUV.

17 Q Can you tell the jury what items are contained
18 in that wallet?

19 A Uh, it's a Gucci wallet. It has a MasterCard
20 with the name Benjamin Jackson; has a Visa card, Benjamin
21 Jackson; another Visa card with Benjamin Jackson; a
22 Legion Visa card with Benjamin Jackson; Charleston County
23 Public Library card, no name attached; Account Now, a
24 Visa debit account with Benjamin Jackson; another Account
25 Now Visa debit card with Benjamin Jackson and a Lids -- a

1 Lids card for a cap store.

2 Q Were there any other items contained inside the
3 wallet?

4 A Nothing else that I see.

5 Q I'm going to ask you to check again on the
6 other side.

7 A I apologize. Just some paper documents. A
8 receipt for something with some numbers with the name
9 Benjamin Jackson, a mobile detailing specialist card,
10 James Island receipt, a check made out to Benjamin
11 Jackson for -- signed by Benjamin Jackson for \$2500 for
12 school and books, and a piece of paper with some numbers
13 on it and some names.

14 Q And you also mentioned an ID card. Is that ID
15 card contained in that wallet?

16 A I do not see it.

17 Q Is it your testimony that you recalled seeing
18 an ID card the night of the incident?

19 A I did. Sergeant Cline showed me an ID card.

20 Q And do you recall what that ID card was?

21 A Strayer University and a photograph was on it
22 of Benjamin Jackson.

23 Q And that night when you had the opportunity to
24 review that ID card, did it resemble the person or was it
25 the person you had seen drive the SUV that night?

1 **A** It was the same person that was driving the
2 vehicle that I saw that night when I saw him at the Pizza
3 Hut.

4 **Q** And that wallet and the ID card were found
5 inside the stolen SUV?

6 **A** They were.

7 **Q** And were y'all able to determine if that was,
8 in fact, Hazel Dunning's SUV?

9 **A** Patrol officer ran the VIN number on the
10 vehicle. It came back stolen. It was the stolen SUV.

11 **Q** And was the K-9 unit or anyone else successful
12 in locating the driver or the defendant that night?

13 **A** We did not apprehend him that night.

14 **Q** And at this point, uh, based on what you found
15 at the scene inside the vehicle, were you able to
16 eventually locate the defendant?

17 **A** Through our investigation, we learned that he
18 lived on Upton Road in the St. Stephen area. We went
19 over and did a search warrant at that location.

20 **Q** Were you present at the scene when the search
21 warrant was executed?

22 **A** Initially, I was not. I came up shortly after
23 as a supervisor.

24 **Q** And while you were at the scene, were you aware
25 of what items, if any, were recovered belonging to the

1 victim, Hazel Dunning?

2 **A** I remember there was, uh, -- the luggage rack
3 from the vehicle was down in the yard. The sticker that
4 the victim has described was in the yard. One of the
5 detectives go through the trash and found some of the
6 personal papers and documents that belonged to the
7 victim, Ms. Dunning. They found a medicine bottle with
8 the victim's name on it. Found a check on the counter
9 that had the victim's name on it. Found the registration
10 and we found a roadside hazard kit that was actually
11 belonging to that vehicle also. I believe there was a
12 cell phone also that we found that belonged to the
13 victim.

14 **Q** Do you recall if the victim's GPS was recovered
15 that same location?

16 **A** I believe it was. I don't remember that item,
17 but I believe it was recovered.

18 **Q** And you said that you saw the luggage rack in
19 the yard?

20 **A** I did.

21 **Q** Did you actually see it were it was lying?

22 **A** Yes, I -- we normally mark the items that we're
23 going to recover or Crime Scene is going to recover.

24 **Q** And you said you instructed one of the
25 detectives to go through the defendant's trash can?

1 **A** Yes, I asked Detective Potteiger, who is an
2 investigator at our office, to go through the trash to
3 see if there was any items that could be related to this
4 case.

5 **Q** I'm going to show you State's Exhibit 31 in
6 evidence. It will be up on the screen behind you. I
7 want to show you the picture there.

8 **A** Okay.

9 **Q** You recognize what's in that picture?

10 **A** Yes, as we stated earlier, we mark our items
11 before we recover them. Item number 3, we recovered
12 that. In the darkness there is a luggage rack that
13 belonged to that vehicle.

14 **Q** And was the defendant in his residence when
15 that search warrant was executed?

16 **A** When I arrived -- he had been in the residence,
17 but he was in the patrol vehicle when I arrived.

18 **Q** Okay. Did you have any conversation with him
19 that night?

20 **A** I did not speak to him.

21 **Q** Thank you. Please answer any questions Ms.
22 Kennedy has for you.

23 **THE COURT:** Cross-examination.

24 **CROSS-EXAMINATION**

25 **BY MS. KENNEDY:**

1 residence at Road also in the St. Stephen area,
2 Berkeley county, South Carolina.

3 Q That was the defendant's residence, you said?

4 A Yes, sir.

5 Q You might want to pull that microphone down a
6 little bit. I'm having a hard time.

7 A Is that better?

8 Q And you said the search warrant was obtained on
9 June the 1st. When was the search warrant served?

10 A It was served on the 2nd.

11 Q That would be June the 2nd?

12 A Yes, sir. June the 2nd, 2010.

13 Q And were you present when the search warrant
14 was executed?

15 A Yes, I was.

16 Q What was your role during the execution of the
17 search warrant?

18 A During the execution of the search warrant,
19 again as lead detective or case agent, uh, primary duties
20 -- while the entry team made entry into the residence,
21 again, officer safety is always important, paramount
22 issue in everything we do. I was actually assigned to
23 the outer parameter in case anyone was to leave the
24 residence or anything of that nature. Any vehicles that
25 may have pulled up. Once entry was effected into the

1 residence, I was advised once it was secured doing a
2 protective sweep, that there were two people located in
3 the house. It happened to be the defendant here, Mr.
4 Jackson, and his wife, Mrs. Jackson. They were both
5 detained and taken into custody while the search warrant
6 was executed.

7 Primarily, while the search was under way, my
8 area of responsibility at the time was to stay with Mrs.
9 Jackson. They had a big space, a living room area, if
10 you will. Once the search was completed, I was taken to
11 show -- around to show what items had been recovered that
12 were pertinent to the case.

13 Q Other than the defendant and his wife, was
14 anyone else located inside the residence?

15 A No, sir.

16 Q And did you say you assisted in the search of
17 the residence?

18 A Again, my role primarily was to stay with Mrs.
19 Jackson, just to secure her and make sure she didn't try
20 to leave or if she required any sort of medical attention
21 or restroom break, if you will. But then I was taken
22 around and shown what the other deputies located.

23 Q So would it be fair to say that you were shown
24 the evidence that was collected before it was collected?

25 A Yes, sir.

1 **(WHEREUPON, a bench conference is held off the**
2 record.)

3 **BY MR. ALFARO:**

4 **Q** During the course of the search of the
5 residence, uh, were you able to locate any firearms
6 inside the residence?

7 **A** No firearms, no, sir.

8 **Q** Were you able to locate any ammunition
9 consistent with the description of the weapon as
10 described by the victim?

11 **A** Yes, sir.

12 **Q** Do you recall where those items were found?

13 **A** Yes, sir.

14 **Q** And where was that?

15 **A** Uh, there were three individual, uh, .410
16 shotgun shells that were recovered from inside the
17 defendant, Mr. Jackson's, front right pocket. There were
18 an additional nine of the same .410 shells that were
19 located in a purple Crown Royal bag located inside the
20 master bedroom.

21 **Q** Those were found in the bedroom, you said?

22 **A** I'm sorry, actually the master bathroom.

23 **Q** Okay. And --

24 **A** There were a box of .410 shells that were found
25 inside the bedroom.

1 Q After the, uh, -- at some point, was the
2 defendant -- what was done with the defendant?

3 A He was taken into custody and transported to
4 the Berkeley County Sheriff's Office.

5 Q And did you transport him into the Sheriff's
6 Office?

7 A No, I did not.

8 Q And did you eventually meet with the defendant?

9 A I did.

10 Q And where was that?

11 A That would be at the Sheriff's Office in
12 Lieutenant Mason's office.

13 Q And approximately how long after the search
14 warrant was executed did you meet with the defendant in
15 Lieutenant Mason's office?

16 A Maybe a couple of hours. We made entrance into
17 the house right around 7:00 a.m. or so. It was still
18 fairly early in the morning. And then, uh, as I recall,
19 it was before lunchtime that I met with him. I would say
20 probably around 10 a.m. or so.

21 Q So it was around 10 o'clock that you met with
22 the defendant?

23 A Correct.

24 Q And what was the purpose of taking him to the
25 Sheriff's Office?

1 **A** So he could, uh, be interviewed. I advised him
2 of his Miranda rights and see if we could obtain a
3 statement from him.

4 **Q** And you said -- I apologize. You said you
5 wanted to speak him about the incident?

6 **A** Correct.

7 **Q** And what incident were you going to speak with
8 him about specifically?

9 **A** Specifically, the armed robbery that I
10 mentioned occurred at the St. Stephen Evangelical Church
11 at 150 Church Road in St. Stephen, Berkeley county, South
12 Carolina. That occurred on May 18th, 2010.

13 **Q** Okay. And is that the incident with Hazel
14 Dunning as the victim?

15 **A** Yes, sir.

16 **Q** And was the defendant informed as to what
17 incident you wanted to speak with him about?

18 **A** He was.

19 **Q** And if you could, tell the jury what you told
20 him you wanted to talk with him about.

21 **A** Uh, essentially, I just mentioned that I
22 wanted to speak with him about the armed robbery that
23 occurred on May the 18th, 2010 at the St. Stephen church
24 there at 150 Church Road in St. Stephen, Berkeley county.

25 **Q** And was anybody else in the room with you and

1 the defendant when you had the conversation with him?

2 A Yes.

3 Q And who was in the room?

4 A Uh, Lieutenant Mason.

5 Q And prior to asking the defendant any questions
6 about that specific incident did you read him his Miranda
7 rights?

8 A I did not.

9 Q Who did?

10 A Lieutenant Mason did.

11 Q Do you recall how those rights were provided to
12 him?

13 A I do.

14 Q I'm going to show you what's in evidence as
15 State's Exhibit 1. You recognize that?

16 A Yes, I did.

17 Q Can you tell the jury what that is?

18 A Certainly. This is the advise of rights form.

19 It's got the Miranda rights, which were read from --
20 verbally from the written paper. It also has a waiver of
21 rights which he has read. He acknowledged both sections
22 that he understood his rights and that he wanted to waive
23 his rights and speak with us.

24 Q And if you could, for the jury, just advise
25 them what rights -- did you provide the defendant those

1 rights or did Lieutenant Mason?

2 A I believe Lieutenant Mason did.

3 Q And was that done in your presence?

4 A It was, yes.

5 Q And could you tell the jury what rights the
6 defendant was advised he had?

7 A Sure. He was advised he had the right to
8 remain silent. Anything he said could and would be used
9 against him in court. He had the right to talk to a
10 lawyer for advice before we asked him any questions and
11 also to have a lawyer present with him during any
12 questioning. Also that if he could not afford a lawyer,
13 one would be appointed to represent him if he wished.
14 And then if he decided to answer any questions now or at
15 the time without his lawyer present, then he would still
16 have the right to stop answering questions at any time.
17 That he had the right to stop answering questions at any
18 time. And if he wished to speak to a lawyer, he could do
19 that.

20 Q And did he appear to you to understand the
21 rights that had been provided to him?

22 A Yes, he did.

23 Q And did he acknowledge understanding those
24 rights?

25 A He did.

1 **Q** How did he do that?

2 **A** Both verbally and by initialing to the left
3 line beside each specific right individually.

4 **Q** And after being read his rights, did he agree
5 to waive those rights and speak with you?

6 **A** He did.

7 **Q** And how did he acknowledge that he was
8 voluntarily waiving his rights and agreed to speak with
9 you?

10 **A** Uh, below the rights advisement section,
11 there's a waiver of rights, there's advice of waiver and
12 he agreed that he was to waive his rights and speak with
13 us and to verbally acknowledge that he wanted to waive
14 and also his signature for that.

15 **Q** Can you tell us what the actual waiver of
16 rights says above where his signature is?

17 **A** Sure. If I may, I'll read the front page. It
18 says waiver of rights. I have read this statement of my
19 rights and I understand what my rights are. I'm willing
20 to make a statement and answer questions. I do not want
21 a lawyer at this time. I understand and know what I am
22 doing. No promises or threats have been made to me and
23 no pressure or coercion of any kind has been made -- used
24 against me. Then it's signed and it's got a line with
25 his signature on it.

1 Q And you were in the room when he signed that?

2 A Yes, sir. I was.

3 Q And at that point, after signing it, did he
4 agree to tell you or give you a statement about the
5 incident you were investigating?

6 A Yes, sir. He did.

7 Q And can you tell the jury what he told you?

8 A He said he did it. He said that he was sorry
9 for what he put the victim through. He said that she was
10 never a target. He wanted the vehicle. He said he
11 wanted to apologize to her. He said that someone had
12 left the gun for him to use. He said that someone helped
13 him to dispose of some of the victim's property,
14 including her purse and the license plate from her
15 vehicle. He told us that those items were disposed of at
16 a car wash in Orangeburg county. He declined to tell us
17 who the name of the person was or who the victim was
18 leaving the gun for him to use or helping him dispose of
19 those items. Nor did he tell us the name of the car wash
20 other than that it was Orangeburg.

21 Q And was a written statement taken from him that
22 day?

23 A Not on that day, no, sir.

24 Q And did you ask him for any more details about
25 the weapon?

1 **A** Not about what specifically -- I tried to ask
2 who the person was leaving the gun for him.

3 **Q** And that statement took place on June the 2nd,
4 is that correct?

5 **A** Yes, sir. June the 2nd.

6 **Q** Did you have another opportunity to speak with
7 the defendant after that?

8 **A** Yes, sir. I did.

9 **Q** When was that?

10 **A** That was the following day on June the 3rd,
11 2010.

12 **Q** Okay. And, uh, on June the 3rd -- I'm going to
13 show you State's Exhibit 2 that's in evidence. When you
14 went to talk with him, who else -- was there anyone else
15 in the room with you?

16 **A** There was.

17 **Q** Who was in the room?

18 **A** I was in the room, the defendant, Mr. Jackson,
19 and detective -- Corporal Riser.

20 **Q** And prior to speaking with the defendant that
21 day, did you again tell him what you wanted to talk to
22 him about?

23 **A** Yes.

24 **Q** And what did you tell him you wanted to talk to
25 him about?

1 **A** It was about the same thing that I spoke with
2 him about previously the day before, again, the armed
3 robbery that occurred at the church of -- St. Stephen
4 Evangelical Church on May the 18th, 2010, uh, at 150
5 Church Road in St. Stephen, Berkeley county, South
6 Carolina.

7 **Q** Uh, now, at the top of that statement, did you
8 put any -- did you write any information on there?

9 **A** I did.

10 **Q** And can you tell the court what is on there as
11 far as the name that you wrote on the top of that
12 statement?

13 **A** Uh, the name I wrote on the statement --
14 Brandon Jesse Jackson, III.

15 **Q** Is that a typo or is there a different person
16 you spoke with on June the 3rd other than the defendant?

17 **A** The best I can tell, it was a mistake.

18 **Q** So on June the 3rd, you spoke with the
19 defendant, Benjamin Jackson?

20 **A** Yes, I did.

21 **Q** And was he, again, provided his Miranda rights?

22 **A** Yes, he was.

23 **Q** And was he provided the same rights that he was
24 provided the day before?

25 **A** Correct. Yes.

1 Q And when he was provided those rights, was he
2 provided those rights in the same method as you described
3 earlier?

4 A Exactly, both verbally from the written form.

5 Q And I'm not going to ask you to read those
6 again. Are those the same rights that you read to him on
7 June the 2nd?

8 A They are, yes.

9 Q Did he again acknowledge that he understood
10 each of those rights?

11 A He did.

12 Q And how did he acknowledge it on June the 3rd?

13 A The same way, both verbally and then by
14 initialing -- actually, we had to draw a line beside each
15 right on this particular form, but he initialed next to
16 each one.

17 Q On that State's Exhibit 2, is there a space on
18 there where you can write in what you are investigating,
19 what you want to talk to him about -- what you are
20 talking to him about?

21 A Yes, there is.

22 Q Did you fill anything in on that spot?

23 A I did.

24 Q And what was shown to the defendant on that
25 form that you were investigating?

1 **A** Armed robbery.

2 **Q** And was he shown that before he agreed to give
3 you a written statement?

4 **A** Absolutely.

5 **Q** And did he, uh, again agree to waive the rights
6 that you provided and agree to speak with you?

7 **A** Yes, he did.

8 **Q** And how did he indicate that he was waiving his
9 rights and agreed to speak with you?

10 **A** The same way as the day prior, both verbally
11 acknowledging and then he signed this particular form.

12 **Q** And did he, in fact, give you a written
13 statement regarding the armed robbery that you told him
14 you were investigating?

15 **A** He did.

16 **Q** And if you could, just read for the jury what
17 is contained on his written statement?

18 **A** Certainly. As it's written, I just want to
19 apologize for what happened that day. I wasn't trying to
20 hurt you. I was after the vehicle. You was never a
21 target. I'm sorry that it happened. Please forgive me
22 for what happened that day. God bless you and I hope
23 that you can truly forgive me. I'm truly not a bad
24 people, just something that happened that wasn't supposed
25 to happen. I hope that you can see through that and

1 forgive me. Then he initialed and signed it. End of
2 statement.

3 Q And that was June the 2nd, 2010? June the 3rd,
4 I'm sorry.

5 A June the 3rd on this one.

6 Q And after he wrote his statement, was he given
7 a copy of the statement?

8 A Yes.

9 Q And was he given the opportunity to make any
10 changes or additions or deletions or anything?

11 A Yes.

12 Q Did he make any changes?

13 A No, sir.

14 Q And that statement as it's written, was that
15 written by you or Detective Riser or was it written by
16 the defendant?

17 A Written by the defendant, Mr. Jackson, seated
18 here today.

19 Q And at any time during either the June 2nd
20 interview or the June 3rd interview, did he ever ask for
21 a lawyer?

22 A No, he did not.

23 Q And did he ever indicate to you that he wanted
24 to stop talking or not talk to you?

25 A No, he did not.

1 bottom of the page where it starts at the next to the
2 last line additionally.

3 A Yes, ma'am.

4 Q Would you read that for me, please.

5 MR. ALFARO: Objection, Your Honor. May we
6 approach?

7 (WHEREUPON, a bench conference is held off the
8 record.)

9 THE COURT: All right. The objection is
10 sustained.

11 BY MS. KENNEDY:

12 Q And Detective Cortte, you didn't -- even though
13 you -- you never found a weapon in this case?

14 A No, that's correct.

15 Q And nobody who was working under your
16 supervision found a weapon in this case?

17 A Not to my knowledge.

18 Q And as to the, uh, the bullets that were --
19 that you testified to that were consistent with what you
20 would use with a rifle or long barrel gun, that could be
21 any rifle or long barrel gun, correct? Those bullets?

22 A We had no evidence to suggest --

23 MS. KENNEDY: Thank you, sir. I appreciate
24 it.

25 THE WITNESS: Yes, ma'am.

1 **THE COURT:** All right. Mr. Foreman, Ladies
2 and Gentlemen of the jury, we're going to take a
3 break at this time. If you need a smoke break, let
4 the bailiffs know. Anything else you need, let the
5 bailiffs know. We'll take about a 20 to 20-minute
6 break. Please don't discuss the case. Leave your
7 pads in your chair.

8 **(WHEREUPON, the jury exits at approximately**
9 4:25 p.m.)

10 **THE COURT:** All right. Before -- before we
11 break, I want to put on the record and y'all are
12 going to have to help me. The last objection was
13 concerning the relevancy of the co-defendant
14 testimony from this witness. I sustained that
15 objection. The confession, you objected to in the
16 Jackson v. Deno.

17 **MS. KENNEDY:** Yes, sir.

18 **THE COURT:** I'll make that part of the
19 record, the oral and the written. Okay.

20 **MS. KENNEDY:** Okay.

21 **THE COURT:** There was something else that we
22 did up here at the bench. I'm trying to remember
23 what it was so that I could put it on the record.

24 **MS. KENNEDY:** It concerned the --

25 **THE COURT:** Oh, it was about the, uh, shotgun

1 shells.

2 MR. ALFARO: Yes, Your Honor.

3 THE COURT: Ms. Kennedy had an objection to
4 the pictures and the shells themselves, which I
5 sustained. I said I would allow you to ask did they
6 find any weapons or find any ammunition and what
7 ammunition they found. I allowed those questions.

8 MR. ALFARO: Yes, sir.

9 THE COURT: Over her objection. Okay.
10 Anything else that was done up here that we needed
11 to put on the record?

12 MR. ALFARO: No, sir.

13 MS. KENNEDY: No, sir.

14 THE COURT: Okay. We'll take a break. Thank
15 you.

16 MS. KENNEDY: Thank you.

17 (WHEREUPON, a short recess is taken.)

18 THE COURT: Please be seated.

19 Anything from the State before we bring the
20 jury?

21 MR. ALFARO: No, Your Honor.

22 THE COURT: How many more witnesses you think
23 you may have?

24 MR. ALFARO: One witness, Your Honor.

25 THE COURT: One more after this?

1 the existence or nonexistence of evidence, I believe
2 the State has presented testimony as well as
3 physical evidence that will satisfy that burden.
4 Your Honor, we believe that the State, the case
5 should proceed to the jury and ask that the directed
6 verdict motion be denied.

7 **THE COURT:** Okay. Thank you very much. Uh,
8 motion's denied.

9 **MS. KENNEDY:** Thank you, Your Honor.

10 **THE COURT:** Y'all ready -- I've already asked
11 this earlier, but y'all ready for closing arguments?

12 **MR. ALFARO:** Yes, Your Honor.

13 **MS. KENNEDY:** Yes, Your Honor.

14 **THE COURT:** All right. Bring us the jury
15 please.

16 **(WHEREUPON, the jury enters at approximately**
17 10:00 a.m.)

18 **THE COURT:** Solicitor?

19 **MR. ALFARO:** Thank you, Your Honor.

20 Ms. Kennedy.

21 Good morning, Ladies and Gentlemen. "Give me
22 your keys or I'll blow your f-ing head off. Give me
23 your phone or I'll blow your head off. Get on the
24 ground and stay there or I'll blow your head off."
25 That is what the defendant, Benjamin Jackson, told

1 Hazel Dunning on May 18th, 2010 after he had come in
2 behind her at the St. Stephen Evangelical Church in
3 Berkeley county armed with a gun. Pointed that gun
4 in the back of her head and when she turned around,
5 he was so close to her that the barrel hit her on
6 the side of the face. Give me your keys, give me
7 your phone, get on the ground or I'll blow your head
8 off. That's what he said to her that day before he
9 took those keys, before he took that phone and
10 before he took her 2006 Ford Expedition and fled.
11 Ladies and Gentlemen, that's what he said on May
12 18th to Ms. Dunning.

13 You heard the testimony. Ten days later, he's
14 seen driving in that car that he stole on May 18th.
15 They tried to pull him over. He stopped, then he
16 flees again. High speed chase. He eventually
17 wrecks. Makes the mistake of leaving his wallet
18 behind and his credit cards and identification. Go
19 to his house. They serve a search warrant on June
20 the 2nd and they find evidence, things that were
21 stolen from her from her car by the defendant on May
22 18th, 2010.

23 Now, I told you at the beginning of this what
24 he said to her on May 18th. What's equally
25 important is what he said to her through the police

1 on June the 2nd, 2010. They talk to him. They tell
2 him why they want to talk to him. They tell him
3 they are investigating the armed robbery that
4 happened at the St. Stephen Evangelical Church.
5 They want to ask him about his involvement in it.
6 What does he say on June 2nd? I did it. I'm sorry.
7 She was never a target. I didn't want to hurt her.
8 I just wanted a vehicle. Somebody gave me the gun.
9 Somebody helped me get rid of the license plate and
10 the purse. Sorry. The same person who said that on
11 June 2nd, 2010 is the same person who said, May
12 18th, 2010, give me your keys or I'll blow your head
13 off. Get on the ground and stay there or I'll blow
14 your head off.

15 He doesn't want to give them any more
16 information about the gun or who this other person
17 is. So they leave and they go back the next day.
18 They read him his rights again, just as they had
19 done on June 2nd. They tell him again they want to
20 talk to him about the robbery that took place at St.
21 Stephen Evangelical Church on May 18th. They show
22 him the forms with his rights on it. They write on
23 the form Armed Robbery. He knows what he's talking
24 -- he knows what they are talking about. He knows
25 what they are asking about. What does he say that

1 day? Again, to the victim, through the police, he's
2 sorry.

3 And you'll have his statement back there in
4 evidence. The statement, I just want to apologize
5 for what happened that day. I wasn't trying to hurt
6 you. I was after the vehicle. You were never a
7 target. I'm sorry that it happened. Please forgive
8 me for what happened that day. God bless you and I
9 hope that you can truly forgive me. Something
10 happened that just wasn't supposed to happen. I
11 hope you can see through that and forgive me. His
12 words to Hazel Dunning June 3rd, 2010. Completely
13 different than give me your keys, give me your
14 phone, get on the ground.

15 What's important is the same person that said
16 those words to Hazel, May 18th, is the same person
17 that said those things on June 2nd and June 3rd is
18 the same person that committed the Armed Robbery,
19 Kidnaping, Grand Larceny, Burglary second,
20 Possession of a Weapon During a Crime of Violence
21 and Failure to Stop for blue lights. That, Ladies
22 and Gentlemen, is a summary of the case against
23 Benjamin Jackson.

24 I'm going to tell you a little bit about the
25 law that applies. Then I'm going to tell you a

1 little bit more about the facts that we just
2 summarized. He's charged with Armed Robbery. Armed
3 robbery is the taking -- unlawful taking and
4 carrying away of the property of another with the
5 intent to permanently deprive the owner through
6 violence, intimidation or putting the owner in fear
7 of violence while armed with a deadly weapon or
8 while alleging either by words or actions that he
9 was armed with a deadly weapon or any object which a
10 person present during the commission of the robbery
11 reasonably believed to be a deadly weapon.

12 You heard from Hazel. She told you from the
13 witness stand that when she turned around, she was
14 looking down the barrel of a gun. She thought he
15 might shoot her. She was worried about getting
16 shot. She was worried about her son who was
17 upstairs getting shot. She obviously believed he
18 had a weapon. His statement, somebody helped him
19 get rid of the gun, he obviously had that weapon.
20 He's guilty of Armed Robbery because he walked into
21 that church with that gun and he stole her keys, her
22 phone, her Expedition and everything that was in it.
23 He took that from her while he was armed with a
24 deadly weapon.

25 Now, one thing I forgot to tell you that I

1 should have is that all of these crimes, except for
2 the failure to stop for blue lights all come out of
3 the same incident. Everything that we're going to
4 go over, except for the failure to stop, happened
5 May 18th, 2010 at the St. Stephen Evangelical
6 Church, the same incident.

7 Burglary second is unlawful entry into a
8 building without consent and with the intent to
9 commit a crime therein. While in there, he was
10 either armed -- either while entering or while in
11 the building or while leaving the building, he's
12 armed with a deadly weapon, displays what appears to
13 be a rifle, shotgun or other firearm. He walked
14 into that church with that gun to get that vehicle
15 that he wanted. He followed through with that gun
16 and made those threats and took the keys and took
17 the car. He committed a crime inside that he
18 intended to commit. He committed Burglary second.

19 Kidnaping, fancy legal words. Unlawfully
20 seize, confine, inveigle, decoy, kidnap, abduct or
21 carry away any person by any means whatsoever
22 without authority of law. You see these movies and
23 you may think that you actually have to tie somebody
24 up, throw them in the back of a truck and drive them
25 across state lines. That's not what kidnaping is.

1 Kidnaping is when you seize or confine or detain
2 someone against their will.

3 What did Hazel tell you? She turned around and
4 saw that gun right in her face. She put her hands
5 up. She couldn't move. She was scared to move.
6 She did what she was told. When he moved her, just
7 one or two feet over, he told her to get down on the
8 ground and stay there. He kidnaped her. She wasn't
9 free to leave.

10 Of course, the Grand Larceny of motor vehicle,
11 taking and carrying away the property of another --
12 This case is valued over \$10,000 -- without the
13 consent or against the will of the owner with the
14 intent to steal. Clearly, when he stole the
15 Expedition on 2000 -- on May 18th, 2010, drove it
16 around for ten days until he got in a chase with the
17 cops and wrecked it, he had taken the luggage rack
18 off, he had taken the stickers off, he had taken her
19 stuff out and his stuff in. He wasn't giving that
20 back. He intended to keep that. He intended to
21 permanently deprive her of it.

22 The fact that she gave him his keys in no way
23 means that it's not a grand larceny. She gave him
24 her keys because she was staring down the barrel of
25 a gun. That's not consent. That's not her will.

1 She did it because she was scared she was going to
2 get shot. She was scared that her son was going to
3 get shot.

4 Again, Possession of a firearm during a crime
5 of violence, if he walked into that church with that
6 gun, he committed the crimes of Armed Robbery which
7 we discussed, Burglary second which we discussed and
8 Kidnaping which we discussed, he also committed this
9 crime. In South Carolina, Armed Robbery, Kidnaping
10 and Burglary second are all violent offenses. If he
11 committed any one of those, he is guilty of this
12 crime.

13 Failure to stop for blue lights. Simply
14 driving a vehicle in the State of South Carolina on
15 a road or highway, signaled to stop by law
16 enforcement and doesn't stop. You've heard
17 testimony from Captain Ollic, Sergeant Cline, Deputy
18 Buckhannon that when Captain Ollic tried to stop him
19 on May 28th, 2010, he stopped for a little bit. As
20 Ollic and Cline were walking up to the car, he took
21 off. 27 mile chase. Speeds up to 120 miles an
22 hour. Driving so fast he's missing turns, he's
23 driving through yards, he's driving through ditches,
24 he's wrecking cars. All while being chased by
25 police officers with their blue lights and their

1 sirens going. That's failure to stop for blue
2 light. That's the other crime he's guilty of.

3 You've heard it a few times. You're going to
4 hear it a few more times. The burden of proof that
5 the State has is we have to prove that he is guilty
6 of each of these offenses beyond a reasonable doubt.
7 I submit to you we've met that burden. It's a
8 burden that we've took on and we have met.

9 Reasonable doubt is doubt that would cause a
10 reasonable person to hesitate doubt. It leaves you
11 firmly convinced of something. That's what
12 reasonable doubt is. What's equally important is
13 what reasonable doubt is not. Reasonable doubt does
14 not require us -- our burden is not that we have to
15 prove to you beyond any doubt or beyond all doubt.
16 It's beyond a reasonable doubt. Because as it says,
17 there are very few things in this world that we know
18 with absolute certainty. Our burden is to prove to
19 you that he is guilty of Armed Robbery, Kidnaping,
20 Grand Larceny, Burglary second, Possession of a
21 Weapon During a Crime of Violence and failure to
22 stop for blue lights beyond a reasonable doubt. The
23 evidence that you've heard, the testimony that
24 you've seen, the evidence that you've been presented
25 with, all those things are what we use to meet that

1 burden. Ladies and Gentlemen, based on that, the
2 defendant is guilty of all charges. We've met our
3 burden of proof. That's the law.

4 These are the facts. It happened in Berkeley
5 county 9:30 in the morning. Hazel comes in with her
6 son. She walks in. She's the only one that's
7 supposed to be there cleaning the church, her and
8 her son. Some construction workers are there. She
9 pulls up in that Eddie Bauer Expedition. The
10 stickers are on the back window, the emblem by the
11 license plate in the back. The next thing she hears
12 as she goes back to take the trash out and comes
13 back in, the next thing that she's encountered with,
14 give me your keys or I'll blow your head off. Rifle
15 in her face. Throws her hands up. Gives her the --
16 gives him the keys and the cell phone and made her
17 lie face down. He steals the SUV and leaves. Kept
18 that car for about 10 days before he was caught by
19 Captain Ollic.

20 That brings us to May 28th. He sees the car,
21 the SUV near Walgreens here in Moncks Corner. It
22 catches his eye. You heard him testify to it. The
23 backup sensors, paper tag, tape on it. The four
24 trailer hitch cover. The high speed pursuit we
25 already talked about ends in a wreck. The defendant

1 runs away. He leaves behind his wallet. This
2 wallet with all these credit cards with his name on
3 it. Captain Ollic went through all those.

4 Equally important, he leaves a check made out
5 to himself for \$2500. Not going to leave this with
6 someone else. You going to have your wallet with
7 your credit cards with your \$2500 check on you. The
8 only reason he left it behind is because he had to
9 get out of there because the cops had caught him.

10 He managed to ride around in the car that he
11 stole for 10 days. He made some changes to it. He
12 took the stickers off. He took the luggage rack off.
13 He took the license plate off. But he didn't get
14 away with it. He got seen. He got chased. And he
15 was going to get caught. He bailed out of that car
16 and he ran. He ran. He stole the car, not someone
17 else.

18 June 2nd, they get a search warrant. They go
19 to his house and they find the pill bottle with
20 Hazel Dunning's name on it on his bathroom counter.
21 Took it out of her car when he stole it. Put it in
22 his house. He found a check made out to her that
23 she had over her visor that he took after he stole
24 the car and put it in his house.

25 The backyard, they found a luggage rack, they

1 found the trailer hitch, and they found this. When
2 you have the pictures back there in the jury room,
3 there are some pictures to the back of that car.
4 You can see the outline of this where he had pulled
5 it off on the back of that car after he stole it.

6 They found the insurance papers, some other
7 papers. They even found a magazine cover that he
8 had taken out of her car and run away at his house.
9 All part of his plan after he stole it to keep it,
10 make it his. Take her stuff out. Take her stuff
11 off and put his stuff in. After that, we just went
12 through some of those. There's a GPS, a picture of
13 the GPS is in evidence. You've seen it. Hazel
14 Dunning's own address. He had her keys. He knew
15 where she lived. He had her GPS out of her car that
16 he stole from May 18th, 2010. The owners manual and
17 the registration and the roadside emergency kit.

18 Not just thrown into the house. He took it in
19 his laundry room and put them up in a cabinet to
20 keep. To hide the registration, keep the emergency
21 kit. The cooler, the blanket, the papers we've
22 already discussed, all of those things that belonged
23 to the victim were found in Benjamin Jackson's home.

24 We went through the wallet. This is the stuff
25 that's found inside of her car after the chase.

1 Credit cards, tags, the papers, CDs, jalapeno can
2 and the dishwashing detergent that they got his
3 fingerprints off of inside the car.

4 After that, we get to June 2nd, the confession.
5 They talked to him on June 2nd. Detective Cortte
6 and Lieutenant Mason, as I said, they told him what
7 they were talking to him about. He knew they wanted
8 to talk to him about the armed robbery, the
9 kidnaping, the burglary that happened May 18th, 2010
10 at the St. Stephen Evangelical Church. He was under
11 no misconception that he was just talking about
12 driving a stolen car. He was told that they were
13 talking to him about him stealing that car while
14 armed with a weapon. They read him his Miranda
15 rights.

16 You'll have that form back there in evidence
17 with you. You will be able to see how they covered
18 each of his rights. He initialed beside each of his
19 rights that he understood what his rights were. He
20 signed it. He agreed to talk to them. What did he
21 tell them? He did it. He was sorry. She was never
22 the target. Just wanted the vehicle. Said someone
23 left the gun for him and someone helped him get rid
24 of the purse and the license plate.

25 He knew what they were talking about and for

1 whatever reason he decided to tell them. Maybe he
2 felt bad or whatever. Maybe he just realized they
3 found the luggage rack, the trailer hitch,
4 registration, paperwork, emblem, pill bottle, GPS,
5 check, car with my wallet in it, my check in it.
6 They got me. He doesn't want to give them any more
7 information about the guns. So they go back the
8 next day, June 3rd. Detective Cortte goes back with
9 Detective Riser this time. Again, they tell him we
10 want to talk to you about armed robbery/kidnaping
11 that happened at State's Exhibit Church May 18th,
12 2010. The same thing they told him they were
13 talking to him about the day before when he said
14 that he was sorry that he did it.

15 This time, another statement and Miranda form,
16 this one a written statement. Again, went through
17 each of his rights. He initialed that he
18 understood. He signed that he was willing to talk
19 to them. It says on there Armed Robbery. Fully
20 understand each of these rights that have been
21 explained to me. I wish to waive these rights and
22 answer questions concerning the charge of armed
23 robbery which I have been accused of committing.

24 No question he knew what he was being
25 questioned about or being asked about. After that,

1 what does he say? What does he confess to? I just
2 want to apologize for what happened that day. I
3 wasn't trying to hurt you. I was after the vehicle.
4 You were never a target. I'm sorry that it
5 happened. Please forgive me for what happened that
6 day. God bless you. I hope you can truly forgive
7 me. Truly not a bad person or bad people. Just
8 something that happened that wasn't supposed to
9 happen. I hope you can see through that and forgive
10 me.

11 That's a personal apology. It's clearly about
12 the armed robbery. It's not about driving a stolen
13 car. It's not an apology that he was driving her
14 car and he wrecked her car. It's an apology for
15 what happened that day. I want to apologize for
16 what happened that day, which means I want to
17 apologize for what happened that day when I stuck
18 that gun in your face and I told you to give me your
19 keys, give me your phone, get down on the ground or
20 I will blow your head off. I was after the vehicle.
21 You were never a target.

22 One person in that church with the defendant.
23 One person was picked out to have a gun shoved in
24 her face and to have her car and her keys and her
25 phone stolen from her. I'm sorry for what happened.

1 Please forgive me for what happened that day, May
2 18th, 2010. Not that I wrecked your car. Not that
3 I took your luggage rack off your car. I'm sorry I
4 stuck that gun in your face. I'm sorry that I told
5 you to get down on the ground and threatened to blow
6 your head off, made you worry about being shot and
7 worry about your son being shot.

8 Something happened that wasn't supposed to
9 happen. That's the one thing you got. It was not
10 supposed to happen. You are not supposed to walk
11 into a church where someone is cleaning and shove a
12 rifle or a gun in their face and threaten them and
13 take their property. It's not supposed to happen,
14 but it did and he did it.

15 Ladies and Gentlemen, all of what I have told
16 you and what we have gone through shows that we have
17 met our burden. Benjamin Jackson is guilty beyond a
18 reasonable doubt. We have the evidence that's found
19 in the stolen car that he stole on May 18th, the
20 wallet, the credit cards, the paperwork. We have
21 his fingerprints inside that SUV. We have his
22 fingerprints on the outside of that stolen SUV. We
23 have all the evidence that's found in his home. The
24 stuff they talked about, they never find a weapon
25 but they find ammunition that's consistent with the

1 gun as the victim described it. They find all those
2 other things that we've already covered.

3 We have the confessions. He talks about the
4 gun. He talks about what he did with the purse,
5 what he did with the license plate. He apologizes.
6 He's sorry again. What's important? That day.
7 It's not about the stolen car. He's not apologizing
8 about that. He's apologizing for what he did to her
9 May 18th, 2010 when he put the gun in her face and
10 said give me your keys, give me your phone, get on
11 the ground or I will blow your head off.

12 Ladies and Gentlemen, all of that proves to you
13 that the defendant is guilty beyond a reasonable
14 doubt of Armed Robbery, Kidnaping, Burglary second
15 degree, Grand Larceny of a motor vehicle over
16 \$10,000, -- I'll just say this briefly. She
17 testified she bought the car for about 40-42,000.
18 After it was wrecked and damaged, she sold it for
19 14. Both of those are over 10 -- Possession of a
20 Firearm During a Crime of Violence, Failure to Stop
21 for Blue Lights.

22 Ladies and Gentlemen, I know you've been
23 attentive through this. It's very important that
24 you remember the same person that said those things
25 to Hazel before he stole her car, before he stole

1 her keys and her phone is the same person that on
2 June 2nd, 2010 -- June 2nd and June 3rd, 2010,
3 apologized for being the person who shoved the gun
4 in her face, took her property. Same person. This
5 person. Benjamin Jackson is the person that's
6 guilty of each of those offenses.

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

8 **MS. KENNEDY:** Thank you.

9 Ladies and Gentlemen of the jury, before I
10 start my summation, I want to tell you how much we
11 appreciate your attending this trial. I want to
12 apologize for any inconvenience to you that occurred
13 yesterday because you had to come back today. I
14 know, as I told you on Tuesday, that you take
15 seriously your oath of being fair, objective and
16 impartial jurors.

17 Now, there's only one issue in this case. It's
18 not the issue of whether or not Ms. Dunning was the
19 victim of an armed robbery. The issue is whether or
20 not Benjamin Jackson committed that armed robbery.
21 The Solicitor had ten witnesses come forward, one by
22 one, and testify to everything they knew about the
23 case. But not a single one of those people could
24 tell you that Benjamin Jackson committed that crime.
25 And that alone, that fact alone should give you

1 reasonable doubt.

2 Now, what I'd like to do is go through a brief
3 summary of what you heard so that you can think
4 about what you didn't hear. The first witness that
5 testified was Sergeant Wadford of the St. Stephen
6 Police Department. He said he responds to St.
7 Stephen Evangelical Church around 10 o'clock on May
8 the 18th in response to an armed robbery. He speaks
9 to Ms. Dunning. Ms. Dunning gives him a description
10 of a black male, 5'8 to 6'2 tall, 150 pounds to 180
11 pounds. Says that suspect came into the church,
12 held a gun to her head, told her to lie down on the
13 floor. He left, the suspect, with her keys, with
14 her cell phone and obviously her car.

15 Later that afternoon, on an agency assist,
16 Berkeley county sheriff's deputies go to that church
17 and they essentially get the same information. They
18 had a briefing. The briefing told them exactly what
19 Sergeant Wadford told you. Pay attention. Think
20 about this. What in Sergeant Wadford's testimony
21 told you that Benjamin Jackson committed that crime?
22 Zero. Nothing.

23 The next witness that comes forward was Ms.
24 Dunning. Again, there's no dispute that she was the
25 victim of an armed robbery. She tells you she was

1 in the church. Sometimes she works on Mondays.
2 Sometimes she works on Tuesdays. That day, she
3 happened to be working on a Tuesday, cleaning.
4 Someone came through a door, put a gun to her head
5 and said give me your keys, give me your cell phone.
6 I'm going to blow your head off. Lay down on the
7 floor. Don't call anybody.

8 Then there was a lot of testimony about her
9 car. The way it looked, the decals, the blue sandal
10 foot sticker, what was in it, the registration. And
11 each of these things -- you will have all of these
12 pictures that the Solicitor put up on this projector
13 here to show you all the stuff about the car. You
14 can see what it looked like from the outside. You
15 can see what it looked like from the inside. No
16 question. All about the car. I ask you again, what
17 in that evidence tells you that Benjamin Jackson
18 committed this crime? Zero.

19 We then go to Phillip Balentine. He was part
20 of the construction crew that was working at the
21 church that day. Uh, when he learns what happens to
22 Ms. Dunning, he goes -- he says, uh, I chased after
23 him in my car. He was the one on the 911 call. He
24 was the one that told the dispatcher I don't know if
25 it was a black person or a white person. I'm just

1 chasing after the car.

2 One thing I forgot to mention in terms of Ms.
3 Dunning's description, remember when I asked her
4 where did you get the weight, where did you get the
5 height, how do you know if he was 5'8 to 6 feet
6 tall? And she said, I'm 5'3, So I know he was
7 taller than me. All right. I ask you to consider
8 that that statement alone makes the description
9 given to Sergeant Wadford even more vague.

10 Then we have Mr. Marvin. Now, I'm not real
11 sure why he was called. All he could tell you is
12 that he saw a silhouette. He didn't even see a
13 person. I guess if you can have something less than
14 zero, that's the evidence that he could offer you.
15 We'll just say zero for that.

16 Then we have Captain Ollic. Captain Ollic
17 tells you about how he was on a, I think he said it
18 was a call out. He was on that road around midnight
19 on May the 28th and this car caught his eye. He
20 pulled up beside it. He saw that a black male was
21 driving. Then he got behind the car. He felt it's
22 got a paper tag. You could see where these decals
23 were. You could see the back-up sensors.

24 He thinks, well, that must be Ms. Dunning's
25 car. Calls for backup. Chase ensues. K-9 unit

1 comes. Car is wrecked. Car is recovered. Now,
2 again, what evidence in his testimony tells you that
3 Benjamin Jackson committed this crime? We're back
4 to zero. Zero.

5 Then, we have Sergeant Cline and Deputy
6 Buckhannon, who again come to tell you about this
7 high speed chase which we never disputed. Never
8 disputed. Never said Benjamin Jackson wasn't the
9 man that was driving the car. We told you that up
10 front.

11 So all they can tell you is about the car and
12 the recovery of the car and the wallet and the items
13 that were in the car that Sergeant Cline inventoried
14 to get information about Mr. Jackson which leads to
15 the execution of the search warrant. But neither
16 Sergeant Cline, nor Deputy Buckhannon can say, with
17 that evidence he's the one who committed the crime.
18 Again, another zero.

19 Then we get to -- I'm sort of taking it out of
20 order. Lieutenant -- excuse me -- Jason Potteiger
21 who executed -- one of the deputies who executed the
22 search, he was at Mr. Jackson's home when they found
23 all of this stuff. He tells you he retrieved stuff
24 from the Herbie Kirby, went around the yard, picked
25 all this other stuff up. Luggage rack, all of it.

1 All of it. Now, he can tell you and did tell you
2 that that was the stuff that they found at the house
3 when they executed the search warrant on June the
4 2nd. Ms. Dunning's personal items were in the
5 house. No question about it. But again, what about
6 that tells you that Benjamin Jackson committed an
7 armed robbery? Zero. Zero.

8 Then we get to Lieutenant Kokinda. He tells
9 you he's the head of the forensics unit. He tells
10 you all of this stuff about all the latent prints
11 that were found in Ms. Dunning's car. Outside,
12 inside, Sprite bottle, uh, jalapeno bottle, all of
13 it. But ask yourself, what in that testimony tells
14 you that Benjamin Jackson committed this crime?
15 Zero. Zero.

16 Now, I hope you remember when the Assistant
17 Solicitor says -- asked the question, well,
18 Lieutenant Kokinda, why is it that you don't take
19 fingerprints from the church door and he goes into a
20 long involved explanation and he puts his fingers
21 here and he starts telling you all about latent
22 print processing and how if he puts his fingers
23 there, he can come back at a later part of the day
24 and he can process it and his prints may not be on
25 there. Great. But the problem is he was never

1 asked to go to the church that day. So the one thing
2 that he could have done that may have been helpful
3 to produce evidence in this case, he wasn't even
4 asked to do. Didn't go to the church to take
5 fingerprints of the door. Zero.

6 Which then brings us to Detective Cortte, the
7 lead detective, the case agent in charge of the
8 case. He goes to St. Stephen Evangelical Church
9 within a couple of hours after this incident on an
10 agency assist. He tells you that he walked around,
11 interviewed a couple of people, but he never went
12 inside the building where Ms. Dunning was. He never
13 went to see where she was on the floor. Never
14 looked for any other clues. Never even figured out
15 which door the suspect came through. Tells you he
16 went to the house. He was there for the execution
17 of the search warrant, found all this stuff from Ms.
18 Dunning's car. No question about it. But I ask you
19 again, what in any of that tells you that Benjamin
20 Jackson committed this armed robbery? Another huge
21 zero.

22 Which then brings us to these confessions.
23 Now, Detective Cortte tells you he doesn't know who
24 took Mr. Jason to the Sheriff's Office. He doesn't
25 know who put Mr. Jackson in Lieutenant Mason's

1 office. He can't tell you how this interrogation
2 began. What he can say is, oh, it lasted 15 or 20
3 minutes. I know Lieutenant Mason did the Miranda
4 warnings. I -- Lieutenant Mason took the lead.

5 He tells you that there are interview rooms in
6 the Sheriff's Office which have audio equipment and
7 video equipment. And those are the rooms that the
8 Sheriff's Office uses to take confessions, to take
9 interviews. He says I didn't even think to go down
10 and look to see if one of those rooms were
11 available. Didn't occur to me.

12 So in the space of 15 to 20 minutes, Mr.
13 Jackson supposedly said all the things the deputy
14 Solicitor just went through with you. He had a
15 confession. A confession, an oral confession.
16 Three parts. One, I'm sorry. I didn't mean you any
17 harm. All I wanted was your car. Part two, someone
18 left the gun for me. No information about where it
19 was left. But there was someone who left a gun.
20 Three, someone was with me when I put Ms. Dunning's
21 purse and her license tag and all those things in a
22 garage can at a car wash in Orangeburg. And I guess
23 there's a fourth part to it because it kept being
24 repeated, but it's not anywhere in an oral statement
25 and it's not anywhere in a written statement. But

1 it's something that Detective Cortte kept saying.
2 He said, quote, I did it. Mr. Jackson said I did
3 it. So he has a confession.

4 And then for some reason, don't know what it
5 was, he thinks he has to go back the next day. So
6 he goes to the jail and he gets another statement.
7 Now, there -- the confession that he gave that day
8 was supposedly taken by Detective Riser. Detective
9 Riser took the lead on that questioning. But the
10 odd thing is the only thing that shows up is part
11 one. I'm sorry. Took your car. That's the thing
12 that the State relies on to make you believe that
13 Benjamin Jackson is the person who committed the
14 armed robbery.

15 Now, Captain Ollic told you, who is Detective
16 Cortte's supervisor, that he expects his officers to
17 take notes. I think they were called field notes.
18 The notes are supposed to be transcribed to a report
19 and then finalized in a supplemental. The
20 supplemental that Detective Cortte told you he did,
21 he completed on June the 24th, five weeks after this
22 incident occurred. Five weeks.

23 Now, this would all be real easy, there would
24 be no doubt if there was an audio recording or a
25 video recording or even the notes that Detective

1 Cortte should have taken. It would have been a real
2 easy thing to do. Just do one of them. But better
3 yet, do all three. Cause if you do all three, there
4 is no doubt. Absolutely none. That didn't happen.
5 Didn't happen.

6 So where we are now is here. If you add up all
7 the zeros and you weed out all the irrelevant
8 evidence and all of the irrelevant witnesses, all
9 you have is a confession that can't be validated.
10 No audio recording, no video recording, no notes.
11 Just Detective Cortte putting all this information
12 in a report. It would have been so simple, so easy
13 just to follow policy and procedure and do it the
14 right way. Do it the right way.

15 Now, you are going to be asked in just a few
16 minutes to consider everything that you heard. You
17 are going to be sitting in judgement on your fellow
18 citizen. That is an awesome responsibility. Mr.
19 Jackson is charged with serious crimes. Those
20 crimes have serious consequences if you find him
21 guilty.

22 So I want you, in your deliberation, to think
23 about all the zeros. And I want you in your
24 deliberation to weed out all the irrelevant things
25 that you've heard. I'm confident that you are going

1 to follow your oath as jurors. You are going to be
2 fair. You are going to be impartial. You are going
3 to give Mr. Jackson his true day in court. And when
4 you do that and when you honor your oath and you do
5 right by the system which we couldn't operate
6 without you, I'm confident that you'll find him not
7 guilty. Thank you.

8 **THE COURT:** All right. Mr. Foreman, Ladies
9 and Gentlemen of the jury, I'll give you a copy of
10 the instructions in written form. During your
11 deliberations, you may refer to those instructions
12 to guide your decision making. You must consider
13 the instructions as a whole and not follow some and
14 ignore others. But Mr. Foreman, please return the
15 instructions to the court after you have reached a
16 verdict.

17 The Court has permitted some of you to take
18 notes during the course of this trial. You have not
19 been obligated to take notes. But if you have taken
20 notes, it should be used only as memory aids. You
21 should not give your notes precedent over your
22 independent recollection of the evidence. If you
23 have chosen not to take notes, you should rely on
24 your own independent recollection of the proceedings
25 and you should not be influenced by the notes of

1 other jurors. I emphasize that notes are not
2 entitled to any greater weight or recollection or
3 impression of each juror as to what the testimony
4 may have been. These notes are your notes. After
5 the trial, you may destroy them or the clerk will
6 destroy them for you.

7 I instruct you and emphasize that the fact that
8 the defendant did not testify is not a factor to be
9 considered by you in any way in your deliberations.
10 In your consideration on the question of the guilt
11 or innocence of the defendant, it must not be
12 considered by you in any manner whatsoever. A
13 defendant has the constitutional right to remain
14 silent. The assertion of this right must not be
15 considered by you in your deliberations.

16 I repeat. Under your oath, you are to draw no
17 conclusion whatsoever from the fact that the
18 defendant in this case did not testify. The fact
19 that this defendant did not testify should not even
20 be discussed in the jury room. The burden of proof,
21 as I have stated to you, is on the State. The
22 defendant is not required to prove his innocence.
23 The burden of proof remains on the State to prove
24 the guilt beyond a reasonable doubt.

25 Now, as to these indictments, the defendant's

1 entered a plea of not guilty which places upon the
2 State the burden of proving the defendant guilty. A
3 person charged with committing a criminal offense in
4 South Carolina is never required to prove himself
5 innocent. I charge you that it's a vital and
6 important rule of law of evidence that a defendant
7 in a criminal trial, no matter how great or serious
8 maybe the offense with which he is charged, is
9 always to be presumed innocent until the guilt has
10 been proven beyond a reasonable doubt.

11 The presumption of innocence remains with the
12 defendant at all times from the moment of his
13 appearance here in court, throughout the trial and
14 until you, the jury, have upon the testimony and
15 evidence presented reached a verdict of guilty
16 beyond a reasonable doubt. It's a solid duty of the
17 jury, if not firmly convinced of his guilt beyond a
18 reasonable doubt, to acquit the defendant. The
19 burden of proof is upon the State to establish by
20 evidence to your satisfaction the guilt beyond a
21 reasonable doubt of the defendant.

22 Now, what is reasonable doubt? A reasonable
23 doubt is the kind of doubt that would cause a
24 reasonable person to hesitate to act. If you have
25 such a doubt as to the guilt of the defendant, then

1 he would be entitled to a verdict of not guilty.
2 Reasonable doubt may arise from the evidence which
3 is in the case or from the absence of lack of
4 evidence in the case. You, alone, must make a
5 determination as to whether or not reasonable doubt
6 exists as to the guilt of the defendant.

7 The term reasonable doubt should be given its
8 every day, plain and ordinary meaning. Proof beyond
9 a reasonable doubt is proof that leaves you firmly
10 convinced of the defendant's guilt. There are very
11 few things in this world that we know with absolute
12 certainty. In criminal cases, the law does not
13 require proof that overcomes every possible doubt.
14 Based upon your consideration of the evidence, if
15 you are firmly convinced the defendant is guilty of
16 the crime charged, you must find him guilty. On the
17 other hand, if you think there's a real possibility
18 he's not guilty, you must given him the benefit of
19 the doubt and find him not guilty.

20 The evidence from which you decide the facts of
21 the case consists of sworn testimony, both on direct
22 and cross-examination, regardless of who called the
23 witness, the exhibits that have been received in
24 evidence and any facts that the lawyers have agreed
25 and stipulated. What is not evidence? Certain

1 things are not evidence. You may not consider them
2 in deciding what the facts are. I will list them
3 for you: arguments and statements by lawyers are not
4 evidence. The lawyers are not witnesses. What they
5 said in opening statement, closing arguments and
6 other times was intended to help you interpret the
7 evidence, but it's not evidence. If the facts as
8 you remember them differ from the way the lawyers
9 have stated them, your memory controls.

10 Questions and objections by the lawyers are not
11 evidence. Attorneys have a duty to their clients to
12 object when they believe a question is improper
13 under the rules of evidence. You should not be
14 influenced by their objection or by the Court's
15 ruling on their objection. Testimony that's been
16 excluded or stricken which you have been instructed
17 to disregard is not evidence must not be considered.
18 Anything you may have seen on television, read in
19 the paper or heard from others when the court was
20 not in session is not evidence. You decide the case
21 solely on the evidence received at trial.

22 Under our Constitution and Code of Laws, only
23 you, the jury, can make the findings of fact in this
24 case. I'm not permitted to indicate to you how I
25 may feel about the testimony or the evidence that's

1 been presented. Throughout this trial, it's been my
2 intention to be fair and impartial towards each of
3 the parties involved.

4 To determine the facts in this case, you have
5 to evaluate the credibility, which means the
6 believability of each witness. Some of the things
7 you may consider as you decide whether or not to
8 believe the witness' testimony about a particular
9 matter include what was the manner or appearance of
10 the witness who testified? Was he or she
11 straightforward or hesitant in answering? Was the
12 testimony of a witness consistent? How did the
13 witness come to know the facts that he or she
14 testified to? Was the person present during the
15 incident or happened on the scene after it occurred?
16 Is there some reason that a witness would want to
17 give testimony that would help or hurt one side or
18 the other? In other words, is the witness biased or
19 prejudiced? Was the testimony of a witness
20 strengthened or weakened by other testimony and
21 evidence? The duration or length of time between
22 the alleged acts and when they were reported. You
23 may also consider whether they weakened or
24 strengthen the memory. All prior statements and
25 whether they were consistent or inconsistent.

1 You can believe as much or as little of each
2 witnesses testimony as you think proper. You may
3 believe the testimony of a single witness against
4 that of many or just the opposite. Do not determine
5 the truth by merely counting the numbers of
6 witnesses on each side. Throughout the process, you
7 have one objective, to seek the truth, regardless of
8 its source.

9 The same Constitution and laws which designate
10 and make you the finders of facts, as I just
11 explained, also make me the sole instructor of the
12 law. You should accept statements of the law as I
13 give them to you. You must base your decision
14 making on what the law is and not what you think the
15 law should be.

16 There are two types of evidence which are
17 generally presented during a trial, direct evidence
18 and circumstantial evidence. Direct evidence is the
19 testimony of a person who asserts or claims to have
20 actual knowledge of a fact such as an eyewitness.
21 Circumstantial evidence is proof of a chain of facts
22 or circumstances indicating the existence of a fact.

23 The law makes absolutely no distinction between
24 the weight or value to be given to either direct or
25 circumstantial evidence. Nor is a greater degree of

1 certainty required of circumstantial evidence than
2 of direct evidence. You should weigh all the
3 evidence in the case on a contested factual issue.
4 You may have some direct and some circumstantial.
5 To determine the facts in the case, you have to
6 evaluate the credibility, which means the
7 believability of the witnesses.

8 The rules of evidence ordinarily do not permit
9 witnesses to testify to opinions or conclusions. An
10 exception to this rule exists with witnesses we call
11 expert witnesses. A witness who by education or
12 experience has become an expert in some art, science
13 or profession may give an opinion as to the subject
14 the witness claims to be an expert in and may also
15 give the reason for the opinion.

16 You should consider any expert opinion given by
17 a witness like any other evidence. Give it the
18 weight you think it deserves. If you think that the
19 expert witness' opinion is not based on sufficient
20 education and experience and if you decide that the
21 reason given in support of the opinion is not sound
22 or that the opinion is outweighed by other evidence,
23 you may disregard the opinion entirely. In this
24 case, it was an expert on fingerprints.

25 What is Armed Robbery? A crime of Armed

1 Robbery includes all the elements to larceny
2 robbery. First, I would like to explain to you what
3 is meant by larceny and what is meant by robbery.
4 What then is larceny? I charge you that there are
5 four elements which must be satisfied beyond a
6 reasonable doubt to make the crime of larceny. The
7 four elements are that there was a taking, that the
8 taking was a personal property, that after being
9 taken, the property was carried away, that the
10 taking and carrying away of the property was done
11 with the intent to steal. Robbery includes each of
12 the four elements I have just explained.

13 In addition to these four elements, two other
14 elements are necessary to make out the crime of
15 robbery. Those elements are that the property must
16 be taken from the person of another or in his
17 presence and the taking and carrying away of the
18 property must have been accomplished by placing the
19 other person in fear of violence or threats of
20 violence so as to make that person surrender the
21 property without their consent and against their
22 will.

23 Therefore, the crime of Armed Robbery includes
24 all the elements of larceny and robbery in order to
25 make out the crime of Armed Robbery. However, that

1 additional element must be proved. The robbery must
2 have been committed while armed with a deadly
3 weapon. The person committing the robbery must have
4 had or used a deadly weapon with which he obtained
5 possession of property placed the one in possession
6 of the property in fear in order to obtain the
7 property.

8 Section 16-11-33(a) of the Code of Laws of
9 South Carolina provides that a person convicted of
10 the crime of Armed Robbery while armed with a
11 pistol, dirk, slingshot, metal knuckles, razor or
12 other deadly weapon commits armed robbery.

13 Kidnaping. The defendant is charged with
14 kidnaping. The State must prove beyond a reasonable
15 doubt that the defendant knowingly and unlawfully
16 seized, confined, inveigled, decoyed, kidnaped,
17 abducted, or carried away another person without the
18 authority of law. "Knowingly" means with knowledge
19 or consciously, not accidentally. "Seized" means to
20 take suddenly or forcibly. "Confined" means to
21 limit, restrict or enclose within bounds, imprison
22 or shut or keep in. "Inveigle" means to lure,
23 entice or lead astray by false representation,
24 promises or other deceitful means. "Decoy" means to
25 lure by. Decoy or entice some person to a trap.

1 "Kidnap" is to remove a person against his will
2 by unlawful force or by fraud. "Abduct" means to
3 carry off secretly or by force or illegal purpose.
4 "Carry away" means to remove.

5 The State does not have to prove the defendant
6 did all of these things. Instead, if you find
7 beyond a reasonable doubt that the defendant did any
8 of these things, you may find the defendant guilty
9 of Kidnaping. Something done without authority of
10 law or something the law does not sanction, permit,
11 allow, condone or provide justification for.
12 Kidnaping does not have to be any person for
13 monetary gain, for any illegal purpose but may be
14 for any reason whatsoever.

15 Second degree burglary. The State must prove
16 beyond a reasonable doubt that the defendant entered
17 a building without consent with the intent to commit
18 a crime in the building. A building is any
19 structure, vehicle, water craft or aircraft or where
20 any person lodges or lives or where the person
21 assembles for the purpose of business, education,
22 religion, entertainment, public transportation,
23 public use or where goods are stored.

24 The State must prove beyond a reasonable doubt,
25 when entering a dwelling or while fleeing, the

1 defendant was armed with a deadly weapon or exposed.
2 A deadly weapon is any article, instrument or
3 substance which is likely to cause death or great
4 bodily harm. Whether an instrument has been used as
5 a deadly weapon depends on the facts and
6 circumstances of each case. The following are
7 examples which may be deadly weapons: a pistol, a
8 shotgun, a rifle, a dirk, a dagger, a knife, a
9 slingshot, metal knuckles, a razor, gasoline, fire
10 bomb, Molotov cocktail and lighter fluid. A gun may
11 be a deadly weapon even if it's not operating.

12 When entering, while in the dwelling or when
13 fleeing, the defendant or an accomplice cause
14 physical injuries to anyone not participating in the
15 crime. When entering, while in a dwelling or when
16 fleeing, the defendant or an accomplice used or
17 threatened to use a dangerous object. When entering,
18 while in a dwelling or when fleeing, the defendant
19 or an accomplice display what was or appeared to be
20 a knife, pistol, revolver, rifle, shotgun, machine
21 gun or other.

22 Possession of a weapon during the commission of
23 a violent crime. The defendant is charged with
24 possession of a weapon during the commission of or
25 an attempt to commit a violent crime. The State

1 must prove beyond a reasonable doubt that the
2 defendant was in possession of a firearm or visibly
3 displayed what appeared to be a firearm during the
4 commission of a violent crime. A firearm means any
5 machine gun, automatic rifle, revolver, pistol or
6 any weapon that's designed to and may be readily
7 converted to expel a projectile.

8 In order to find a defendant guilty of
9 possession of a weapon during the commission of a
10 violent crime, you must first find the defendant
11 guilty of either committing a violent crime or
12 attempted to commit a violent crime. Armed robbery,
13 Burglary second degree and Kidnaping are violent
14 crimes.

15 It is unlawful for any motor vehicle driver,
16 while driving on any road, street or highway in the
17 state to fail to stop when signaled by any law
18 enforcement vehicle by means of a siren or flashing
19 light. Failure to see the flashing light or hear
20 the sirens should not excuse a failure to stop when
21 the condition between the vehicle and the other road
22 conditions are such that it would be reasonable for
23 a driver to hear or see the signals on a law
24 enforcement vehicle.

25 According to the plain meaning of the statute,

1 the State must show that the defendant was driving a
2 motor vehicle, that he was driving it on the road,
3 street, or highway of this state and was signaled to
4 stop by a law enforcement vehicle by means of a
5 siren or flashing light and he did not stop. An
6 official signal requiring motorist to stop may be
7 given by way of siren or flashing light. Both are
8 not required.

9 Grand Larceny of a Motor Vehicle. The
10 defendant is charged with Grand Larceny of a Motor
11 Vehicle. The State must prove beyond a reasonable
12 doubt that the defendant took a motor vehicle
13 belonging to someone else against the will and
14 without the consent of the other person. The
15 slightest removal of the motor vehicle, possession
16 of motor vehicle even for an instant by the
17 defendant is enough to show a taking and a carrying
18 away of a motor vehicle. The State must prove
19 beyond a reasonable doubt that the defendant
20 intended to permanently deprive the owner of the
21 motor vehicle. Finally, the State must prove that
22 the value of the motor vehicle in this case was
23 \$10,000 or more.

24 A statement alleged to have been made by the
25 defendant has been admitted in the evidence in this

1 case. While the court has determined that the
2 statement is admissible, I instruct you you must
3 make the ultimate decision of whether or not the
4 defendant made the statement. If the defendant
5 didn't make the statement, you must determine
6 whether the statement was made by the defendant
7 voluntarily and of his own freewill which means that
8 the statement was not caused by pressure, force,
9 fear, threats, coercion or intimidation by hope or a
10 promise of leniency or reward of any kind.

11 In determining whether the statement was
12 voluntary, you are to consider both the
13 characteristics of the defendant and the details of
14 the questions. Some of the facts that you may
15 consider are the age of the defendant, the
16 defendant's education, the lack of education, the
17 defendant's mental ability and capacity, the
18 defendant's IQ or intelligence, the defendant's
19 background, the environment, the place and length of
20 detention and the nature of the questions, advice or
21 lack thereof of the defendant of his constitutional
22 rights including, but not limited to, the right to
23 remain silent and any statement can be used against
24 him in a court of law, the right to have a lawyer
25 present. If he or she could not afford a lawyer, a

1 lawyer will be appointed to represent him without
2 any costs and he could stop making a statement at
3 any time. You must carefully consider all the
4 surrounding circumstances before you give any weight
5 to an alleged statement.

6 The State has the burden of proving beyond a
7 reasonable doubt that the alleged statement is
8 voluntary. If you determine that it was, you may
9 give the statement any further consideration that
10 you deem proper. You must decide what weight, if
11 any, should be given to the alleged statement. If
12 you determine the alleged statement is not the free
13 and voluntarily statement of the defendant, you
14 should not consider the statement at all.

15 You've been selected to be fair and impartial
16 jurors sworn to impartiality to try and determine
17 the facts of this case. When you complete your oath
18 to do so, no one will have the right to criticize
19 your verdict. You have fully discharged your duty
20 as jurors. Decide this case according to the
21 testimony you've heard from the lips of sworn
22 witnesses and other evidence introduced. I charge
23 you as jurors you must decide the issue in this
24 proceeding without bias and without prejudice to any
25 party. You do not allow yourself to be governed by

1 sympathy, by prejudice, by passion, by public
2 opinion or by any other arbitrary factor. The State
3 and the defendant have the right to expect that each
4 of you will fairly and impartially consider all the
5 evidence in the case and that you will follow the
6 law as I have explained it to you.

7 Nothing I may have said or done during the
8 course of this trial has in any way intended to
9 express or suggest a view of the case or an opinion
10 as to the facts, to weigh the evidence or the
11 credibility of witnesses. If any of my actions or
12 words seemed to so indicate, disregard such and form
13 your own opinion as to these matters.

14 Mr. Foreman, Ladies and Gentlemen of the jury,
15 I have prepared some verdict forms. I have prepared
16 a verdict form for each crime with which the
17 defendant is charged. On each verdict form, it has
18 the State of South Carolina versus Benjamin Jesse
19 Jackson, III, the defendant, and the case number.
20 As to verdict, it says as to indictment number -- it
21 gives the indictment number -- for this charge,
22 Burglary second, we, the jury, by unanimous consent
23 find the defendant guilty of Burglary second or not
24 guilty. A place for the foreperson to sign and
25 date.

1 I prepared the same verdict form for each
2 charge, Burglary second, Kidnaping, Armed Robbery
3 and Possession of a Weapon During the Commission of
4 a Crime. I said this to you early -- earlier. You
5 can not find him guilty of the Possession of Firearm
6 During the Commission of a Crime unless you find him
7 guilty of Burglary second, Kidnaping or Armed
8 Robbery. You have to find him guilty of at least
9 one of those charges or all those charges to find
10 him guilty of Possession a Firearm During the
11 Commission of a Crime. I have one as to Grand
12 Larceny and Failure to Stop for Blue Light.

13 As I said earlier, the verdict has to be
14 unanimous. All 12 of you have to agree. I will
15 tell you that it is a collective reasoning process.
16 I would ask you to listen to each other's opinions,
17 respect each other's opinions, give and take when
18 necessary and reach a fair and just verdict in your
19 deliberations.

20 Now, Mr. Foreman, I'm going to ask you to go
21 to the jury room. I have to take up my charge with
22 the attorneys. I may have to bring you back and
23 change something or add something to it. I don't
24 want you to begin your deliberations until the
25 bailiff brings you all the exhibits that had been

1 admitted into evidence, the verdict form and the
2 charge that I just read to you. You may take your
3 notepads with you to the jury room.

4 And the two alternatives, Mr. Clyde Ravenell
5 and Mr. Shirell Ravenell, if y'all will just keep
6 your seats when the jury goes to the jury room.

7 If you will, follow the bailiffs to the jury
8 room please.

9 (WHEREUPON, the jury exits at approximately
10 11:05 a.m.)

11 THE COURT: Thank you, ma'am.

12 Any, uh, exceptions to the charge from the
13 State?

14 MR. ALFARO: No, Your Honor.

15 THE COURT: And from the defendant?

16 MS. KENNEDY: No, Your Honor.

17 THE COURT: Pardon?

18 MS. KENNEDY: No. Thank you.

19 THE COURT: You going to ask for the lesser
20 included?

21 MS. KENNEDY: No, I withdraw that.

22 THE COURT: Pardon?

23 MS. KENNEDY: I withdraw that. There are no
24 exceptions.

25 THE COURT: Okay. Thank you very much.

1 Court.)

2 **THE COURT:** Mr. Foreman, I have written on
3 the indictment forms your verdict that was on the
4 verdict form. I'm going to ask the bailiff to give
5 it to you. I've dated it today. If you will, sign
6 your name right by the date please, sir.

7 **(WHEREUPON,** the indictment forms are passed to the
8 Foreperson.)

9 **THE COURT:** See down at the very bottom.

10 **(WHEREUPON,** there is a pause.)

11 **(WHEREUPON,** the indictment forms are passed to
12 the Court.

13 **THE COURT:** Thank you, sir.

14 Madam Clerk, if you will, publish the verdicts
15 please.

16 **THE CLERK:** County of Berkeley, State of
17 South Carolina versus Benjamin Jesse Jackson, III,
18 indictment number 2010-GS-08-1693, for the charge of
19 Burglary second degree, we, the jury, by unanimous
20 consent find the defendant guilty of Burglary second
21 degree. Signed by the foreperson.

22 County of Berkeley, State of South Carolina
23 versus Benjamin Jesse Jackson, III, indictment
24 number 2010-GS-08-1695, for the charge of Kidnaping,
25 we, the jury, by unanimous consent find the

1 defendant guilty of Kidnaping. Signed by the
2 foreperson.

3 County of Berkeley, State of South Carolina
4 versus Benjamin Jesse Jackson, III, indictment
5 number 2010-GS-08-1696, as for the charge of Armed
6 Robbery, we, the jury, by unanimous consent find the
7 defendant guilty of Armed Robbery. Signed by the
8 foreperson.

9 Indictment number 2010-GS-08-1693 for the
10 charge of Possession of Firearm during the
11 Commission of a Violent Crime, we, the jury, by
12 unanimous consent find the defendant guilty of
13 Possession of a Firearm during the possession --
14 during the commission of a violent crime.

15 2010-GS-08-1693, for the charge of Grand
16 Larceny, we, the jury, by unanimous consent find the
17 defendant guilty of Grand Larceny. Signed by the
18 foreperson.

19 2010-GS-08-1697, for the charge of Failure to
20 Stop For a Blue Light, we, the jury, by unanimous
21 consent find the defendant guilty of Failure to Stop
22 for Blue Light. Signed by the foreperson.

23 Ladies and Gentlemen of the jury, if this is
24 your verdict, please signify by raising your right
25 hand at this time.

1 **THE COURT:** Okay. Go ahead and talk to your
2 victim and we'll proceed with the sentencing just as
3 soon as I can get the sentencing sheets.

4 **(WHEREUPON, there is a short recess.)**

5 **THE COURT:** Ms. Kennedy, you want to come
6 around with the defendant or you can stand where you
7 are. Your choice.

8 **MS. KENNEDY:** I think we'll just stand here.

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

10 **MR. ALFARO:** Your Honor, you heard during the
11 course of the trial the facts of the case, the
12 nature of the offense, the location of the offense.
13 The victim is still in the courtroom, she does not
14 wish to address Your Honor during the sentencing.
15 The State is asking for the maximum sentence on all
16 charges.

17 The defendant's prior record is a 2005 Assault
18 and Battery; 2007, Fraudulent Check, Possession of
19 Crack, Resisting Arrest and Possession of Marijuana;
20 2008, Criminal Domestic Violence; 2009, Reckless
21 Driving as well as a Burglary third which he was
22 convicted of in October of last year as well as, I
23 believe, a Possession of Crack charge.

24 Your Honor, given the fact that a weapon was
25 used during the commission of this crime, the

1 conduct during the actual commission of the armed
2 robbery, the kidnaping and, in addition, the high
3 speed chase that he led the officers on, we believe
4 that that shows the defendant clearly presents a
5 dangerous risk to the community. Based on that and
6 his prior record and the nature of the offense, the
7 State would ask for the maximum sentence at this
8 time.

9 **THE COURT:** I'll hear you.

10 **MS. KENNEDY:** Thank you, Your Honor. Your
11 Honor, uh, Mr. Jackson will be 27 years of age in
12 June of this year. He's been in our jail since June
13 2nd of 2010. As Your Honor has heard also, he was
14 in school at the time of this incident. And with
15 reference to the conviction in October of 2011, that
16 charge was pending at the time he was arrested on
17 these charges.

18 **THE COURT:** You mean the burglary third?

19 **MS. KENNEDY:** Yes, sir. He was -- I couldn't
20 remember the date. He just advised me he was taken
21 to Charleston in October of last year to resolve
22 that case. It resulted in a conviction with a
23 sentence and time served.

24 Your Honor, Mr. Jackson and I have met any
25 number of times over the course of the past almost

1 two years. Ms. White and I met with him together
2 over the course of that time. We did discuss over
3 and over the seriousness of the charges, the
4 seriousness of the penalties were he to be
5 convicted. We would simply ask -- and I understand
6 the Solicitor's position, Deputy Solicitor's
7 position with regard to the sentence that he is
8 seeking. We would just simply ask that you impose
9 something less than the maximum and run everything
10 concurrent.

11 As you know, we now have the ability to go to
12 the computer program through the Department of
13 Corrections and do a rough calculation of how much
14 time an inmate would have to spend. Obviously, all
15 of these offenses are 85 percent nonparolable. We
16 ask the Court to take that into consideration given
17 his age. However you calculate it, he would be 45
18 or 50 years of age before he finishes his sentence.

19 **THE COURT:** How old is he now?

20 **MS. KENNEDY:** He'll be 27.

21 **THE COURT:** Okay. I didn't mean to interrupt
22 you.

23 **MS. KENNEDY:** That's okay, Your Honor.

24 **THE COURT:** 55.

25 **MS. KENNEDY:** Yes, sir. So in essence, it's

1 almost a life sentence. We just ask that you take
2 that into consideration.

3 **THE COURT:** If it was run consecutive, it
4 would be.

5 **MS. KENNEDY:** Yes, sir. Absolutely. That's
6 why we're asking for concurrent time. We would ask,
7 Your Honor, that you consider it and have mercy and
8 show leniency.

9 **THE COURT:** Where was he in school?

10 **MS. KENNEDY:** Uh, Strayer, Your Honor.

11 **THE COURT:** How far had he progressed?

12 **MS. KENNEDY:** I'm not real sure. (Pause.)
13 He was a year into it, Your Honor.

14 **THE COURT:** Anything else you'd like to add,
15 counsel?

16 **MS. KENNEDY:** No, Your Honor. (Pause.)
17 He just reminded me of one additional thing,
18 Your Honor. You know with the Kidnaping statute,
19 that's an automatic Sex Offender Registry conviction
20 unless you state otherwise. We would ask that you
21 not require him to be put on that registry.

22 **THE COURT:** Okay. All right. Mr. Jackson,
23 is there anything you would like to say?

24 **MR. JACKSON:** No, sir.

25 **THE COURT:** The only thing I want to tell you

1 is this would be your last opportunity to address it
2 before I sentence you. I'll be glad to hear
3 anything you would like to tell me.

4 **MR. JACKSON:** I'd just like to apologize to
5 the Court for having everybody here.

6 **THE COURT:** You don't need to apologize to
7 me. You haven't done anything to me.

8 **MR. JACKSON:** I understand that, sir.

9 **THE COURT:** Anything else you would like to
10 tell?

11 **MR. JACKSON:** No, sir.

12 **THE COURT:** Nothing at all?

13 **MR. JACKSON:** No, sir.

14 **THE COURT:** Well, then I'll ask you a couple
15 of questions. Why did you do this?

16 **MR. JACKSON:** I don't know what to say, Your
17 Honor.

18 **THE COURT:** Pardon?

19 **MR. JACKSON:** I said I don't know what to
20 say, Your Honor.

21 **THE COURT:** Know what?

22 **MS. KENNEDY:** He doesn't know what to say,
23 Your Honor.

24 **THE COURT:** Okay. What type of gun was it
25 you had? Was it a shotgun or rifle or what?

1 **MR. JACKSON:** (Shakes head.)

2 **THE COURT:** You are shaking your head. Which
3 was it?

4 **MR. JACKSON:** I don't know, sir.

5 **THE COURT:** You don't know whether it was a
6 shotgun or a rifle?

7 **MR. JACKSON:** No, sir.

8 **THE COURT:** Why did you tell the lady "I'm
9 going to blow your f----- head off?" Stick a gun
10 in her face and said I'm going to blow your f-----
11 head off. Why did you do that? Would you like
12 someone to do that to you?

13 **MR. JACKSON:** No, sir.

14 **THE COURT:** Well, then why did you do it?

15 **MR. JACKSON:** I didn't tell her that, sir.

16 **THE COURT:** You didn't tell her that.

17 **MR. JACKSON:** No, sir.

18 **THE COURT:** Okay. What did you tell her?

19 **MR. JACKSON:** I didn't tell her anything.

20 **THE COURT:** You didn't tell her anything?

21 **MR. JACKSON:** No.

22 **THE COURT:** Okay. All right. You got the
23 sentence sheets? (Pause.)

24 Okay. Mr., uh, Jackson, indictment number
25 1695, that's the Kidnaping, the sentence is State

1 Department of Corrections for a period of 30.
2 That's concurrent with the other indictments, which
3 means it runs together. Sexual registry is not
4 required. Indictment number 1696, that's the Armed
5 Robbery, the sentence is State Department of
6 Corrections for a period of 30 years. That's
7 concurrent.

8 Indictment number 1692, Possession of a Firearm
9 during the Commission of a Violent Crime, the
10 sentence is State Department of Corrections for a
11 period of five years. That's concurrent.

12 Indictment number 1697, that's the Failure to Stop,
13 the sentence is State Department of Corrections for
14 a period of three years. That's concurrent.

15 Indictment number 1693, that's the Burglary second,
16 the sentence is State Department of Corrections for
17 a period of 15 years. That's concurrent. As to the
18 Indictment number 1694, that's the Grand Larceny,
19 the sentence is State Department of Corrections for
20 a period of ten years. That's suspended upon
21 probation for five years. Probation will be held in
22 abeyance while you are in jail. When you get out of
23 jail, you will be on probation for five years and
24 have 10 years hanging over your head. The condition
25 of probation is to attend Voc Rehab. You

1 understand?

2 MR. JACKSON: Yes, sir.

3 THE COURT: Thank you very much.

4 MS. KENNEDY: Thank you, Your Honor.

5 THE COURT: Thank you.

6 MR. ALFARO: Thank you, Your Honor.

7 (WHEREUPON, the trial concludes at approximately
8 12:56 p.m.)

ALF2010-06-01169

WITNESSES

Michael Cortte

Berkeley County Sheriff's Office

R. Ramsey

AGENCY CASE NUMBER

1005021204

ARREST WARRANT NUMBER

M331570

DATE OF ARREST

June 3, 2010

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08-1692

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin J. Jackson, III

DOB:

B/M

Indictment for

Possession of a Firearm During Commission
of Violent Crime

ALF0103

2010 OCT 20 PM 12:13
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

11
= D
H4

120NDICT

STATE OF SOUTH CAROLINA)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County present upon their oath:

Possession of a Firearm During Commission of Violent Crime

That in Berkeley County, South Carolina, on or about May 18, 2010, the Defendant, Benjamin J. Jackson, III, did while at St. Stephen Evangelical Church located at 150 Church Road, St. Stephen, South Carolina, possess a firearm or visibly display what appeared to be a firearm during the commission, or attempted commission, of Armed Robbery, a violent crime. This is in violation of Section 16-23-490 of the South Carolina Code of Laws, (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BRYAN A. ALFARO
DEPUTY SOLICITOR

ALF0104

ALF2010-06-01169

WITNESSES

Michael Cortte

Berkeley County Sheriff's Office

R. Ramsey

AGENCY CASE NUMBER

1005021204

ARREST WARRANT NUMBER

M331571

DATE OF ARREST

June 3, 2010

ACTION OF GRAND JURY

True Bill

Charles F. Smith
Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08-1693

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin J. Jackson, III

DOB:

B/M

Indictment for

Burglary Second Degree

2010 OCT 20 PM 12:13
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

704
11
D

ALF0101

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County present upon their oath:

Burglary Second Degree

That in Berkeley County, on or about May 18, 2010 the Defendant, Berkeley, did enter St. Stephen Evangelical Church located at 150 Church Road, St. Stephen, South Carolina, without consent and with the intent to commit a crime therein. That, in addition, threatened to use a dangerous instrument, to wit: a firearm. This action is in violation of Section 16-11-312(B) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BRYAN A. ALFARO
DEPUTY SOLICITOR

ALF2010-06-01169

WITNESSES

Michael Cortte

Berkeley County Sheriff's Office

R. Ramsay

AGENCY CASE NUMBER

1005021204

ARREST WARRANT NUMBER

M331572

DATE OF ARREST

June 3, 2010

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08-1694

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin J. Jackson, III

DOB:

B/M

Indictment for

Grand Larceny

ALF0099

FILED
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

2010 OCT 20 PM 12:13

484

131 INDICT

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County present upon their oath:

Grand Larceny

That in Berkeley County, South Carolina, on or about May 18, 2010, the Defendant, Benjamin J. Jackson, III, did take and carry away the property of another, valued in excess of \$5,000.00, described as follows: a 2006 Ford "Eddie Bauer" Expedition, with intent to deprive the owner of such property. This action is in violation of Section 16-13-0030(B)(2) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BRYAN A. ALFARO
DEPUTY SOLICITOR

ALF2010-06-01169

WITNESSES

Michael Cortte

Berkeley County Sheriff's Office

R. Ramsey

AGENCY CASE NUMBER

1005021204

ARREST WARRANT NUMBER

M331573

DATE OF ARREST

June 3, 2010

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08-1695

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin J. Jackson, III

DOB:

B/M

Indictment for

Kidnapping

MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

2010 OCT 20 PM 12:13

ALF0097

484
-11
=D

STATE OF SOUTH CAROLINA)
)
COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County present upon their oath:

Kidnapping

That Benjamin J. Jackson, III, did while at St. Stephen Evangelical Church located at 150 Church Road, St. Stephen, South Carolina, willfully, unlawfully and feloniously kidnap, seize or confine Hazel T. Dunning without authority of law and against said Hazel T. Dunning's will and consent. This action is in violation of Section 16-03-0910, South Carolina Code of Laws (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


BRYAN A. ALFARO
DEPUTY SOLICITOR

ALF0098

ALF2010-06-01169

WITNESSES

Michael Cortte

Berkeley County Sheriff's Office

R. Ramsey

AGENCY CASE NUMBER

1005021204

ARREST WARRANT NUMBER

M331574

DATE OF ARREST

June 3, 2010

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08- 1696

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin J. Jackson, III

DOB:

B/M

Indictment for

Armed Robbery

ALF00095

MARY P. GROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

2010 OCT 20 PM 12:13

FILED

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)

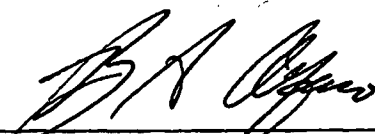
INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County present upon their oath:

Armed Robbery

That Benjamin J. Jackson, III did in Berkeley County on or about the 18th day of May, 2010, while at St. Stephen Evangelical Church located at 150 Church Road, St. Stephen, South Carolina, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or other object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Hazel T. Dunning, with the intent to permanently deprive said Hazel T. Dunning of possession thereof. This action is in violation of Section 16-11-330(A) of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



 BRYAN A. ALFARO
 DEPUTY SOLICITOR

ALF0096

ALF2010-06-01154

WITNESSES

Brian Mosier

Berkeley County Sheriff's Office

D. Heng

AGENCY CASE NUMBER

1005022727

ARREST WARRANT NUMBER

M331539

DATE OF ARREST

June 2, 2010

ACTION OF GRAND JURY

True Bill

Charles T. Eady

Foreperson of Grand Jury

Date: 10-20-10

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2010-GS-08-1697

The State of South Carolina

County of Berkeley

COURT OF GENERAL SESSIONS

October Term 2010

THE STATE

vs.

Benjamin Jesse Jackson, III

DOB:

B/M

Indictment for

Failure to Stop for Blue Light

ALF0040

2010 OCT 20 PM 12:13
MARY P. BROWN
CLERK OF COURT
BERKELEY COUNTY, S.C.

John
FILED

8
INDICT

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BERKELEY)

INDICTMENT

At a Court of General Sessions, convened on October 20, 2010 the Grand Jurors of Berkeley County
 present upon their oath:

Failure to Stop for Blue Light

That in Berkeley County, South Carolina, on or about May 28, 2010, the Defendant, Benjamin
 Jesse Jackson, III, while driving a motor vehicle on a road, street, or highway of the State, did
 knowingly, willfully, intentionally, and in the absence of mitigating circumstances, fail to stop
 for a law enforcement vehicle after being signaled by a flashing light and/or a siren to do so; all
 in violation of Section 56-5-750 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



BRYAN A. ALFARO
 DEPUTY SOLICITOR



Defendant Statement
BERKELEY COUNTY SHERIFF'S OFFICE
Moncks Corner, S. C. 29461

201005021204

This statement of Brandon Jessie Jackson III is taken before Det R Cuth & Det J River

Date 06-03-2010 Time 1215 DOB SSN

Brandon Jessie Jackson III, whose address is SC 2947

am 25 years of age and have completed the 12 grade in school.

Det R Cuth who has advised me that he is a member of the Berkeley County Sheriff's Department, has advised me -

BJ 1. That I have the absolute right to remain silent and do not have to answer any questions or give a statement and this cannot be used against me.

BJ 2. That if I do answer questions or give a statement, anything I say, can and will be used against me in a court of law.

BJ 3. That I have the right to consult with a lawyer of my choice before I answer questions or give a statement and also to have him present while I am being questioned.

BJ 4. That if I wish to talk to a lawyer or have him present, but am unable to afford to hire a lawyer, one will be appointed to represent me free of charge.

BJ 5. That if I decide to answer questions or give a statement without a lawyer present representing me, I have the absolute right during this interview to stop answering questions and to remain silent.

I fully understand each of these rights which have been explained to me, and having these in mind, I wish

to waive these rights and answer questions concerning the charge of Armed Robbery which I have been accused of committing. No threats force or promise of any kind have been made to me by anyone to induce me to waive these rights and answer questions.

WITNESSES:

Det R Cuth 0209

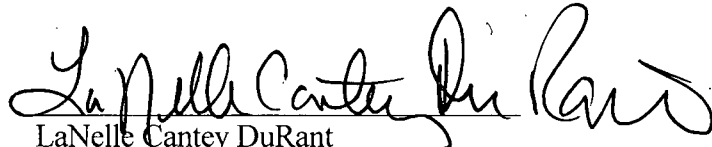
Det J River 0204

I just want to apologize for what happen that day I wasn't trying to hurt you I was after the vehicle you was never a target. And I'm sorry that it happen and please forgive me for happen that day God bless you and I hope that you are feeling better. I'm truly not a bad people; just something that happen that night. I'm sorry and I hope that you can see enough that and I'm sorry for what happen that day.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 30th, 2013



LaNelle Cantey DuRant
Appellate Defender

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

ATTORNEY FOR APPELLANT

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Berkeley County

J. C. Buddy Nicholson, Jr., Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BENJAMIN J. JACKSON,

APPELLANT

APPELLATE CASE NO. 2012-210107

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 30th day of September, 2013.

Brandon Hall

Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 30th day of September, 2013.

Kurt Feeder

(L.S.)

Notary Public for South Carolina

My Commission Expires: July 3, 2023.

RECEIVED

SEP 30 2013

SC Court of Appeals