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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from the Cherokee County
Court of General Sessions

Appellate Case No. 2025-000603

STATE OF SOUTH CAROLINA.....RESPONDENT,

v.

JOHN BENDARIAN BONNER APPELLANT.

RECORD ON APPEAL

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Volume 1 of 2

INDEX

Index	i
Order Granting Post-Conviction Relief (Jan. 30, 2017)	1
Order Denying State’s Motion for Reconsideration (Feb. 17, 2017).....	5
Order Denying Motion for Recusal (Jan. 31, 2024)	6
Resentencing Order (Aug. 21, 2024)	10
Order Denying Reconsideration (Mar. 28, 2025)	15
Sentencing Sheets (Nov. 18, 2009)	16
Amended Sentencing Sheet (Jan. 22, 2013)	22
Motion for Recusal of Judge (Oct. 30, 2023)	23
Resentencing Procedure Memorandum (Feb. 5, 2024)	27
Motion for Reconsideration (Oct. 2, 2024).....	126
State’s Return to Motion for Reconsideration (Feb. 3, 2025).....	142
Trial Transcript (Nov. 17-18, 2009)	151
Opening Statement by Mr. Barnette.....	216
Opening Statement by Mr. Schultz	222
<u>Testimony</u>	
Officer J.R. Sizemore	
Direct Examination by Mr. Barnette.....	227
Cross-Examination by Mr. Schultz.....	236
Milseli Patel	
Direct Examination by Ms. Taylor	242
Cross-Examination by Mr. Schultz.....	247
Redirect Examination by Ms. Taylor.....	248
Robert J. Wilson, Jr.	
Direct Examination by Mr. Barnette.....	249

Cross-Examination by Mr. Schultz.....	264
Redirect Examination by Mr. Barnette.....	276
Recross-Examination by Mr. Schultz.....	277
Kendrick Tate	
Direct Examination by Mr. Barnette.....	278
Cross-Examination by Mr. Schultz.....	292
Redirect Examination by Mr. Barnette.....	306
Recross-Examination by Mr. Schultz.....	307
Chris Skinner	
Direct Examination by Ms. Tailor	309
Cross-Examination by Mr. Schultz.....	310
Officer Mike Segina	
Direct Examination by Mr. Barnette.....	311
Cross-Examination by Mr. Schultz.....	319
Redirect Examination by Mr. Barnette.....	329
Kwame Douglas	
Direct Examination by Mr. Barnette.....	329
Cross-Examination by Mr. Schultz.....	345
Billy Rodgers	
Direct Examination by Mr. Barnette.....	367
Cross-Examination by Mr. Schultz.....	375
Dipali Darji	
Direct Examination by Mr. Barnette.....	387
John Bendarian Bonner	
Direct Examination by Mr. Schultz	401
Cross-Examination by Mr. Barnette	407
Eva Bonner Lipscomb	
Direct Examination by Mr. Schultz	412
Cross-Examination by Mr. Barnette	415
Redirect Examination by Mr. Schultz.....	419
Kelvin Bonner	
Direct Examination by Mr. Schultz	421
Cross-Examination by Mr. Barnette	424
Closing Argument by Mr. Schultz	432
Closing Argument by Mr. Barnette.....	443

Verdicts	480
Sentencing.....	484
Resentencing Transcript (Jan. 22, 2013).....	489
Recusal Motion Hearing Transcript, (Jan. 31, 2024).....	511
Resentencing Hearing Transcript (Feb. 8, 2024)	531
<u>Testimony</u>	
William Farr	
Direct Examination by Mr. Barnette.....	537
Cross-Examination by Ms. Vann	546
Kimberly Lee Keller	
Direct Examination by Mr. Barnette.....	549
Eva Bonner Lipscomb	
Direct Examination by Ms. Vann	553
Cross-Examination by Mr. Barnette	558
Redirect Examination by Ms. Vann	563
Latrice Blanding	
Direct Examination by Ms. Major	563
Cross-Examination by Mr. Barnette	575
George Martin	
Direct Examination by Ms. Vann	577
Cross-Examination by Mr. Barnette	587
Redirect Examination by Ms. Vann	597
Recross-Examination by Mr. Barnette.....	599
Statement by John Bendarian Bonner.....	601
Arrest Warrants	621
Indictments.....	633
State’s Exhibit #3 (Inmate Report)	645
Defendant’s Exhibit #1 (Letter)	655
Defendant’s Exhibit #2 (GED).....	656

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

John B. Bonner #338030,
Petitioner,

v.

State of South Carolina,
Respondent.

) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
) CASE NO.: 2015-CP-11-0381

Order of the Court

FILED IN THE OFFICE
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2017 JAN 30 P 3:23
RANDY W. HOBBS
CHEROKEE COUNTY, NC

DATE OF HEARING: Wednesday, November 9, 2016
TRIAL JUDGE: The Hon. Frank R. Addy, Jr.
PETITIONER'S ATTORNEY: Steven D. Epps, Esq.
RESPONDENT'S ATTORNEY: Alicia A. Olive, Esq.
COURT REPORTER: Julie A. Ashbrook

THIS MATTER came before the Court pursuant to Petitioner's application for Post-Conviction Relief (PCR) filed May 12, 2015 which was amended by a Supplemental Petition filed October 26, 2016. This Court reviewed the file and conducted a PCR hearing in this matter on the above date where Petitioner and Petitioner's former attorneys, Joshua Schultz and Susan Hackett, were sworn in and presented testimony. Based upon the evidence presented to the Court and the arguments of counsel, the Court makes the following findings of fact and conclusions of law:

Findings of Fact

1. Petitioner was charged with various crimes which occurred while he was a juvenile. He proceeded to trial and was convicted of Burglary, 1st Degree, Burglary, 2nd Degree, Kidnapping, Armed Robbery, Assault and Battery of a High and Aggravated Nature (ABHAN), and Grand Larceny on November 18, 2009 in Cherokee County. Petitioner was sentenced as follows: Burglary 1st, Life without Parole (LWoP); Burglary 2nd, 15 years; Kidnapping, 30 years; Armed Robbery, 30 years; ABHAN, 10 years; and Grand

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Larceny, 5 years. All of the above sentences were to run concurrent except for the 10-year sentence to ABHAN which ran consecutive to all sentences.

2. On May 17, 2010, the United States Supreme Court issued its decision in Graham v. Florida, 130 S.Ct. 2011 ("Graham"). Among other things, the Court held "[t]he Constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide. A State need not guarantee the offender eventual release, but if it imposes a sentence of life it must provide him or her with some realistic opportunity to obtain release before the end of that term." Graham, 130 S.Ct. ____, 560 U.S. ____ (slip. op. at 32) (2010).

3. On appeal, the Court of Appeals found Petitioner's LWoP sentence to his charge of Burglary, 1st degree violated the Eighth and Fourteenth Amendments of the U.S. Constitution pursuant to Graham and remanded that sentence for resentencing on November 14, 2012. See State v. Bonner, Op. No. 5048 (S.C. Ct. App. filed November 14, 2012).

4. Petitioner, represented by his original trial counsel, Joshua Schultz, was resentenced on January 22, 2013 by The Honorable J. Derham Cole. At the resentencing, Judge Cole sentenced Petitioner to a term of 60 years on the Burglary, 1st degree charge. This sentence, in following with the other sentences handed down after the trial, would be followed by a 10-year consecutive sentence on an ABHAN charge, as mentioned above.

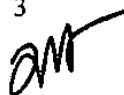
5. Attorney Schultz did not object to the 60-year sentence handed down by Judge Cole during Petitioner's resentencing hearing nor did he request a reconsideration of the 60-year sentence. He further did not object to, or request reconsideration of, that

sentence relative to the consecutive 10-year ABHAN sentence which was to be served after it. He did file a Notice of Appeal as to the 60-year sentence but the Court of Appeals affirmed holding no issue had been preserved for appellate review. See State v. Bonner, Op. No. 14-UP-401 (S.C. Ct. App. filed November 12, 2014).

6. Evidence was presented to the Court that Petitioner is currently confined within the Department of Corrections on the above charges with a release date of February 5, 2064. At that point in time, Petitioner will be 73 years and 13 days old. He is classified by the Department of Corrections as ineligible for parole as his sentence "max out" date comes before his parole eligibility date. Therefore, there is a strong possibility that Judge Cole's resentencing of Petitioner to a 60-year sentence on a Burglary 1st degree charge coupled with a 10-year consecutive sentence to ABHAN will result in a *de facto* life sentence depriving Petitioner of a realistic opportunity to obtain release before the end of his prison term in violation of Graham.

Conclusions of Law

1. These above issues were not preserved for appellate review by attorney Schultz and, thus, the Court of Appeals did not rule upon them. This Court finds Mr. Schultz was ineffective for failing to object to, or file a motion to reconsider, Judge Cole's 60-year resentencing on the LWoP charge, particularly in that there was also a 10-year concurrent sentence for ABHAN after it. This ineffectiveness was prejudicial to Petitioner as it denied him any meaningful opportunity to appeal this 60 + 10 year sentence, as shown above.
2. Accordingly, this Court grants Petitioner's request for relief in this PCR solely on the issue of whether Petitioner may file a motion for reconsideration as to the 60-year sentence for Burglary, 1st degree with a consecutive sentence of 10 years for ABHAN.



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BARRY W. HOBBE
CHEROKEE COUNTY, SC

AND IT IS SO ORDERED.



The Honorable Frank R. Addy, Jr.
Circuit Court Judge

Jan. 26, 2017

Greenwood, South Carolina

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BRANDY W. HCBEE
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF CHEROKEE

JOHN B. BONNER,
Applicant

IN THE COURT OF COMMON PLEAS
2015-CP-11-381

ORDER DENYING STATE'S MOTION FOR
RECONSIDERATION

-v-

STATE OF SOUTH
CAROLINA,
Defendant.

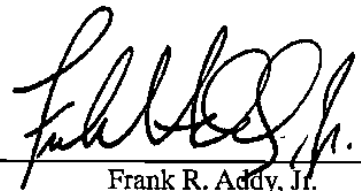
Addy, J.

THIS MATTER CAME BEFORE THE COURT on a motion for reconsideration filed by the State of South Carolina. In a prior order dated January 26, 2017, the Court granted Mr. Bonner a new sentencing hearing for the reasons stated in that order.

The Court has reviewed and considered the arguments of Assistant Attorney General Alicia Olive as contained in the State's Rule 59 (e) motion dated February 13, 2017, as well as Mr. Bonner's arguments presented by Steven Epps, Esq. in his letter dated February 16, 2017. Having fully reviewed and reconsidered the Court's prior rulings, the Court declines to alter or amend the Order of January 26, 2017.

IT IS SO ORDERED.

February 17, 2017
Greenwood, South Carolina



Frank R. Addy, Jr.
Presiding Judge, Seventh Judicial Circuit

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CHEROKEE COUNTY, SC

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BRANDY W. JOHNSON
CHEROKEE COUNTY, SC

STATE OF SOUTH CAROLINA)
COUNTY OF **CHEROKEE**)
The **STATE** of South Carolina,)
Prosecutor,)
-vs-)
John Bendarian **BONNER**,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS

ORDER

DENYING MOTION FOR RECUSAL

Indictment No.: **2009-GS-11-00824**

PROCEDURAL HISTORY

This matter is before this Court on the defendant's motion, by and through Lindsey S. Vann, Esq., seeking a recusal of the trial judge from the resentencing proceedings in this case. The State was represented by Circuit Solicitor Barry J. Barnette.

The record in this case establishes that the defendant was tried before a jury, Judge J. Derham Cole presiding, and was found guilty of Burglary 1st Degree (2009-GS-11-00824), Burglary 2nd Degree, Kidnapping, Armed Robbery, Grand Larceny, and Assault and Battery of a High and Aggravated Nature (ABHAN). He was sentenced by the Court to life without parole for Burglary 1st Degree, a consecutive 10-year sentence for ABHAN, and concurrent sentences of 15 years for Burglary 2nd Degree, 30 years for Kidnapping, 30 years for Armed Robbery, and 5 years for Grand Larceny. On direct appeal, Bonner's only challenge was to the life sentence imposed for Burglary 1st Degree. The appellate court found the life without parole sentence was prohibited due to Bonner being a juvenile offender who did not commit a homicide offense and under the rational of Graham v. Florida, 560 U.S. 48 (2010), vacated the sentence and remanded the case for resentencing in accordance therewith.

At the conclusion of the resentencing hearing, the Court, Judge J. Derham Cole presiding, sentenced the defendant to 60 years. Bonner again appealed his sentence. The appeal was dismissed pursuant to Rule 220(b), SCACR and State v. Dunbar, 356 S.C. 138 (2003) for failure of counsel to preserve any sentencing issue for appellate review.

41

Bonner subsequently filed an application for post-conviction relief alleging ineffective assistance of counsel for counsel's failure to preserve any sentencing issue for appellate review, specifically alleging that the sentence imposed by the Court was tantamount to a *de facto* life sentence and therefore unconstitutional as it applies to him.

After an evidentiary hearing, the PCR Court granted Bonner relief "solely on the issue of whether Petitioner may file a motion for reconsideration as to the 60-year sentence for Burglary, 1st Degree with a consecutive sentence of 10 years for ABHAN" due to the fact "there is a strong possibility that Judge Cole's resentencing of Petitioner to a 60-year sentence on a Burglary 1st degree charge coupled with a 10-year consecutive sentence to ABHAN will result in a *de facto* life sentence depriving Petitioner of a realistic opportunity to obtain release before the end of his prison term in violation of Graham."

This matter is now before the Circuit Court on motion of the defendant for the Court to reconsider the sentence imposed on his conviction for Burglary 1st Degree in light of the consecutive sentence imposed for ABHAN, and the defendant's motion seeking recusal of the trial judge from hearing the motion to reconsider the sentence that he imposed after presiding over the trial of the case.

APPLICABLE LAW

"A judge shall perform the duties of judicial office impartially and diligently." Canon 3, CJC, Rule 501, SCACR. "A judge shall hear and decide matters assigned to the judge except those in which disqualification is required." Canon 3 (B)(1), CJC, Rule 501, SCACR. "A judge shall perform judicial duties without bias or prejudice." Canon 3 (B)(5), CJC, Rule 501, SCACR. "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: the judge has a person bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding: ..." Canon 3 (E)(1)(a), CJC, Rule 501, SCACR.

Where a party seeks disqualification and recusal of the judge based upon bias or prejudice, "[i]t is the movant's responsibility to provide some evidence of the existence of the judge's impartiality." Davis v. Parkview Apartments, Inc., 266 (2014).

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JUDGE
SOUTH CAROLINA
COUNTY, SC

DISCUSSION

Bonner argues that the trial judge should be recused pursuant to Canon 3(E)(1) requiring a judge to disqualify "himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned" and would include those instances where "the judge has a personal bias or prejudice concerning a party ... or personal knowledge of disputed evidentiary facts concerning a proceeding" or the judge's "impartiality might reasonably be questioned." Rule 3(E)(1)(a), CJC, Rule 501, SCACR.

Bonner's counsel, having reviewed the record in this case, does not make the claim that there is evidence in the record that would tend to show bias or prejudice on the part of this Court against the defendant. Bonner simply asserts that the trial judge's "impartiality might reasonably be questioned" due to the fact that he was the trial judge and imposed the original sentence and a resentence on remand, and would therefore be unable to set aside his prior decisions and base a subsequent sentencing decision on the presentation made at the reconsideration hearing. If that was the standard for disqualification, no sentencing judge would be permitted to reconsider his or her own sentencing decision because the judge would be deemed biased, prejudiced, or partial solely due to having already expressed an opinion through the imposition of the original sentence.

Judges make sentencing decisions based upon relevant information provided at a sentencing proceeding. That would necessarily include a consideration of the facts and circumstances relating to the crime itself obtained through, recitation by counsel, knowledge obtained from participation in the trial, or a review of the record from a transcript of the proceedings. Without evidence of particular bias there is no reason to assume that a judge in the reconsideration of a sentence would be inclined to ignore that which has not been presented before. No defendant is entitled to a second bite of the sentencing apple simply because he was dissatisfied with the first, however, when a defendant is before the Court on a motion to reconsider, especially when grounded upon counsel's failure to provide the judge with materially relevant information, the judge has an obligation and duty to reconsider the sentence imposed in light of that information.

Just as a judge has a duty to disqualify himself when he cannot be fair and impartial, a judge has a corresponding duty to sit when he is not subject to

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disqualification. Simpson v. Simpson, 377 S.C. 519 (2008). Canon 3(b)(1), CJC, Rule 501, SCACR.

"It is not enough for a party seeking disqualification to simply allege bias or prejudice. The party must show some evidence of bias or prejudice. The alleged bias or prejudice must stem from an extra-judicial source and result in a decision based on information other than what the judge learned from his or her participation in the case as a judge." State v. Jackson, 353 S.C. 625 (Ct. App. 2003).

CONCLUSION

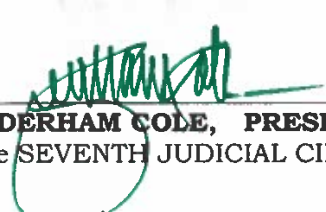
The burden is on one seeking judicial disqualification to demonstrate evidence of bias or prejudice in order to establish disqualification of the presiding judge. Absent that evidence, a judge is not disqualified in a matter unless he is aware of his own bias, prejudice, or partiality in the matter, and then required to recuse.

In this case there has been presented no evidence of bias or prejudice on the part of the Court related to this matter and this Court is unaware of any fact or circumstance which would impair his ability to be fair, impartial, and give due consideration to any and all information presented at a hearing which is relevant to a determination as to whether the sentence previously imposed in this case should be reconsidered and a different sentencing decision made.

Based upon the presentation made, the applicable rules, and statutory and case law, this Court finds that the defendant's **MOTION** for **RECUSAL** should be and **IS** therefore **DENIED**.

IT IS SO ORDERED!

JANUARY 26, 2024
Spartanburg, South Carolina


J. DERHAM COLE, PRESIDING JUDGE
The SEVENTH JUDICIAL CIRCUIT COURT

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CHEROKEE COUNTY, SC

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BRANDY W MOORE

STATE OF SOUTH CAROLINA)
COUNTY OF **CHEROKEE**)
The **STATE** of South Carolina,)
Prosecutor,)
-vs-)
JOHN BENDARIAN **BONNER**)
SCDC # 338030)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
the SEVENTH JUDICIAL CIRCUIT

ORDER

Indictment Number(s) **2009-GS-11-00824** 1068018
2009-GS-11-00825/2009-GS-11-00826
2009-GS-11-00827/2009-GS-11-00828
2009-GS-11-00829

This matter is before the Court for de novo hearing on the defendant's motion for the Court to reconsider a sentence imposed for the defendant's conviction for Burglary 1st Degree. The Circuit Court, upon consideration of the defendant's application for post-conviction relief, found that trial counsel was ineffective and the defendant prejudiced by trial counsel's failure to object to the imposition of a 60-year sentence being imposed upon a juvenile offender for a nonhomicide conviction on the grounds that such a sentence violates the Eight Amendment to the United States Constitution and trial counsel's failure to preserve for appellate review the question whether such a sentence is a *de facto* life sentence and prohibited by Graham v. Florida, 560 U.S. 48 (2010).

The defendant was present with counsel Lindsey S. Vann, Esq. The State was represented by Circuit Solicitor Barry J. Barnette.

Salient Facts and Procedural History

Bonner was indicted by a Cherokee County grand jury for the crimes of Burglary 1st Degree (Indictment No. 2009-GS-11-00824), Grand Larceny (Indictment No. 2009-GS-11-00825), Burglary 2nd Degree – Violent (Indictment No. 2009-GS-11-00826), Kidnapping (Indictment No. 2009-GS-11-00827), Armed Robbery (Indictment No. 2009-GS-11-00828), and Assault and Battery of a High and Aggravated Nature (Indictment No. 2009-GS-11-00829). The cases went to trial before a jury and Bonner was found guilty on all indictments. He was sentenced by the Court to Life Without Parole for Burglary 1st Degree; 5 years concurrent for Grand Larceny; 15 years concurrent for Burglary 2nd Degree; 30 years concurrent for Kidnapping; 30 years concurrent for Armed Robbery; and 10 years consecutive for Assault and Battery of

11

a High and Aggravated Nature. No exception was taken nor was an objection made by trial counsel to the sentences imposed. Bonner filed a timely appeal alleging as his sole issue that the imposition of a life without parole sentence for a nonhomicide offense committed by a juvenile offender violated the Eighth and Fourteenth Amendments' prohibition against the imposition of cruel and unusual punishment. Although the issue was not raised to the trial court, the Court of Appeals found that the sentence for life without parole on the conviction for Burglary 1st Degree should be vacated and remanded for resentencing. State v. Bonner, 400 S.C. 561 (Ct.App.2012) Citing Graham v. Florida, 560 U.S.48 (2010); State v. Vick, 384 S.C. 189 (Ct.App.2009); State v. Johnston, 333 S.C. 459 (1999).

Bonner was then before the Court for resentencing on January 22, 2013, receiving a sentence of 60 years for Burglary 1st Degree. No exception was taken to nor objection made to the sentence by trial counsel. Bonner filed a timely appeal alleging that the imposition of a sixty-year sentence imposed upon a juvenile for a nonhomicide offense violates the Eighth Amendment's prohibition against the imposition of cruel and unusual punishment. The Court of Appeals affirmed the sentence finding that the sentencing issue Bonner raised was not preserved for review and could not be raised for the first time on appeal. State v. Bonner, Opinion Number 2014-UP-401 (2014).

Not able to obtain relief on appeal, Bonner filed an application for post-conviction relief on May 12, 2015. An evidentiary hearing was held on November 09, 2016. The PCR Court found trial counsel provided ineffective assistance of counsel at the resentencing hearing for "failing to object to, or file a motion to reconsider, Judge Cole's 60-year resentencing on LWoP charge, particularly in that there was also a 10-year concurrent (*sic*) sentence for ABHAN after that. This ineffectiveness was prejudicial to Petitioner as it denied him any meaningful opportunity to appeal the 60 + 10 year sentence ..." The PCR Court granted Petitioner relief "solely on the issue of whether Petitioner may file a motion for reconsideration as to the 60-year sentence for Burglary 1st Degree with a consecutive sentence of 10 years for ABHAN."

Applicable Law

The Eighth and Fourteenth Amendments to the U. S. Constitution forbid the imposition of the death penalty on offenders under the age of eighteen years at the time of the commission of the crime. Juveniles are fundamentally different than adults in that they (1) exhibit a lack of maturity and an underdeveloped sense of responsibility, resulting in impetuous and ill-considered actions and decisions; (2) were more susceptible to negative outside influences such as peer pressure; and (3) had personality

traits that were more transitory and less fixed than adults. Consequently, a juvenile's irresponsible conduct was not as morally reprehensible as that of an adult and less indicative of an irretrievably depraved character. As a result of such diminished culpability, the penological justifications for the death penalty applied to them with less force than to adults, and therefore the death penalty was an ineffective and inappropriate punishment for juvenile offenders. Roper v. Simmons, 543 U.S. 551 (2005), State v. Slocumb, 426 S.C. 297 (2019)

The Eighth Amendment to the U.S. Constitution prohibits the imposition of a "life without parole" sentence on a juvenile offender who did not commit a homicide offense. As a result of the differences between juveniles and adults explained in Roper and the perceived moral distinction between homicide and non-homicide crimes, as compared to an adult murderer, a juvenile non-homicidal offender who did not kill or intend to kill had a "twice diminished moral culpability." A life without parole sentence is the second most severe punishment permitted in the law and like a death sentence a certainty that the offender will die while in prison. Penological justifications for such a sentence – retribution, deterrence, incapacitation, and rehabilitation are less applicable to a juvenile offender because they have diminished culpability, are less likely to take possible punishment into consideration when making decisions, and cannot be reliably classified as incorrigible at a young age. A state is not required to guarantee eventual freedom to a juvenile offender convicted of a non-homicidal crime but must give such a defendant a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. It bears emphasis, however, that while the Eighth Amendment prohibits a State from imposing a "life without parole" sentence on a juvenile non-homicide offender, it does not require the State to release that offender during his natural life. Those who commit truly horrifying crimes as juveniles may turn out to be irredeemable, and thus deserving of incarceration for the duration of their lives. The Eighth Amendment does not foreclose the possibility that persons convicted of nonhomicide crimes committed before adulthood will remain behind bars for life. It does prohibit States from making judgment at the outset that those offenders never will be fit to reenter society. Graham v. Florida, 560 U.S. 48 (2010); State v. Slocumb, 426 S.C. 297 (2019)

The Eighth Amendment to the U.S. Constitution forbids states from imposing *mandatory* sentences of "life without the possibility of parole" on juvenile offenders convicted of homicide offenses. Juveniles are constitutionally different from adults for sentencing purposes due to diminished culpability and greater prospects for reform. The holding in Graham explicitly applies to *de jure* life sentences alone, and its rationale may implicate *de facto* life sentences but that is for the U. S. Supreme Court to create any

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expansion beyond the boundaries set in Graham. Miller v. Alabama, 567 U.S. 460 (2012), State v. Slocumb, 426 S.C. 297 (2019)

A term-of-years sentence resulting in a *de facto* life sentence for a juvenile offender does not violate the Eighth Amendment. State courts are bound by the constitutional protections implemented by the Supreme Court and the extent of those protections as defined by the Court. Graham does not prohibit term-of-year sentences that may result in a *de facto* life sentence for a juvenile offender. Further, a juvenile need not be found to be "irreparably corrupt" before a *de facto* life sentence may be imposed, but, the sentencing court is required to consider the "mitigating hallmark factors" of youth presented by way of an "individualized sentencing hearing" before a *de facto* life sentence may be considered as a sentencing option. Aiken v. Byars, 410 S.C. 534 (2014). State v. Miller, 433 S.C. 613 (Ct.App.2021).

Discussion

The Eighth Amendment prohibits "the imposition of a life without parole sentence on a juvenile offender who did not commit a homicide." Graham v. Florida, 560 U.S.48 (2010). "A State is not required to guarantee eventual freedom to a juvenile offender convicted of a nonhomicide crime. It bears emphasis ... that while the Eighth Amendment prohibits a State from imposing a life without parole sentence on a juvenile nonhomicide offender, it does not require the State to release that offender during his natural life." Graham.

The Graham Court had an opportunity to announce whether a term-of-years sentence resulting in a *de facto* life sentence was violative of the Eighth Amendment and it chose not to do so. The South Carolina Supreme Court in Slocumb was also presented with the opportunity to extend the holding announced in Graham to prohibit the imposition of a *de facto* life sentence on a juvenile convicted of a non-homicide offense in South Carolina, and in refusing the Court said, "we decline Slocumb's invitation to broaden Graham's holding." "Neither Graham nor the Eighth Amendment, as interpreted by the Supreme Court, currently prohibits the imposition of aggregate sentences for multiple offenses amounting to a *de facto* life sentence on a juvenile nonhomicide offender." State v. Slocumb, 426 S.C. 297 (2019). As a result, a *de facto* life sentence, even where one can be reasonably determined, is not *per se* unconstitutional.

Having considered the evidence presented at the hearing for reconsideration of sentence in mitigation and in aggravation of punishment, including the trial transcript, this Court has taken into account evidence presented relevant to (1) the chronological age of the defendant, (2) the family and

4

home environment surrounding his existence, (3) the nature and circumstances of the offenses for which he was convicted, including the extent of his participation and any peer pressures, (4) his capacity and maturity at the time of the crimes, and (5) his potential for rehabilitation, this Court finds that the record in this case does not persuade the Court to alter or amend the sentence previously imposed for the defendant's conviction for Burglary 1st Degree.

Addressing an issue alluded to but not specifically raised or argued to the court, except tangentially, regarding the consecutive or concurrent nature of the sentence imposed for Burglary 1st Degree in relation to the sentence imposed for ABHAN, this Court observes that because the sentence for Burglary 1st Degree was vacated on appeal, that decision rendered the "consecutive" nature of the sentence for ABHAN a nullity as there is no longer a sentence to which the sentence for ABHAN can be consecutive.

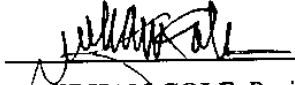
This Court is of the opinion that a sentence cannot be imposed to run consecutively to; a non-existent sentence; a vacated sentence which thereby becomes a non-existent sentence; or a sentence to be imposed in the future. It therefore follows that, the sentence for Burglary 1st Degree having been vacated, any new sentence imposed for that conviction, unless ordered to be run consecutively to any other sentence that has gone unchallenged and remains valid, is considered to be concurrently imposed and therefore the sentences imposed for Burglary 1st Degree and ABHAN are now deemed to be concurrently and not consecutively imposed.

Conclusion

Based upon the foregoing, the defendant's **MOTION for RECONSIDERATION of SENTENCE** and request for the imposition of a reduced sentence on the defendant's conviction for Burglary 1st Degree should be and **IS** therefore **DENIED**.

IT IS SO ORDERED.

AUGUST 16, 2024



J. DERHAM COLE, Resident JUDGE
The Seventh Judicial Circuit Court

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2024 AUG 21 A 11:05
BRANDY W. MCBEE

#5

STATE OF SOUTH CAROLINA)
COUNTY OF **CHEROKEE**)

IN THE COURT OF GENERAL SESSIONS

The **STATE** of South Carolina,)

Prosecutor,)

-vs-)

JOHN BENDARIAN BONNER)
SCDC # 338030)

Defendant.)

ORDER

Indictment Number(s) **2009-GS-11-00824**

2009-GS-11-00825/2009-GS-11-00826

2009-GS-11-00827/2009-GS-11-00828

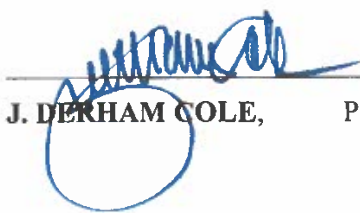
2009-GS-11-00829

This matter is before the Court on the defendant's Motion for Reconsideration filed pursuant to Rule (29)a), SCRCrimP, by counsel Lindsey S. Vann, Esq. Circuit Solicitor Barry J. Barnette filed a response for the State.

After careful consideration of the motion, this Court is unable to discover any material ~~of~~ fact or principle of law that has been ignored, disregarded, or overlooked by the Court in rendering its previous decision and therefore this Court finds no basis to reconsider, alter, or amend the prior Order of this Court.

IT IS THEREFORE ORDERED that the defendant's **MOTION** for **RECONSIDERATION** should be and **IS** therefore **DENIED**.

IT IS SO ORDERED!


J. DERHAM COLE,

Presiding Judge

March 20, 2025
Spartanburg, South Carolina

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2025 MAR 20 P 12:09
BRANDY L. MCBEE

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 293400000
DL#: SID#:

INDICTMENT # 2009GS110829
A/W#: I068046
Date of Offense: 04/02/2008
S.C. Code §: C/L, 17-25-0
CDR Code #: 0013

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault and battery of a high and aggravated nature (ABHAN)

☒ CONVICTED OF or ☐ PLEADS

in violation of § C/L, 17-25-0 of the S.C. Code of Laws, bearing CDR Code # 0013
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Barnette, Barry 13039/77947 John T. Bonner 74 S 18
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 10 days/months/years or ☐ under the Youthful Offender Act not to exceed — years
and/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or payment
of \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: any other sentence
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP —
Total: \$ — plus 20% fee: \$ — days/hours Public Service Employment

Payment Terms: —
☐ set by SCDPPPS — Obtain GED —
Attend Voc. Rehab. or Job Corp. —

Recipient: — May serve W/E beginning —

*Fine: — Substance Abuse Counseling —

§ 14-1-206 (Assessments 107.5 %) — Random Drug/Alcohol testing —

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 — Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(2) (DUI Surcharge) \$100 — pmts. of \$ — beginning —

§ 56-5-2995 (DUI Assessment) \$12 — \$ — paid to Public Defender Fund

§ 56-1-286 (DUI Breath Test) \$25 — Other: —

§ 47-12 (Public Def/Prob) \$500 —

§ 14-1-212 (Law Enforce. Funding) \$25 —

§ 14-1-213 (Drug Court Surcharge) \$100 —

§ 50-21-114 (BUI Breath Test Fee) \$50 —

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea —

§ 90-7 (SCCJA Surcharge) \$5 —

3% to County (if paid in installments) —

TOTAL —

Clerk of Court/ Deputy Clerk Brandi H. B...

Court Reporter: Mike Waters

SCCA/217 (06/2009)

PRESIDING JUDGE William K. ...

Judge Code: 217-1513

Sentence Date: 11/18/09

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 293400000
DL#: SID#:

INDICTMENT SE#: 2009GS110827
A/W#: I068044
Date of Offense: 04/02/2008
S.C. Code § : 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Kidnapping / Kidnapping

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS/CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The pleas is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

RESTITUTION 13039/77947 Defendant John P. Bonner Attorney for Defendant 7AS18
BARNETTE, BARRY SC Bar# Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment,
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
§ 47.12 (Public Def/Prob)	\$500 \$
§ 14-1-212 (Law Enforce. Funding)	\$25 \$
§ 14-1-213 (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
§ 90.7 (SCCJA Surcharge)	\$5 \$
3% to County (if paid in installments)	\$
TOTAL	\$

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel, §47.12
requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Brandi M. Barber

Court Reporter: Mike Watts

SCCA/217 (06/2009)

PRESIDING JUDGE

Judge Code: 21815-13

Sentence Date: 11/18/09

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 29340
DI#: SID#:

INDICTMENT # 2009GS110826
A/W#: I068037
Date of Offense: 04/02/2008
S.C. Code §: 16-11-0312(B)
CDR Code #: 0086

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (Violent) (After 06/20/85) - Second degree

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0312(B) of the S.C. Code of Laws, bearing CDR Code # 0086
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

WITNESSETH: Barnette, Barry 13039/1947 SC Bar# Defendant Attorney for Defendant SC Bar# 74518

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 150 days/months/years or ☐ under the Youthful Offender Act not to exceed years,
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms:
☐ set by SCDPPPS

Recipient:
*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) 100 \$
§ 14-1-211(A)(2) (DUI Surcharge) 100 \$
§ 56-5-2995 (DUI Assessment) 12 \$
§ 56-1-286 (DUI Breath Test) 25 \$
§ 47.12 (Public Def/Prob) 500 \$
§ 14-1-212 (Law Enforce. Funding) 25 \$
§ 14-1-213 (Drug Court Surcharge) 100 \$
§ 50-21-114 (BUI Breath Test Fee) 50 \$
§ 56-5-2942(J) (Vehicle Assessment) 40/ea \$
§ 90.7 (SCCJA Surcharge) 5 \$
3% to County (if paid in installments) \$
TOTAL \$

Obtain GED
Attend Voc. Rehab. or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol testing
Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning
\$ paid to Public Defender Fund
Other:

☐ Appointed PD or appointed other counsel, §47.12
requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk Brandi McPhee
Court Reporter: Mile Watts
SCCA/217 (06/2009)

PRESIDING JUDGE
Judge Code: 018 513
Sentence Date: November 18, 2009

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 293400000
DL#: SID#:

INDICTMENT # 2009GS110828
A/W#: 1068045
Date of Offense: 04/02/2008
S.C. Code § 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly we
in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Barnette, Barry 1329/77447 SC Bar# John Bonner 74518 SC Bar#
BARNETTE, BARRY Defendant Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

~~months/years~~ and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP days/hours Public Service Employment
Total: \$ plus 20% fee: \$

Payment Terms:
☐ set by SCDPPPS

Recipient:
*Fine: \$
§ 14-1-206 (Assessments 107.5 %) \$
§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
§ 56-5-2995 (DUI Assessment) \$12 \$
§ 56-1-286 (DUI Breath Test) \$25 \$
§ 47.12 (Public Def/Prob) \$500 \$
§ 14-1-212 (Law Enforce. Funding) \$25 \$
§ 14-1-213 (Drug Court Surcharge) \$100 \$
§ 50-21-114(BUI Breath Test Fee) \$50 \$
§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$
§ 90.7 (SCCJA Surcharge) \$5 \$
3% to County (if paid in installments) \$
TOTAL \$

PRESIDING JUDGE
Judge Code: 0101513
Sentence Date: November 18, 2009

Clerk of Court/ Deputy Clerk Brandee McBe

Court Reporter: Mike Watts

SCCA/217 (06/2009)

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 293400000
DL#: SID#:

INDICTMENT SE#: 2009GS110825
A/W#: I068038
Date of Offense: 04/02/2008
S.C. Code §: 16-13-0030(B)
CDR Code #: 0479

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Larceny / Grand Larceny, value \$5,000 or more

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-13-0030(B) of the S.C. Code of Laws, bearing CDR Code # 0479
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST Barnette, Barry 13039/77947 John P. Bonner 74518
BARNETTE, BARRY SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP
Total: \$ plus 20% fee: \$
days/hours Public Service Employment

Payment Terms:
☐ set by SCDPPPS
Obtain GED

Recipient:
Substance Abuse Counseling

*Fine:
Random Drug/Alcohol testing

§ 14-1-206 (Assessments 107.5 %)
Fine may be pd. in equal, consecutive weekly/monthly

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$
pmts. of \$ beginning

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$
\$ paid to Public Defender Fund

§ 56-5-2995 (DUI Assessment) \$12 \$
Other:

§ 56-1-286 (DUI Breath Test) \$25 \$

§ 47-12 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$100 \$

§ 50-21-114(BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

§ 90.7 (SCCA Surcharge) \$5 \$

3% to County (if paid in installments) \$

TOTAL \$

Clerk of Court/ Deputy Clerk Bondy M. Ber

Court Reporter: Mike Watts

SCCA/217 (06/2009)

PRESIDING JUDGE

Judge Code:

Sentence Date: 11/18/09

COUNTY OF Cherokee
STATE VS.
John Bendarian Bonner
AKA:
Race: B Sex: M Age: 18
DOB: 01-24-1991 SS#: 249-85-2429
Address: 203 Villa Drive
Gaffney, SC 29340
DL#: SID#:

INDICTMENT # 2009GS110824
A/W#: 1068018
Date of Offense: 04/02/2008
S.C. Code §: 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985) - First degree

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

Barry Barnett 13039/77947 Defendant Attorney for Defendant 74918
BARNETTE, BARRY SC Bar# Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of life days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-286 (DUI Breath Test)	\$25 \$
§ 47-12 (Public Def/Prob)	\$500 \$
§ 14-1-212 (Law Enforce. Funding)	\$25 \$
§ 14-1-213 (Drug Court Surcharge)	\$100 \$
§ 50-21-114(BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
§ 90.7 (SCCJA Surcharge)	\$5 \$
3% to County (if paid in installments)	\$
TOTAL	\$

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (06/2009)

PTUP

 days/hours Public Service Employment

Obtain GED

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol testing

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, §47.12
requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code:

Sentence Date: November 18, 2009

COUNTY OF
STATE

Cherokee

VS.

John Bendarian Bonner

DEC 08

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2009GSI10824

AKA:

A/W#: 1068018

Race: BLACK

Sex: M

Age:

Date of Offense: 4/2/2008

DOB: 01-24-1991

SS#: 249-85-2429

S.C. Code §: 16-11-0311

Address: 203 Villa Drive

CDR Code #: 0079

City, State, Zip: Gaffney, SC 29340

DL#:

SID#:

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Burglary / Burglary (After June 20, 1985 - First degree

in violation of § 16-11-0311

☐ NON-VIOLENT

☒ VIOLENT

☐ SERIOUS

☒ MOST SERIOUS

☐ Mandatory GPS(CSC
w/minor 1st or Lewd Act)

☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense.

The plea is: ☒ Without Negotiations or Recommendation,

☐ Defendant Waives Presentment to Grand Jury.

(defendant's initials)

ATTEST:

BARNETTE, BARRY

13037
SC Bar#

Defendant SIGN

☐ Negotiated Sentence,
DEFENDANT
DID NOT

☐ Recommendation by the State.

Attorney for Defendant

74-518
SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections,

☐ County Detention Center,

for a determinate term of 60 days/months/years or

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment

of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code

§ 24-13-40 to be calculated and applied

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135
Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-25 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5%) \$

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2995 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforcement Funding) \$25 \$

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(I) (Vehicle Assessment) \$40/ca \$

Proviso 90.5 (SCCA Surcharge) \$5 \$

% to County (if paid in installments) \$

TOTAL \$

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

22

28

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF CHEROKEE	)	IN THE COURT OF GENERAL SESSIONS
	)	THE SEVENTH JUDICIAL CIRCUIT
State of South Carolina,	)	
	)	Case Nos. 2009-GS-11-00824 to
Plaintiff,	)	2009-GS-11-00829
	)	
vs.	)	MOTION FOR RECUSAL OF JUDGE
	)	
John Bendarian Bonner,	)	
	)	
Defendant.	)	

Defendant John Bendarian Bonner, through undersigned counsel, respectfully requests Judge J. Derham Cole recuse himself from the resentencing proceedings in this matter. Recusal is required “in a proceeding in which the judge’s impartiality might reasonably be questioned.” Rule 3(E)(1)(a), CJC, Rule 501, SCACR. Because this Court has previously heard arguments and rendered two sentencing determinations in this case and the Supreme Court of South Carolina has ruled that in resentencing juveniles, “the resentencing court may give no deference to the prior sentencing court’s decision,” *State v. Smart*, 439 S.C. 641, 645, 889 S.E.2d 573, 575 (2023), recusal is appropriate to allow for *de novo* consideration of the relevant sentencing factors as they apply in this resentencing proceeding.

I. Relevant Background.

In 2009, John Bonner was sentenced by this Court for non-homicide offenses committed as a juvenile.¹ Specifically, the Court sentenced Bonner to life without parole (“LWOP”) for burglary – 1st degree, a consecutive sentence of ten years for assault and battery of a high and

¹ Bonner was charged, along with seven other individuals, with a home-invasion robbery in April of 2008. *State v. Bonner*, 400 S.C. 561, 735 S.E.2d 525 (2012).

aggravated nature ("ABHAN"), and concurrent sentences of fifteen years for burglary – 2nd degree, thirty years for kidnapping, thirty years for armed robbery, and five years for grand larceny.

In 2010, the United States Supreme Court ruled in *Graham v. Florida* that states are precluded from imposing LWOP sentences on juveniles convicted of non-homicide offenses. 560 U.S. 48, 82 (2010). On direct appeal, the Court of Appeals found *Graham* invalidated Bonner's LWOP sentence because he was a juvenile at the time of the offense and remanded for resentencing in accordance with *Graham*. *State v. Bonner*, 400 S.C. 561, 735 S.E.2d 525 (Ct. App. 2012). At resentencing, this Court heard arguments from counsel and statements from witnesses on behalf of Bonner. The Court resentenced Bonner to a term of sixty years for burglary – 1st degree, with all other sentences remaining in place, including the ten-year consecutive sentence for the ABHAN charge.

In post-conviction relief ("PCR") proceedings, the court found resentencing counsel provided ineffective assistance of counsel by failing to object to the sentence imposed because it constitutes a *de facto* LWOP sentence in violation of *Graham*. The PCR order was not disturbed on appeal, and the case was remanded for resentencing.

II. Legal Standard & Argument.

"A criminal defendant has a due process right to have his case heard by a fair and impartial judge." See *Schweiker v. McClure*, 456 U.S. 188, 195, 102 S. Ct. 1665, 72 L. Ed. 2d 1 (1982) ("[D]ue process demands impartiality on the part of those who function in judicial or quasi-judicial capacities."). To uphold this right, the South Carolina Code of Judicial Conduct requires judges to recuse themselves in cases where their impartiality may reasonably be questioned. Under Canon 3(E)(1), "a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned." This includes instances where "the judge has a

personal bias or prejudice concerning a party . . . or personal knowledge of disputed evidentiary facts concerning the proceeding.” Rule 3(F)(1)(a), CJC, Rule 501, SCACR; *see also Roche v. Young Bros.*, 332 S.C. 75, 84–85, 504 S.E2d 311, 316 (1998). The commentary to this rule further clarifies that “a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless whether any of the specific rules in Section 3E(1) apply.” Rule 3(F)(1), commentary, CJC, Rule 501, SCACR.

The Supreme Court of South Carolina’s juvenile sentencing jurisprudence makes clear that a judge who made the original sentencing determination is disqualified from rendering a decision in resentencing. In addressing resentencing procedures pursuant to *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014), the Court clarified that in exercising sentencing discretion, “the resentencing court may give no deference to the prior sentencing court’s decision.”² *Smart*, 439 S.C. at 645, 889 S.E.2d at 575. To avoid any questions of impartiality in resentencing proceedings under *Aiken*, the Court required that in assigning resentencing judges, “the Chief Justice shall take into consideration any actual or potential conflicts, and shall refrain from assigning the matter to the original sentencing judge.” *In re Administrative Order*, 415 S.C. 460, 461, 783 S.E.2d 534, 534 (2016).

Resentencing before the original, and first resentencing, judge in this case raises reasonable questions about the judge’s impartiality. This is especially true here because the original sentencing judge must set aside arguments and prior considerations from two separate sentencing hearings in

² Though the Court issued this directive in an *Aiken*, as opposed to *Graham* resentencing, the same principles apply to this case. The Court has explicitly held that the *Aiken* juvenile factors must be considered whenever a juvenile is sentenced, regardless of whether the crime was a homicide or non-homicide offense. *Jones v. State*, 440 S.C. 14, 25, 889 S.E.2d 590, 596 (2023) (“[W]e are mindful that juveniles are entitled to careful sentencing under the Eighth Amendment, and we direct circuit court judges to consider the mitigating factors of youth articulated in *Aiken v. Byars*.”).

order to provide the required *de novo* sentencing consideration at the current resentencing proceeding.³ For these reasons, if this were a resentencing hearing pursuant to *Aiken*, a new judge would have been assigned as a matter of course. *See In re Administrative Order*, 415 S.C. at 461, 783 S.E.2d at 534. Consistent with the juvenile resentencing procedures following *Aiken*, this Court should disqualify himself to allow a judge other than the original sentencing judge to review the case, consider the juvenile sentencing factors, and render a new sentence in accordance with the constitutional requirements of *Graham*, *Aiken*, and their progeny.

CONCLUSION

For the reasons set forth in this motion, the Defendant respectfully requests Judge Cole disqualify himself from these resentencing proceedings.

Respectfully submitted,

By:  _____

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October 25, 2023.

³ Psychological research indicates it is difficult for an individual to set aside prior considerations and avoid anchoring a new sentence on the basis of the original sentence. *See Birte Engh & Thomas Mussweiler, Sentencing Under Uncertainty: Anchoring Effects in the Courtroom*, 31 J. of App. Soc. Psych. 1535, 1536-37 (2006) (describing the anchoring effect as a form of judgmental bias where an individual relies heavily on the first piece of information they receive in making a judgment).

THE STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
The State of South Carolina,)
Plaintiff,)
vs.)
John Bendarian Bonner)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
FOR THE SEVENTH JUDICIAL CIRCUIT

Case Nos. 2009-GS-11-00824 to
2009-GS-11-00829

**RESENTENCING PROCEDURE
MEMORANDUM**

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2009-03-03 A 11:30
RECEIVED

INTRODUCTION

Defendant John Bendarian Bonner is before the court for *de novo* resentencing following a finding by the post-conviction relief court that Bonner's resentencing counsel was ineffective in failing to object to a sixty year sentence, plus a consecutive 10 year sentence, as a violation of *Graham v. Florida*, 560 U.S. 48 (2010). This is his third sentencing hearing before the court since the Supreme Court's decision in *Graham* invalidated sentences of life without parole for juveniles charged with non-homicide offenses. In light of the Supreme Court of the United States and the Supreme Court of South Carolina's juvenile sentencing decisions, Bonner is now before the Court for a *de novo* resentencing in which his total sentence must provide him a "meaningful opportunity to obtain release." *See Graham*, 560 U.S. at 75. The following memorandum provides the Court with relevant legal and procedural information for this *de novo* sentencing proceeding.

STATEMENT OF THE FACTS AND CASE

The facts alleged at trial were as follows. Shortly after Bonner turned seventeen, he and several other teenagers and young adults¹ were involved in a home invasion robbery of Ms. Dipali

¹ Mr. Bonner was one of eight individuals arrested for involvement in one or both robberies. Joshua Manning, Labrontae Agnew, Kwane Douglas, Robert Wilson Jr., Kendrick Tate, Billy Rogers, and

Darji and a convenience store. Ms. Darji worked at a convenience store next to her house and had been seen carrying money from the store to her house at closing time. Shortly after Ms. Darji went to bed on April 2, 2008, masked assailants entered her residence and demanded money and the keys to the convenience store. One of the assailants threatened Ms. Darji with a handgun. When she refused to turn over the keys to the store, several members of the group began beating her and undressed her. After Ms. Darji handed over the keys, she was held while members of the group searched for money and valuables in both the house and the convenience store. While inside the convenience store, the alarm system was activated. The group fled at the sound of the alarm, having stolen approximately \$25,000 worth of cash and jewelry, and Ms. Darji's credit card. The group later congregated at a house to divide up the money. Bonner was arrested shortly after the incidents.

Bonner was convicted at a jury trial of burglary, 1st degree; kidnapping, 2nd degree; armed robbery; grand larceny and assault and battery of a high and aggravated nature (ABHIAN). Trial Tr., 330-331. Bonner was immediately sentenced by the trial court on these charges. *Id.* at 334-337. He was sentenced to life without the possibility of parole (LWOP) for burglary, 1st degree. *Id.* at 336. It was determined that the following sentences would run concurrently to his LWOP sentence: burglary, 2nd degree, 15 years; kidnapping, 30 years; armed robbery, 30 years; and grand larceny, 5 years. *Id.* at 336-337. Additionally, Bonner received a 10-year sentence for ABHIAN which was to run consecutive to all sentences. *Id.* at 337.

Terry Littlejohn were also arrested. While Bonner was only seventeen at the time of this incident, several of his codefendants, including Wilson, Tate, and Rogers, were 19 at the time. Tate, Wilson, Douglas, and Rogers all agreed to cooperate with the State and testify against Bonner at his 2009 trial in exchange for being able to plea to common law robbery instead of armed robbery with the State informing the sentencing judge about their cooperation. Joshua Manning received a sixty-year sentence for his involvement in these robberies. Labronie Agnew received a thirty-year sentence. The other co-defendants (Douglas, Wilson Jr., Tate, Rogers, and Littlejohn) all received sentences of 15 years or less for their involvement in the robberies and have completed those sentences.

On direct appeal, Bonner's LWOP sentence on first degree burglary was vacated and remanded for resentencing in light of *Graham*, 560 U.S. 48 (holding that it violated the Eighth Amendment to sentence juvenile offenders to LWOP for nonhomicide offenses); *see also State v. Bonner*, 400 S.C. 561, 735 S.E.2d 525 (Ct. App. 2012).

At a resentencing, on January 22, 2013, this Court imposed a 60 year sentence on the first degree burglary charge, leaving all the previously imposed sentences in place, including the 10 year consecutive sentence for ABHAN, establishing a total sentence of seventy years. PCR Order 3. The South Carolina Court of Appeals affirmed this sentence, finding the issue of whether the newly imposed sentence violated *Graham* as a de facto life sentence was not preserved for review. *State v. Bonner*, Op. No. 2014-UP-401. The post-conviction relief court found resentencing counsel "was ineffective for failing to object to, or file a motion to reconsider, [this Court's] 60-year resentencing on the LWOP charge, particularly in that there was also a 10-year concurrent sentence for ABHAN after it." PCR Order 3. Certiorari was denied by the Supreme Court of South Carolina. Order, *John B. Bonner v. State of South Carolina*, No. 2017-000758 (S.C. Feb. 20, 2019). Accordingly, this case is before the Court for resentencing.

RESENTENCING ARGUMENT

I. This Court must conduct a *de novo* review of Bonner's sentence in light of the significant changes in juvenile sentencing law.

Since 2005, juvenile sentencing law changed dramatically. In *Roper v. Simmons*, the Supreme Court held that the Eighth Amendment prohibition against cruel and unusual punishment forbid sentencing juveniles to death. 543 U.S. 551 (2005). The Court recognized that because juveniles have lessened culpability, they are categorically less deserving of the most severe punishments. *Roper* at 569. This decision flowed from the basic "precept of justice that punishment for crime should be graduated and proportioned." *Roper* at 560.

The Supreme Court built upon this precedent in *Graham v. Florida*, holding that it violates the Eighth Amendment to sentence juvenile offenders to life imprisonment without the possibility of parole for nonhomicide offences. 560 U.S. 48. States are not required to guarantee eventual freedom to a nonhomicide juvenile offender, but they *must* give defendants “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.” *Graham*, 560 U.S. at 75. (emphasis added). The Court established in *Graham* that defendants “who do not kill, intend to kill, or foresee that life will be taken are categorically less deserving of the most serious forms of punishment than are murders.” *Id.* at 69. Accordingly, a juvenile who does not kill, intend to kill, or foresee that life will be taken, has “twice diminished moral culpability.” *Id.* at 69. In addition to the moral justifications, the Court recognized the severity of a life without parole sentence, particularly to a juvenile offender. “[I]t means denial of hope; it means that good behavior and character improvement are immaterial; it means that whatever the future might hold in store for the mind and spirit of [the convict]. He will remain in prison for the rest of his days.” *Id.* at 69-70 (citations omitted).

The Supreme Court has since held that the Eighth Amendment forbids mandatory life without parole sentences for juvenile offenders, even in cases of homicide. *Miller v. Alabama*, 567 U.S. 460 (2014). The Supreme Court reiterated that *Roper* and *Graham* established that children are “constitutionally different from adults for the purpose of sentencing” due to their diminished culpability and greater prospects of reform. *Miller* at 471-72. As a result, the Supreme Court has cautioned that sentencing children to sentences that result in a lifetime in prison amounts to “a disproportionate sentence for all but the rarest of children, those whose crimes reflect irreparable corruption.” *Montgomery v. Louisiana*, 577 U.S. 190, 195 (2016) (citations omitted).

The Supreme Court of South Carolina recognized the sea change in juvenile sentencing in *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014). *Aiken* established that *Miller* applied retroactively and ordered resentencing for all juveniles serving life without parole for homicide offenses. 410 S.C. at 540–44, 765 S.E.2d at 575–77. The *Aiken* decision highlighted five factors (coined the ‘Aiken factors’), derived from *Miller*, that a court *must* consider when sentencing a juvenile.

- “(1) [T]he chronological age of the offender and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate the risks and consequence;
- (2) the family and home environment that surrounded the offender;
- (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him;
- (4) the incompetencies associated with youth— for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys; and
- (5) the possibility of rehabilitation.”

Aiken, 410 S.C. at 544, 765 S.E.2d at 577 (citation omitted).

In addition to outlining the relevant vulnerabilities of youth, the *Aiken* court recognized the key defects that persisted in South Carolina’s sentencing practice: that there was a failure to “fully explore the impact of the defendant’s juvenility on the sentence.” 410 S.C. at 543, 765 S.E.2d at 577.

Since *Aiken*, the Court has expanded on what *Aiken* requires and the procedures courts must undertake when sentencing juveniles, regardless of whether the sentence being considered is a life without parole sentence. Most importantly, in recognition that “juveniles are entitled to

careful sentencing under the Eighth Amendment,” the Court recently “direct[ed] circuit court judges to consider the mitigating factors of youth articulated in *Aiken v. Byars*,” any time they are sentencing juveniles in circuit court, regardless of the type of offense. *Jones v. State*, 440 S.C. 14, 25, 889 S.E.2d 590, 596 (2023). A court’s consideration of youth must be “careful and thorough,” which requires “more than repeating the words; it requires applying the substantive content of those [*Aiken*] factors.” *State v. Mack*, Op. No. 6031 (S.C. Ct. App. Nov., 1 2023), at *15 -16. Moreover, in conducting sentencing or resentencing proceedings where the attendant circumstances of youth must be considered, “both the State and the defendant have a mutual burden of production to provide the resentencing court with any evidence and arguments they believe bear on the *Aiken* factors or otherwise relate to what should be the appropriate sentence.” *State v. Smart*, 439 S.C. 641, 645, 889 S.E.2d 573, 575 (2023). In a resentencing proceeding, while “[t]he sentence to be imposed is within the discretion of the resentencing court . . . the resentencing court may give no deference to the prior sentencing court’s decision.” *Id.*

Bonner is thus entitled to a *de novo* sentencing hearing where his youth, pursuant to the *Aiken* factors, is thoughtfully and carefully considered.

II. When re-sentencing Bonner, this Court must consider the aggregate sentence and avoid sentencing Bonner to a term that would deny him a meaningful opportunity of release.

When this Court conducts resentencing, the total sentence must be considered to ensure that it with the holding of *Graham*. In determining an appropriate total sentence, this Court should take into consideration robust scientific research, including a South Carolina actuarial study on life expectancy and statistics obtained through the South Carolina Office of Indigent Defense, research specifically related to life expectancy for juveniles serving life sentences, and various jurisdictional case law related to juvenile sentencing.

- a. The aggregate sentence should be considered at re-sentencing as the PCR Court order explicitly granted relief to re-consider both the 60-year sentence for burglary and the consecutive 10-year sentence for ABHAN.

The judgment given at PCR explicitly orders reconsideration of both sentences. “[T]his Court grants Petitioner’s request for relief in this PCR solely on the issue of whether Petitioner may file a motion for reconsideration as to the 60-year sentence for Burglary, 1st degree *with a consecutive sentence of 10 years* for ABHAN.” PCR Order 3 (emphasis added).² This Court has a duty to consider the amount of time Bonner will spend incarcerated for all of his charges, not only the Burglary 1st degree sentence, to provide him with a total sentence that allows him a “meaningful opportunity to obtain release,” before the end of his life. *Graham*, 560 U.S. at 75.

- b. In order to comply with the holding of *Graham*, and the sea change in juvenile sentencing law, the aggregate sentence must be considered

To comply with the holding and rationale of *Graham*, the sentence imposed by this Court must give Bonner “some meaningful opportunity for release.” *Graham*, 560 U.S. at 75. This requires the Court to not only consider the sentence imposed for burglary, but to consider the overall aggregate sentence and ensure that Bonner still has a meaningful opportunity for release.

The holding of *Graham* applies to all juveniles who did not commit a murder, including aggregate sentences for multiple offenses. *Graham*’s life sentence was the culmination of a series of crimes he committed as a juvenile. *Graham*, 560 U.S. at 53–54; *Moore v. Biter*, 725 F.3d 1184, 1188 (9th Cir. 2013). Nevertheless, the Court stated that “[w]hat the State must do [i]s give defendants *like Graham* some meaningful opportunity to obtain release based on demonstrated

² When outlining the basis for this decision, the PCR court specifically recognized that “there is a strong possibility that Judge Cole’s resentencing of Petitioner to a 60-year sentence on a Burglary 1st degree charge, coupled with a 10-year consecutive sentence of ABHAN, will result in a de facto life sentence depriving Petitioner of a realistic opportunity to obtain release before the end of his prison term in violation of *Graham*.” PCR Order 3.

maturity and rehabilitation.” *Id.* at 75 (emphasis added). To determine what constitutes “meaningful opportunity to obtain release” the entire sentence must be analyzed. It makes no logical sense to only consider and reduce one sentence if the others, concurrent and consecutive, will increase the time actually served beyond the lifespan of the defendant. This Court must look at the whole picture, not just one piece of the overall sentence, in order to determine the appropriate sentence.

Moreover, consideration of the aggregate sentence Bonner will serve is required by the Supreme Court of South Carolina’s jurisprudence. As the Court recently made clear, “juveniles are entitled to careful sentencing under the Eighth Amendment.” *Jones v. State*, 440 S.C. 14, 25, 889 S.E.2d 590, 596 (2023). To afford juveniles this entitlement, any sentence imposed on a juvenile in circuit court may only be imposed after consideration of the *Aiken* factors at sentencing, irrespective of whether the underlying charge is for a homicide or non-homicide offense. *Id.* See also, 440 S.C. at 29, 889 S.E.2d at 598 (“[W]e direct circuit courts to consider the mitigating factors of youth in sentencing juveniles falling under the ambit of subsection 63-19-20(1).”). This directive can only be adhered to if this Court considers *Aiken* factors with respect to the aggregate sentence Bonner will serve.

To ensure that this resentencing complies with the requirements of *Graham* and *Jones*, this Court must consider the concurrent and consecutive sentences originally imposed as a package, in order to determine a constitutionally appropriate sentence. In considering these sentences and the aggregate time Bonner will serve, “the resentencing court may give no deference to [any] prior sentencing court’s decision.” *Smart*, 439 S.C. at 645, 889 S.E.2d at 575. Moreover, when sentencing Bonner on all these charges, this Court must consider the mitigating circumstances of youth, as articulated in *Aiken*. *Jones*, 410 S.C. at 25, 889 S.E.2d at 596.

c. Mr. Bonner's aggregate sentence cannot exceed a number of years that would amount to a *de facto* life sentence under *Graham*.

Any aggregate sentence that exceeds Bonner's life expectancy would constitute a *de facto* life sentence and would run afoul of the mandates of the Eighth Amendment and *Graham*.

1. Incarceration Significantly Decreases an Individual's Life Expectancy, Particularly for Those Sentenced as Juveniles.

Incarceration, particularly at a young age, reduces life expectancy, which disproportionately affects juveniles serving lengthy sentences who end up spending many more decades behind bars than adults with the same sentence.³ The South Carolina Office of Indigent Defense commissioned an actuarial study, attached to this Motion as Exhibit A, which found that the life expectancy of any juvenile entering the South Carolina Department of Corrections at age 17 is 32.8 years (or age 49.8). Ex. A, Exhibit 14.⁴ John Bonner, now 33 years old, can reasonably expect at most 16 more years of life in SCDC. Additionally, the study found that those who enter prison in their youth have a lower life expectancy than those who enter the system as adults, further highlighting the disproportionate inequity of applying excessively long term of year sentences to juveniles.⁵ Thus, juveniles who enter SCDC at 17, like Bonner, and are sentenced to aggregate

³ See generally *Graham v. Florida*, 560 U.S. 48, 70 (2015) (noting that the lengthiest possible incarceration is an "especially harsh punishment for a juvenile" because he will almost inevitably serve "more years and a greater percentage of his life in prison than an adult offender").

⁴ Ex. A. Ms. Vera Dolan's study was initially undertaken in 2015 and updated life expectancy data was computed in 2023. Ex. A contains the entire study, including the initial 2015 findings. For ease of reference, Exhibits 14 through 16 contain the 2023 updated life expectancy tables. Exhibit 14 lists the data from this study for all races combined. Mr. Bonner, a non-Hispanic Black male arguably can reasonably expect to have an even lower life expectancy of 31.8 years, given his race. See Ex. A, Exhibit 15.

⁵ A juvenile incarcerated at age 17 has a projected life expectancy of approximately 33 years (or age 50), but someone incarcerated at age 35 has a life expectancy of approximately 19 years (or age 54). Ex. A, Exhibit 14.

sentences of more than 32 years in SCDC cannot expect to outlive their sentence and are therefore denied any realistic opportunity to obtain release.⁶

2. *Other jurisdictions recognize Graham prohibits the imposition of lengthy term of years sentences that would exceed a juvenile's life expectancy.*

Many jurisdictions, including courts in South Carolina have determined that *Graham* applies to lengthy aggregate term of years sentences that exceed an individual juvenile's life expectancy, affording them no meaningful opportunity for release. This is the precise reason that Bonner's second sentence was overturned in post-conviction relief. *See* PCR Order.

The Seventh, Ninth and Tenth Circuits have determined *Graham* extends to term of years sentences that, when considered in the aggregate, create a *de facto* life sentence. *Budder v. Addison*, 851 F.3d 1047, 1059-60 (10th Cir. 2017); *McKinley v. Butler*, 809 F.3d 908, 909, 914 (7th Cir. 2016); and *Moore v. Biter*, 725 F.3d 1184, 1186, 1194 (9th Cir. 2013). Several states have also recognized lengthy aggregate term of year sentences unconstitutionally long sentences for both

⁶ It is possible that living until age 50, or serving a sentence of 32 years, actually overestimates Bonner's life expectancy. Vera Dolan's research and other studies show that juveniles serving life sentences (or the functional equivalent of a life sentence) have lower life expectancies than juveniles serving determinate sentences in general population. *See, e.g.*, Ex. A at A7; Deborah LaBelle, *Michigan Life Expectancy Data for Youth Serving Natural Life Sentences*, The American Civil Liberties Union of Michigan Juvenile Life Without Parole Initiative, <https://www.lb7.uscourts.gov/documents/17-12441.pdf>; Brief of Amicus Curiae Juvenile Law Center in Support of Petitioners at 16, *Vasquez v. Commonwealth*, 781 S.E.2d 920 (2016). Further, juveniles are particularly susceptible to risk factors associated with incarceration, including increased physical and sexual violence, a sedentary lifestyle, poor nutrition, and limited access to healthcare, which can drastically decrease life expectancy even if they are eventually released. *See* Evelyn J. Patterson, *The Dose-Response of Time Served in Prison on Mortality: New York State, 1989-2003*, 103(3) *Am. J. Pub. Health* 523 (Mar. 2013); Mark Alexander, *African American Men's Health: Breaking the Silence Presentation*, University of Alabama (March 17, 2015), <https://www.uab.edu/medicine/mhrc/>; Emily Widra, *Incarceration Shortens Life Expectancy*, The Prison Policy Initiative (June 26, 2017), https://www.prisonpolicy.org/blog/2017/06/26/life_expectancy.

nonhomicide and homicide offenses.⁷ These opinions stem from the Supreme Court's recognition of the ways children are different from adults and the disproportionate impact of lengthy sentences on children, which results in them spending longer portions of their lives in prison and being denied from accessing any real meaningful opportunity for release. Specifically, various jurisdictions have established that lengthy aggregate term-of-years sentences are unconstitutional as the functional equivalent of LWOP sentences for the purpose of procedural safeguards around sentencing. Moreover, many states have remedied the extreme sentencing concerns recognized in *Graham* and *Miller* by providing automatic statutory relief for juvenile offenders, regardless of their original

⁷ *State v. Conner*, 381 N.C. 643, 677 (2022) (holding that 40 years is the point which turns a sentence into a de facto life sentence); *Commonwealth v. Perez*, 80 N.E.3d 967, 969–70 (Mass. 2017) (holding that an aggregate sentence of 32.5 years with no parole eligibility until 27.5 years for several nonhomicide offenses was unconstitutionally long under *Graham*); *White v. Premo*, 443 P.3d 608 (Or. 2019) (recognizing that an 800-month sentence imposed for a single murder charge was the functional equivalent of a life sentence and warranted resentencing with full consideration of the attendant circumstances of youth); *People v. Buffer*, 137 N.E.3d 763, 774 (Ill. 2019) (recognizing that any aggregate sentence of more than 40 years is a *de facto* life sentence and any sentencing proceeding imposing a sentence of a total of 40 or more years must fully explore the mitigating circumstances of youth); *People v. Contreras*, 411 P.3d 445 (Cal. 2018) (holding a 50 year sentence to be unconstitutional under *Graham*); *Bear Cloud v. State*, 334 P.3d 132, 142 (Wyo. 2014) (holding *Miller* protections applicable to aggregate sentence with parole eligibility after 45 years); *Casiano v. Commissioner*, 115 A.3d 1031 (Conn. 2015) (explaining that *Miller* resentencing applies to a 50-year sentence because the focus is not on a “label of a ‘life sentence’ but rather on whether a juvenile would, as a consequence of a lengthy sentence without the possibility of parole, actually be imprisoned for the rest of his life.”); *Tarrand v. State*, 199 So.3d 507 (Fla. Dist. Ct. App. 2016) (finding that *Miller* resentencing is applicable to 51-year sentence); *State v. Null*, 836 N.W.2d 41, 71 (Iowa 2013) (finding a 52.5 year minimum sentence to be cruel and unusual in violation of Iowa Constitution); *Carter v. State*, 2018 WL 4140672 (Md. Aug. 29, 2018) (finding *Graham* resentencing procedures applicable to aggregate sentence with parole eligibility after 50 years); *Hawkins v. NYS Dep’t of Corr. & Cmty. Supervision*, 30 N.Y.S.3d 397, 401 (2016) (finding a 22-year sentence to be the functional equivalent of life without the possibility of parole for the purpose of receiving *Miller* procedural requirements.); *State v. Ronquillo*, 361 P.3d 779 (Wash. Ct. App. 2015) (*Miller* protections applicable to aggregate 51.3-year sentence); *People v. Caballero*, 282 P.3d 291, 293 (Cal. 2012) (holding that a de facto life sentence is one where the defendant’s parole eligibility date falls outside of the defendant’s life expectancy); *State ex re. Carr v. Wallace*, 527 S.W.3d 55 (Mo. 2017) (holding that sentencing a juvenile homicide offender to three concurrent terms of life without the possibility of parole for 50 years violated *Miller* and was unconstitutional).

aggregate sentence, in the form of parole eligibility or sentence reduction after a set number of years, typically 15 or 25 years. *See, e.g.*, W. Va. Code § 61-11-23; Cal. Penal Code § 3051; Wy. Stat. § 6-10-301; Del. R. Crim. P. Super. Ct. 35A.

3. *South Carolina precedent does not bar consideration of lengthy aggregate sentences that exceed a juvenile's life expectancy as de facto life sentences for our purposes.*

While the Supreme Court of South Carolina has begun to address the issue of lengthy aggregate sentences, no precedent at this point bars consideration of the aggregate sentence in this case. The Court has only addressed this issue in one case with unique facts and circumstances at play that are simply not present in Bonner's case and was determined prior to the Court's directive in *Jones*.

The Court in *State v. Slocumb* declined to provide relief to a juvenile sentenced to a 130-year aggregate sentence for multiple crimes committed over the course of several years. *State v. Slocumb*, 426 S.C. 297, 312, 827 S.E.2d 148, 156 (2019). While serving time for kidnapping, sexually assaulting, and shooting a teacher, Slocumb escaped custody and proceeded to rape and rob another woman in similar aggravated fashion. 426 S.C. at 299–300, 310–11, 827 S.E.2d at 149, 154–55. The culmination of both sets of offenses created a 130-year aggregate sentence. 426 S.C. at 299, 827 S.E.2d at 149. Slocumb sought relief pursuant to the mandates of *Graham* and *Miller*. *Id.*

Although the *Slocumb* Court denied relief, it did so within the narrow set of factual circumstances of Slocumb's case, where a juvenile offender committed "multiple offenses" on "multiple dates" and where there was no evidence of "maturity and rehabilitation." 426 S.C. at 313, 827 S.E.2d at 156–57. Moreover, the Court outlined the disparity in both the number of offenses and the severity of the conduct displayed by Slocumb when distinguishing his case from *Graham*. 426 S.C. at 310, 827 S.E.2d at 154 ("In emphasizing that Slocumb's situation is beyond

the reach of *Graham*, it may be helpful to state the obvious: Slocumb's case is factually distinct from the circumstances presented in *Graham*.”).

Moreover, the Court made clear in *Slocumb* that it was declining to permanently foreclose a finding that lengthy aggregate or *de facto* LWOP sentences are unconstitutional. *Id.* at 299, 827 S.E.2d at 149. In fact, the Court explicitly announced that the constitutionality of *de facto* life sentences for juveniles remained an open question: “Our holding should in no way be read to signal the end of the debate on the underlying issues raised by aggregate term-of-years sentences imposed on juvenile offenders, whether for homicide or nonhomicide offenses.” *Id.* at 313, 827 S.E.2d at 156.

The unique facts of *Slocumb* are not present in Bonner's case whose charges all stem from events surrounding a singular criminal scheme all occurring within a short timeframe. Indeed, the Supreme Court of South Carolina denied certiorari in this case following its decision in *Slocumb*, signaling that Bonner's case is different. *See Order, John B. Bonner v. State of South Carolina*, No. 2017-000758 (S.C. Feb. 20, 2019).

Moreover, as mentioned above, since *Slocumb*, the Supreme Court of South Carolina has continued to recognize the constitutionally significant ways juveniles are different than adults and have provided expansive protections for all juveniles being sentenced in circuit court. *Jones*, 440 S.C. at 25, 889 S.E.2d at 596. As *Slocumb* does not apply to the factual circumstances of Bonner's case, this court is not barred from considering how an aggregate sentence that exceeds Bonner's life expectancy would be a constitutionally impermissible *de facto* LWOP sentence in his case, as it affords him no meaningful opportunity for release, in violation of *Graham*.

CONCLUSION

To provide Bonner with a constitutionally sound sentencing hearing, this Court is required to adhere to certain procedures and constitutional considerations. First and foremost, this Court must conduct a *de novo* sentencing hearing and can give no consideration or deference to any prior sentencing decisions in determining the appropriate sentence to impose on Bonner. *Smart*, 439 S.C. at 645, 889 S.E.2d at 575. Moreover, when sentencing Bonner, this Court is required to consider the mitigating features of youth encompassed in the *Aiken* factors, and do so “careful[ly] and thorough[ly],” while “applying the substantive content of those factors.” *State v. Mack*, Op. No. 6031 (S.C. Ct. App. Nov., 1 2023), at *15 16; *Jones*, 440 S.C. at 25, 889 S.E.2d at 596. Finally, this Court must consider the aggregate number of years Bonner will serve, in the light of the *Aiken* factors, when determining what sentence to impose. Any aggregate sentence that exceeds Bonner’s life expectancy in prison would be constitutionally impermissible, as it would fail to provide him with a meaningful opportunity for release as required by *Graham*.

Respectfully submitted,

By: /s/Lindsey S. Vann
LINDSEY S. VANN
 Justice 360
 900 Elmwood Avenue
 Suite 200
 Columbia, SC 29201
lindsey@justice360sc.org

February 5, 2024.

Counsel for Defendant.

SECRET

Exhibit A - Vera Dolan Affidavit

STATE OF NEVADA

COUNTY OF CLARK

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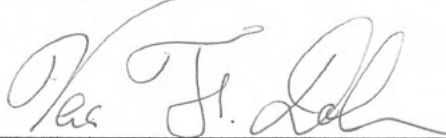
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AFFIDAVIT

Vera F. Dolan, who appeared personally before me, affirms and states the following:

1. I, Vera F. Dolan, am an epidemiologist and consultant. My business is located in Las Vegas, Nevada.
2. Referral Question: In 2015, I was asked by a lawyer representing a juvenile previously sentenced to life without parole to conduct an investigation and develop a life table with life expectancies specific to male inmates in the South Carolina Department of Corrections ("SCDC"). The question to be answered by my investigation was: What is the proper and accurate life expectancy for a male entering SCDC as a juvenile?
3. In 2023, I was asked to update my 2015 calculations to reflect more recent trends. This affidavit is an addendum to my 2017 affidavit reflecting changes in life expectancy in the US population and the SCDC population as of 2021. My 2017 affidavit attesting to the results of my 2015 calculations is attached with exhibits, and lists my qualifications, definitions of relevant terms, and methodology. I used the same methodology in updating this study in 2023.
4. In updating this study, I used the Life Tables for the US population from 2021 (Exhibits 11, 12, and 13), the most current life tables available. The 2021 tables are the first tables to reflect the COVID mortality experience of the US population. Accordingly, the life expectancies associated with the 2021 provisional life tables are lower than those from the 2011 U.S. life tables that were originally used for this analysis (Exhibits 5, 6, and 7). The 2021 SCDC life tables (Exhibits 14, 15, and 16) similarly reflect the impact of COVID mortality.
5. *Findings:* The SCDC Population Life Tables (Exhibits 14–16) can be compared to the US Population Life Tables (Exhibits 11–13). Comparing the life expectancy for 18-year-old males of any race in the general US Population and the SCDC Population reveals that an 18-year-old in the general US Population has a remaining life expectancy of 56 years (expected death at 74 years old) and an 18-year-old male in SCDC has a remaining life expectancy of 31.4 years (expected death at 49 years old). The 18-year-old who is incarcerated in SCDC, accordingly, has a life expectancy that is 25 years shorter than a male in the general US Population.
6. The Life Tables created based on the SCDC Population clearly indicate that any person who has been incarcerated in SCDC has a lower life expectancy than a person in the general US Population.

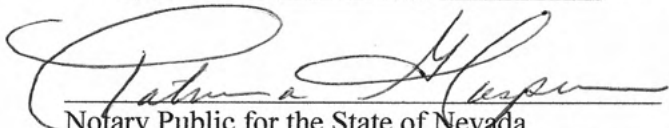
I affirm, under penalty of perjury, that the foregoing is true and correct.



VERA F. DOLAN

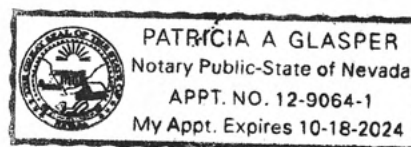
Sworn to and subscribed before me

This 20 day of June, 2023.



Notary Public for the State of Nevada

My commission expires: 10-18-2024



STATE OF NEVADA)
)
COUNTY OF CLARK) AFFIDAVIT

Vera F. Dolan who appeared personally before me, affirms and states the following:

1. I, Vera F. Dolan, am an epidemiologist and consultant. My business is located in Las Vegas, Nevada.
2. *Referral Question:* In 2015, I was asked by a lawyer representing a juvenile previously sentenced to life without parole to conduct an investigation and develop a life table with life expectancies specific to male inmates in the South Carolina Department of Corrections ("SCDC"). The question to be answered by my investigation was: what is the proper and accurate life expectancy for a male entering SCDC at the time he was a juvenile?
3. *Qualifications:* I am an epidemiologist¹ with a Bachelor's degree in public health from Johns Hopkins University and a Master's of Science in Public Health in epidemiology from the University of North Carolina, Chapel Hill. I have over 30 years of experience in the life and health insurance industries. I am a Fellow of the Academy of Life Underwriting, which is the highest credential in life insurance underwriting. I am currently a private consultant for the life insurance industry and related industries.
4. I have published over 33 peer reviewed articles in which I prepared a mortality ratio analysis from raw population data. I have prepared life tables for over 35 years, beginning when I was a student studying for my Masters of Science in Public Health. My current curriculum vitae is attached as Exhibit 1.
5. I have been qualified as an expert in life expectancy, life insurance, and epidemiology in state and federal courts throughout the country. In South Carolina, I was qualified as an expert in life expectancy and epidemiology in the Williamsburg County Court of General Sessions. In that court, I testified about my South Carolina study and life expectancy findings for SCDC inmates.
6. *Definition of Relevant Terms:*
 - a. **Life expectancy:** the statistical calculation of the average length of life expected for an individual of a certain age, sex, race, and/or other risk factor.
 - b. **Life table:** data laid out in a table format to show how a statistical calculation of life expectancy is done.

¹ An epidemiologist is similar to an actuary in that both are professionals who create life tables to determine life expectancies for various populations. Epidemiologists, unlike actuaries, have a medical background and specialize in the study of health and disease in populations statistically.

- c. **Mortality rate:** the rate at which people die within a given age, sex, race and/or other risk factor group. A mortality rate is calculated by dividing the number of deaths occurring within a given population by the total number of that population at risk of death.
7. *South Carolina Code Life Expectancy Tables:* The South Carolina legislature adopted life expectancy tables, which are contained in S.C. Code § 19-1-150. The tables found in the South Carolina Code were derived from the 2001 Commissioners Standard Ordinary Mortality Tables (“CSO Mortality Tables”). The CSO Mortality Tables were created by the Society of Actuaries in conjunction with the National Association of Insurance Commissioners to provide statutory guidance to state insurance commissioners in figuring out what statutory reserves should be for insurers in their state. The CSO Mortality Tables do not reliably predict the life expectancy for the general population or an incarcerated population because they are based on the lives of insured people, essentially selecting a portion of the population that is much healthier than the general population. An additional problem with the tables is that they were created in 2001 with data much older than 2001 causing concerns that the data relied upon by the tables is outdated and unreliable.
 8. *Methodology:* To determine life expectancies for male inmates in SCDC, I reviewed approximately 68,000 male inmate records provided to me by SCDC.² The SCDC information included a unique identifier for each inmate (in place of the inmate’s name), their date of entry to SCDC, their age at entry, and the date of release or death (where applicable). Those records originally included all inmates incarcerated from 1996-2015 and included follow-up data through the first half of 2016. Of the 68,000 records, I identified 3,000 duplicate records and excluded them from my final data set. I also identified and excluded a small number of records where the dates of admission and dates of death or release were incongruent. After making these exclusions, I reviewed the records of the remaining 64,204 unique inmates. For purposes of this affidavit, the records of the 64,204 inmates reviewed are referred to as the “SCDC Population.”
 9. In the SCDC records provided to me was information from the South Carolina Department of Health and Environmental Control (“DHEC”) on all of those individuals who died between 1996 and 2016. As part of the preparation of the records provided to me, DHEC used the identifying information provided by SCDC to link the SCDC database with DHEC’s information. I was thus provided with the

² I did not receive data from the South Carolina Department of Juvenile Justice, so I did not have sufficient data to calculate the mortality rates of 15, 16, or 17 year olds. This does not affect the accuracy of the reported life expectancies for inmates 18 years old and older because, as discussed below, life expectancy is based on mortality rates for people the same age as the individual and those older than that individual.

date of death and the age at the time of death for each individual within the SCDC population who died at some point after they entered SCDC.³

10. *Mortality Rate Calculation:* To determine life expectancies from the SCDC Population, I first needed to determine the mortality rates for each year of age of people incarcerated in SCDC. Exhibit 2 shows my mortality rate calculations for all individuals incarcerated in SCDC between 1996 and 2015 (Exhibits 3 and 4 show my calculations for black inmates only and white inmates only, respectively). The following is a description of my mortality rate calculations, using column references to the tables in Exhibits 2, 3, and 4.

- a. The first column labeled **Age** lists ages 15 through 97. This range was used because an individual who was incarcerated at SCDC at some point between 1996 and 2015 was alive at each age between 15 and 97.
- b. The second column labeled **Alive** represents the number of men from the SCDC Population who passed through a given age during the time period between 1996 and 2015.
- c. The third column labeled **Dead** provides the number of men within the SCDC Population who died at a given age any time between 1996 and 2016.
- d. The fourth column labeled **Total** provides the total of the “Alive” and “Dead” columns, which is the total population at risk of death during a given age.
- e. The fifth column labeled **Mortality Rate** provides the rate at which men in the SCDC population die at any given age. The mortality rate is calculated by dividing the number of people who died (column three) at a given age by the total number of people at risk of death (column four) during the same age.
- f. The sixth column labeled **Smoothed Mortality Rate** provides the trend of the mortality rate. In statistics, when dealing with raw data like the data relating to the population considered in this case, the rate calculations can have anomalies and bumps such that smoothing is necessary to identify the actual trend over time. To find the trend for the SCDC population mortality

³ The individuals died either during their incarceration or after their release from SCDC. Reliance on mortality information both during incarceration and after release is standard methodology in the actuarial field for calculating the life expectancy of individuals who have been incarcerated. Using this data provides the most reliable calculation for the life expectancy of a juvenile sentenced to a prison term of any length of time. Other analyses, including a study of deaths of incarcerated individuals serving life sentences shows the observed age at the time of death for those individuals who died while incarcerated is substantially lower than the life expectancy calculated from the data obtained from DHEC. See ¶¶ 17-18.

rate, I calculated the three-year moving average of the mortality rates by averaging a given age's mortality rate with the two ages surrounding it. As the data became sparser at the older ages, I used a five-year moving average, which included the mortality rate at a given age and the two ages above and below it. This calculation found the trend in these mortality rates for a more accurate calculation of life expectancies at each age.

11. *Mortality Ratio Calculation:* I next compared the SCDC Population mortality rates with the general United States population mortality rates.
 - a. The seventh column on Exhibits 2-4 labeled **US Population Mortality Rate** provides the most current mortality rates by age for males in the US population available at the time of this analysis. These mortality rates were determined by the Centers for Disease Control ("CDC") and is used in life tables published in the CDC's Vital Statistics Reports. The CDC mortality rates are calculated for life tables for the all US males, for black US males only, and for white US males only; these life tables are attached as Exhibits 5, 6, and 7 respectively.⁴ On SCDC Population Mortality Rate tables (Exhibits 2-4) for various races, the US Mortality rate was obtained from the US Life Table for the same race.
 - b. The eighth, and final column, on Exhibits 2-4 labeled **Mortality Ratios** compares the smoothed mortality rate from the SCDC Population at a given age with the US Population mortality rate for the same age. The mortality ratio is calculated by dividing the SCDC Population mortality rate by the US Population mortality rate, meaning any mortality ratio over 1.0 indicates the SCDC Population mortality rate is higher than the US Population mortality rate. Mortality ratios are provided only for ages in which there were at least five deaths among the SCDC Population in order to ensure the accuracy of the resulting ratios and life expectancies.
12. *Race Specific Calculations:* I created mortality rate and mortality ratio tables for all races, blacks only, and whites only because doing so is consistent with the CDC analysis of the US population, which shows that race has a significant effect on mortality rates.
13. *Creation of Life Tables:* Life tables provide life expectancies based on mortality rates from a given population. Using the mortality ratios calculated in Exhibits 2-4, I created life tables for the SCDC Population. I created individual life tables for all males, all black males, and all white males, which are attached as Exhibits 8, 9, and 10, respectively. The following is a description of the life expectancy calculations, using column references to the tables in Exhibits 8, 9, and 10.

⁴ The mortality rates on the CDC US Population Life Tables are found in the column labeled **Probability of dying between ages x and x + 1** on Exhibits 5-7.

- a. The first column labeled **Age** lists all ages 0-100.
- b. The second column labeled **Basic Mortality** provides the mortality rate at a given age from the US Population Life Tables (Exhibits 5-7).
- c. The third column labeled **Mortality Risk Factor** is the mortality ratio calculated on the SCDC Population Mortality Rate Tables in Exhibits 2-4.
- d. The fourth column labeled **Adjusted Mortality** provides the US mortality rate for a given age adjusted by the mortality risk factor (mortality ratio) using multiplication.⁵ At ages where there was sufficient mortality data (five or more deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the mortality rate calculated from the SCDC Population data.⁶ At ages where there was insufficient mortality data (four or less deaths at any given age) from the SCDC Population, the adjusted mortality rate equals the US Population mortality rates.
- e. The fifth column labeled **Population at Risk** starts with a hypothetical cohort, or population of 100,000 at age 0. This population is decreased at each successive age by the number of deaths that occurred at the previous age. For example, in the SCDC Life Table for all races (Exhibit 8), the population at risk in age 0-1 is the full hypothetical cohort of 100,000 less 658 deaths that occurred during the first year of life.
- f. The sixth column labeled **Deaths** provides the number of deaths expected to occur at a given age. This number is calculated by multiplying the adjusted mortality rate (column four) by the population at risk (column five).
- g. The seventh column labeled **Interval Person-years** provides the number of years lived by the remaining population during a given age. This is calculated by subtracting one half of the number of deaths during that age from the population at risk during a given age (this assumes the individuals who die during that year live an average of half the year before dying).
- h. The eighth column labeled **Cumulative Person-years** provides the total number of years left to be lived by the entire population surviving to a given

⁵ I used the mortality ratio (comparing the SCDC Population mortality rates to the US Population mortality rates) because I did not have mortality rates for all ages from the SCDC Population data. Specifically, there is not sufficient data for male SCDC inmates at the very youngest and very oldest ages. In order to create a credible life table, one needs to have mortality rates for all of the ages. Use of the mortality ratio to create an adjusted mortality rate is standard practice in the actuarial field when reviewing populations that do not have enough data to calculate credible mortality rates for all ages.

⁶ These ages are designated by highlighting in the Mortality Risk Factor column.

age. This is calculated by totaling the interval-person years for a given age and all of the ages after that age.

- i. The ninth column labeled **Life Expectancy** provides the remaining life expectancy for any SCDC inmate surviving to a given age. It is calculated by dividing the cumulative person-years (column eight) by the population at risk (column five) at a given age.
 - j. To use the life expectancy to calculate the age to which an SCDC inmate is expected to live, on average, locate the age of the inmate in the age column and identify the corresponding life expectancy, then add the person's age to the life expectancy. For example, on the Life Table for blacks only (Exhibit 9), a black male inmate in SCDC at age 18 has a remaining life expectancy of 38.2 years. This individual would, therefore, be expected to live to age 56 ($18 + 38.2$).
14. *Notes on Using Life Tables:* Because race is a risk factor affecting life expectancy, it is most appropriate to use the life table for the race corresponding to the actual inmate to determine the life expectancy for that inmate. For example, a black male inmate's life expectancy is most accurately determined by using the Life Table for black males only (Exhibit 9). A white male inmate's life expectancy is most accurately determined by using the Life Table for white males only (Exhibit 10). Hispanic or Latino inmates' life expectancies are most accurately calculated by using the Life Table for white males only (Exhibit 10) because SCDC classifies them as white.⁷ Life expectancies for inmates of other races can most accurately be calculated by using the Life Table for all races⁸ (Exhibit 8).
15. *Findings:* The SCDC Population Life Tables (Exhibits 8-10) can be compared to the US Population Life Tables (Exhibits 5-7). Comparing the life expectancy for 18 year old males of any race in the general US Population and the SCDC Population reveals that an 18 year old in the general US Population has a remaining life expectancy of 59.1 years (expected death at 77 years old) and an 18 year old male in SCDC has a remaining life expectancy of 37.3 years (expected death at 55 years old). The 18 year old who is incarcerated in SCDC, accordingly, has a life expectancy that is 21.8 years shorter than a male in the general US Population.

⁷ Because SCDC does not classify Hispanic or Latino inmates separately from whites, the white male only mortality rates and life table include data from Hispanic and Latino inmates.

⁸ In addition to classifying inmates as black or white, SCDC uses classifications for Pacific Islander, Asian, American Indian, unknown, and other, but these categories of inmates did not include a sufficient number of inmates to allow for creation of a life table specific to them. Thus, all races are included in the Life Table for all races and that table can be used for inmates who do not fall within the black, white or Hispanic/Latino categories.

16. The Life Tables created based on the SCDC Population clearly indicate that any person who has been incarcerated in SCDC has a lower life expectancy than a person in the general US Population.
17. *Observed Data on Deaths in SCDC:* SCDC also provided me with information on all inmates serving a life sentence who died in SCDC between January 2001 and June 2016. The number of deaths during this period was not sufficient to create a credible life table for inmates serving life sentences who died while incarcerated.⁹ I was, however, able to compare the actual life span of the individuals who died to their expected age of death based on the US Population Life Tables.¹⁰ I grouped these individuals by the age of their last admission to SCDC and calculated the average number of years difference between their actual age at death and their expected age at death in the table below.

Age at Last Admission Group	Average Difference Observed vs Expected Age at Death
16 to 19	-31.8
20 to 24	-26.5
25 to 29	-21.4
30 to 39	-21.7
40 to 49	-16.8
50 to 59	-10.0
60 up	-4.9

As this table shows, the individuals sentenced to life who entered SCDC between the ages of 16 and 19 died while incarcerated an average of 31.8 years earlier than predicted by the US Population life expectancies.

18. The SCDC Population Life Table for all races shows (Exhibit 8) a life expectancy for a 16 year old male incarcerated in SCDC for any length of time is 39.2 years, which is 21.8 years less than the life expectancy of a 16 year old male in the general US Population. The calculations above, based on observed deaths, show the actual

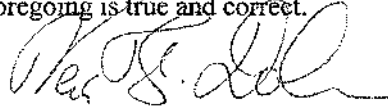
⁹ In order to create a credible life table, the population data must include five deaths at each age. During the period of 2001 to 2016, there were 262 deaths among inmates serving a life sentence. This was insufficient data to create a life table. While the data set is not large enough to create a life table, it is sufficient to show the mortality risk trend of people serving life imprisonment in SCDC as compared to the general US Population.

¹⁰ Because these deaths occurred between 2001 and 2016, I used the life expectancies published in 2000 for the general US Population. Since 2000, the life expectancies for the general population have increased.

life span of a 16 year old serving life imprisonment was 31.8 years less than the life expectancy of a 16 year old male in the general US Population. This demonstrates that a male incarcerated in SCDC for life is at a much higher risk of mortality and has a significantly shorter life expectancy than the general US Population.

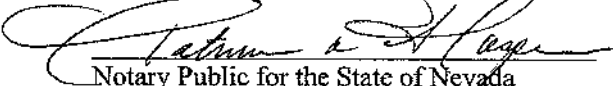
19. *Other Notes:* My life expectancy calculations were completed in 2016 with records from 1996 to 2015 and mortality data through 2016. I recommend updating mortality data and mortality ratios every five years. I recommend a full twenty-year look back, as was completed here, be completed again in ten years.

I affirm, under the penalty of perjury, that the foregoing is true and correct.


VERA F. DOLAN

Sworn to and subscribed before me

This 5 day of MAY, 2017


Notary Public for the State of Nevada

My commission expires: 10-18-2020



Exhibit 1

Vera F. Dolan

6238 Belgium Drive, Las Vegas, Nevada 89122-7592
702.476.8500 / dolanvp@consultancy.com

EDUCATION and PROFESSIONAL CERTIFICATIONS

MSPH University of North Carolina at Chapel Hill, Epidemiology, 1981
BA The Johns Hopkins University, Public Health, 1979
FALU Fellow of the Academy of Life Underwriting, 1998
ELS Editor in the Life Sciences, 2003

EXPERIENCE

Principal, VFD Consulting, Inc., 1989 to Present

Providing life and health insurance and related industries mortality and underwriting research, market research, product development, business development and technology, underwriting education and training, and litigation support to multinational clients, including:

AIG American General Life Cos.	LabOne
American Family Life Insurance Co.	Life Settlement Consulting & Management
AVS Underwriting	Los Angeles County Crime Laboratories
Bank of America	MetLife Canada
Calypte Biomedical	MIB Group
Canada Life Reinsurance	Millennium Pharmaceuticals
Charles Schwab & Co.	Mutual of Omaha
Clinical Reference Laboratory	North Coast Opportunities
decydeWARE	<i>On The Risk – The Journal of the Academy of Life Underwriting</i>
Drinker, Biddle & Reath	PartnerRe Life (formerly Winterthur Life Reinsurance)
Edwards Lifesciences	Pacific Blue Cross
EMSI (formerly PMSI)	PPO Oklahoma
Farmers Mutual Insurance Co.	Protective Life Insurance Co.
FaxWatch	Safe Harbor Resources
Federal Home Loan Bank (San Francisco)	Sagicor Financial Corporation
First Financial Underwriting Services	Society of Actuaries
General American Life Insurance Co.	Thomson Management Solutions
Golden Gateway Financial	21st Services
Hank George, Inc.	Wells Fargo Bank
Health Net of California	Western Reserve Life Assurance Co. of Ohio
Heritage Labs	Xcelerate Corporation
HSBC Insurance Services	
Independent Order of Foresters	
Insure.com	

Vera F. Dolan

Curriculum Vitae, continued

Expert witness services provided to the following:

Multiple retentions:

Andres, Andres & Moore, Santa Ana, CA
 Barger & Wolen, Irvine, CA and New York, NY
 County of Hawaii, Hilo, HI
 Donahue Horrow, El Segundo, CA
 Lewis & Roca, Phoenix, AZ

McCue-Pauley & Associates, Dallas, TX
 Taylor Anderson, Denver, CO
 U.S. Department of Justice
 Wilson Elser Moskowitz Edelman & Dicker, Los Angeles and
 San Diego, CA

Expert witness brokers:

AMFS / Medical Experts Nationwide
 Consolidated Consultants
 Insurance Expert Network
 ForensisGroup
 LITILI

Medical Advisors, Inc
 Medical Consultant Services
 The TASA Group
 Thomson Reuters Expert Witness Service

Single cases:

Andrews Kurth, Dallas, TX
 Bolt Keenley Kim, Berkeley, CA
 Campano Law Group, Lancaster, CA
 Carlin & Buchsbaum, Long Beach, CA
 Carmody Torrance Sandak Hennessey, Waterbury, CT
 City of Torrance, Torrance, CA
 Corr Cronin Michelson Baumgardner Preece, Seattle, WA
 Coughlin Law Firm, San Diego, CA
 Cozen O'Connor, Wilmington, DE
 Deitchman & Deitchman, Placerville, CA
 Demas Law Group, Sacramento, CA
 Dressler Law Office, New Haven, CT
 Egan & Pechtel, Kennewick, WA
 Epstein Becker & Green, Los Angeles, CA
 Evan Freirich, Boulder, CO
 Fairchild, Price, Haley & Smith, Nacogdoches, TX
 Fallgatter Farmand & Catlin, Jacksonville, FL
 Ferguson, Skipper, Shaw, Keyser, Baron & Timbassi, Sarasota, FL
 Friedman, Rubin & White, Anchorage, AL
 Gilchrist & Rutter, Santa Monica, CA
 Graves & King, Riverside, CA
 Greenberg Traurig, Denver, CO
 Greene Brillet & Wheeler, Santa Monica, CA
 The Healy Law Firm, Chicago, IL
 Hinshaw & Culbertson, Los Angeles, CA
 Hoagland, Fitzgerald & Pranaitis, Alton, IL
 Diana Holt, LLC, Columbia, SC
 Jardine Law Office, DeForest, WI
 Kent D. Jensen Law Office, Burley, ID
 Johnson Schachter & Lewis, Sacramento, CA
 Kantor & Kantor, Northridge, CA
 Katten Muchin Rosenman, Los Angeles, CA
 Kitch Drutchas Wagner Valitutti & Sherbrook, Detroit, MI
 Knapp Petersen Clarke, Glendale, CA
 Koch Degn & Gomez, Visalia, CA
 Law Office of Andy Basseri, Beverly Hills, CA
 Law Offices of Benjamin Blakeman, Los Angeles, CA
 Law Offices of Robert A. Brenner, Woodland Hills, CA
 Law Office of Sean Brev, San Diego, CA
 Law Offices of James Matthew Brown, San Diego, CA

Law Offices of Clyde I. Butts, Walnut Creek, CA
 Law Offices of Michael Jay Green, Honolulu, HI
 Law Office of Katherine MacKinnon, St. Louis Park, MN
 Law Office of Stephen W. Penn, Morgan Hill, CA
 Law Office of Charles M. Ray, Newport Beach, CA
 Law Office of Kenneth U. Reyes, Los Angeles, CA
 Law Offices of Cary T. Tanaka, Honolulu, HI
 Law Office of Edward J. Thomas, Bakersfield, CA
 Littler Mendelson, San Jose, CA
 MacMorris & Carbone, Stockton, CA
 Daniel Q. Mahone, Frederick, MD
 McArdle, Frost & Brinton, Chicago, IL
 McDermott Will & Emery, Chicago, IL
 McDowell & Osburn, Manchester, NH
 McFall Burnett & Brinton, Manteca, CA
 Meyers McConnell Reisz Siderman, Los Angeles, CA
 Milavetz Gallop & Milavetz, Edina, MN
 Morris Polich & Purdy, San Francisco, CA
 Myers & Gmel, Las Vegas, NV
 Nicholas & Tomasevic, San Diego, CA
 Norton Rose Fulbright US, Houston, TX
 Ogden Murphy Wallace, Seattle, WA
 Pyle Sims Duncan & Stevenson, San Diego, CA
 Renaud Cook Deury Mesaros, Phoenix, AZ
 Riverside County Public Defender, Riverside, CA
 Saur Law Office, Laguna Hills, CA
 Schumacher Francis & Nelson, Charleston, WV
 Segal and Kirby, Sacramento, CA
 Seyfarth Shaw, Chicago, IL
 SGH Martineau, London, England
 Shook Hardy & Bacon, Kansas City, MO
 Sigelman Law Corporation, Beverly Hills, CA
 Snell & Wilmer, Phoenix, AZ
 South Carolina Commission on Indigent Defense, Columbia, SC
 Stanley Law Offices, Syracuse, NY
 Stennett & Casino, San Diego, CA
 Vaka Law Group, Tampa, FL
 Webb Bordson Law Group, San Diego, CA
 David K. Wilson & Associates, Sherman, TX
 Whitfield & Eddy, Des Moines, IA
 Winters & Associates, San Diego, CA

Vera F. Dolan

Curriculum Vitae, continued

Consulting Projects – Underwriting

- Life Underwriting Requirements Research, 2004 to Present Providing methodologies, analysis and write-up of insurance testing laboratory data to initiate new products and services. Conducting cohort mortality studies to improve life underwriting risk assessment.
- Life Policy and Procedures Manual, 2014 Revised and updated life insurance policy and procedures manual based on current underwriting and business operations.
- Health Medical Underwriting Manual, 2010 Adapted medical underwriting manual for supplemental health insurance products.
- Structured Settlement Underwriting Manual, 2008 Developed underwriting manual for structured settlements based on current processes.
- Life Claims Audit, 2007 Performed random selection of cases and designed case data extraction sheet for large life insurance claims study.
- Critical Illness and Disability Income Training, 2006 Prepared and presented training to life underwriters in critical illness and disability income underwriting.
- Underwriting Manual Research and Writing, 2006 Adapted traditional life underwriting manual for simplified life, disability and waiver of premium products.
- Life Settlement Experience Analysis, 2006 Analysis of life settlement mortality to determine predictive factors.
- Life Underwriting Research, 2001 to 2003 Constructed life tables from medical literature to validate life underwriting guidelines. Produced quantitative and qualitative life underwriting manual guidance.
- Life Settlement Underwriting Research, 1998 to 2004 Provided model and design of automated life expectancy calculation system, data collection instruments, evaluation scoring and impairment risk factor weights.
- Insurance Services Product Development, 1997 to 1998 Provided analysis of disease mortality, incidence and prevalence to develop new insurance services product.
- Pension Underwriting Research, 1994 Provided biostatistical research basis to a multinational consortium for a new type of impaired risk European pension product.

Consulting Projects - Business Development and Technology

- Simplified Products Survey and Report, 2005 Conducted survey of top-selling simplified products for underwriting and business process lessons learned.
- New Business Process Review and Optimization, 2004 to 2005 Examined current life new business processes to identify opportunities for decreasing redundancies, handoffs, and inefficiencies.
- Underwriting Decision Software Development, 2004 to 2005 Product and market development of life underwriting software that uses advanced logic engine
- Freelance Writing and Editing, 2004 Editing and writing summaries of medical articles, medical conferences, and insurance topics for physicians and consumers.
- Underwriting Operations Annual Report, 2004 Assisted in editing, writing and analysis of metrics presented in life underwriting operations report for 2003.
- Business Process Improvement, 2003 Interviewed underwriting and business support staff to prepare future improvement in life insurance business process workflow.

Vera F. Dolan

Curriculum Vitae, continued

Consulting Projects - Banking

- Enterprise Technology Plan, 2000 Collaborated on design of three-year technology plan for a Federal bank.
- Financial Services Experience Analysis and Strategy, 1995 to 1998 Provided statistical analysis and models to select business and consumer customers for acquisition and retention programs. Estimated bank account life expectancies using actuarial life table methods.
- Human Resources Automation Plan, 1993 Collaborated in development of plan and prototype for automated human resources management.

Certificate of Appreciation for 30 Years of Contribution, *On The Risk - Journal of the Academy of Life Underwriting*, May 4, 2016

Associate Editor, *On The Risk - Journal of the Academy of Life Underwriting*, 2004-Present

Contributing Editor, *On The Risk - Journal of the Academy of Life Underwriting*, 1994-1997

Kaiser Foundation Health Plan, Oakland, California

Medical Economics and Statistics, 1988 to 1989

Converted community-based pricing approach to experience-based rating for a \$2.5 billion premium enterprise. Conducted underwriting market study of 20,000 employers. Conducted analyses to determine competitive pricing for 2+ million member optical and pharmaceutical programs.

Transamerica Occidental Life Insurance Company, Los Angeles, California

New Business Underwriting Research, 1985 to 1988

Provided analysis of company data and medical literature to support management and underwriting decisions. Developed original methods for actuarial analyses now used for automated systems underwriting \$1.5 billion in annual business.

Lincoln National Reinsurance, Ft. Wayne, Indiana

Underwriting Research, 1982 to 1985

Provided analysis of company data and medical literature to support management and underwriting decisions.

University of North Carolina, Chapel Hill, North Carolina

Department of Biostatistics, 1981 to 1982

Performed statistical analyses for multinational clinical trials.

National Institute of Occupational Safety and Health, Cincinnati, Ohio

Industrywide Studies Branch, Biometry Section, Summer 1980

Performed proportionate mortality analysis of death certificate data for evidence of excess brain tumors among petrochemical workers. Performed analysis of medical records for evidence of excess birth anomalies among railroad workers exposed to dioxin.

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" VFD Consulting, Inc.

"Highlights of the 2016 CLIMOA Annual Scientific Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 32, No. 4, 2016

"Hemoglobin Screening Independently Predicts All-Cause Mortality" J. Insurance Medicine, Vol. 45, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Adjusting Measured Creatinine for Low Serum Glucose to Improve Mortality Prediction" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 3, 2015, with Michael Fulks and Robert L. Stout

"Changing the 'Normal Range' for Blood Pressure from 140/90 to 130/any Improves Risk Assessment" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"2014 CRL Blood Pressure Study of Life Insurance Applicants" J. Insurance Medicine, Vol. 45, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Which eGFR Calculation Offers the Best Mortality Prediction for Insurance?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 2, 2015, with Michael Fulks and Robert L. Stout

"Using Urine Protein Creatinine Ratio Alone or Reflexing to Urine Albumin in the Applicant with HbA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 31, No. 1, 2015, with Michael Fulks and Robert L. Stout

"Basic Laboratory Testing" In: Basic Life Insurance Underwriting, ALU 101 Textbook, Sixth Ed. Academy of Life Underwriting, 2014, with Michael Fulks and Robert L. Stout

"Evaluating the Risk of Renal Disease Using Urine Proteinuria or Urine Albuminuria in the Applicant with HbA1c Elevation" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 4, 2014, with Michael Fulks and Robert L. Stout

"Advantages of a Life Expectancy Using Life Insurance Underwriting and Life Settlement Methods in the Legal Setting" Defense Research Institute Life, Health and Disability Newsletter, Vol. 25, Issue 2, June 26, 2014

"Serum Globulin Predicts All-Cause Mortality for Life Insurance Applicants" J. Insurance Medicine, Vol. 44, No. 2, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 30, No. 2, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Beware 'That Low Urine Creatinine!'" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 30, No. 1, 2014, with Michael Fulks and Robert L. Stout

"NT-proBNP as a Predictor of All-Cause Mortality in a Population of Insurance Applicants" *J. Insurance Medicine*, Vol. 44, No. 1, 2014, with Michael Clark, Valerie Kaufman, Michael Fulks and Robert L. Stout

"Scoring Life Insurance Applicants' Laboratory Results, Blood Pressure and Build to Predict All-Cause Mortality Risk" *J. Insurance Medicine*, Vol. 43, No. 3, 2012, with Michael Fulks and Robert L. Stout

"Urine Protein/Creatinine Ratio as a Risk Predictor in Non-Diabetics with Normal Renal Function" *J. Insurance Medicine*, Vol. 43, No. 2, 2012, with Michael Fulks and Robert L. Stout

"Trends in Mortality of Insurance Applicants with HIV Infection" *J. Insurance Medicine*, Vol. 43, No. 2, 2012, with Robert L. Stout and Michael Fulks

"PSA: What Values Predict Increased Mortality Risk?" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 27, No. 3, 2011, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Use of Modeling for Associating Test Values and Mortality Risk" *J. Insurance Medicine*, Vol. 43, No. 1, 2012, with Michael Fulks and Robert L. Stout

"Isolated Hematuria as a Mortality Risk Predictor" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 27, No. 4, 2011, with Michael Fulks and Robert L. Stout

"Highlights of the 2011 AHOU Annual Conference" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 27, No. 3, 2011

"Correction to article: Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" *J. Insurance Medicine*, Vol. 42, No. 2-4, 2011, with Michael Fulks and Robert L. Stout

"CDT and Serum Alcohol: What Is the Risk?" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 27, No. 1, 2011, with Robert L. Stout and Michael Fulks

"Albumin and All-Cause Mortality Risk in Insurance Applicants" *J. Insurance Medicine*, Vol. 42, No. 1, 2010, with Michael Fulks and Robert L. Stout

"Mortality Associated with Positive Hepatitis C and B Test Results" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 26, No. 3, 2010, with Robert L. Stout and Michael Fulks

"Glucosuria as a Mortality Risk Predictor When Blood Is Not Collected" *On The Risk - Journal of the Academy of Life Underwriting*, Vol. 26, No. 2, 2010, with Robert L. Stout and Michael Fulks

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Mortality Associated with Positive Cocaine Test Results" On The Risk - Journal of the Academy of Life Underwriting, Vol. 26, No. 1, 2010, with Robert L. Stout and Michael Fulks

"Association of Cholesterol, LDL, HDL, Cholesterol/HDL and Triglyceride with All-Cause Mortality in Life Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 4, 2009, with Michael Fulks and Robert L. Stout

"Letter to the Editor: The Authors Reply" J. Insurance Medicine, Vol. 41, No. 3, 2009, with Michael Fulks and Robert L. Stout

"Underwriting Implications of Elevated Carcinoembryonic Antigen" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 3, 2009, with Robert L. Stout and Michael Fulks

"Mortality Associated with Bilirubin Levels in Insurance Applicants" J. Insurance Medicine, Vol. 41, No. 1, 2009, with Michael Fulks and Robert L. Stout

"Non-Cigarette Tobacco Use – What is the Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 2, 2009, with Robert L. Stout and Michael Fulks

"Hemoglobin A1c and Mortality in Insurance Applicants: A 5-Year Follow-Up Study", On The Risk - Journal of the Academy of Life Underwriting, Vol. 25, No. 1, 2009, with Robert L. Stout and Michael Fulks

"Using Liver Enzymes as Screening Tests to Predict Mortality Risk" J. Insurance Medicine, Vol. 40, No. 4, 2008, with Michael Fulks and Robert L. Stout

"Underwriting Integrity: Lessons from the Subprime Mortgage Crisis" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 4, 2008

"Highlights from the 2007 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 24, No. 1, 2008

"Increased Mortality Associated with Elevated Carcinoembryonic Antigen in Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 4, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Relationship of Hemoglobin A1c to Mortality in Nonsmoking Insurance Applicants" J. Insurance Medicine, Vol. 39, No. 3, 2007, with Robert L. Stout, Michael Fulks, Mark E. Magee and Luis Suarez

"Highlights from the 2006 AHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 23, No. 1, 2007

"The Reproductive System" In: Intermediate Medical Life Insurance Underwriting AJU 201, 1st ed., Education Committee of the Academy of Life Underwriting, chapter 4, 2006

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Highlights from the 2006 CIU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 3, 2006

"Improvements in Cotinine Testing of Insurance Applicants" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006 with Robert L. Stout and Mark Magee

"Highlights from the LOMA Emerging Technology Conference: Understanding How to Use New Technology" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 2, 2006

Panelist, "Contemplating Pandemic Risk" by Steven C. Siegel, The Actuary, Vol. 3, Issue 3, 2006

"Highlights of the 2005 AHOU Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 22, No. 1, 2006

"Simplified Products: Something Old, Something New, and Something That May Just Make You Blue!" On The Risk - Journal of the Academy of Life Underwriting, with Ernest A. Testa, Vol. 22, No. 1, 2006

"2005 Simplified Product Survey: Final Report" for MIB Group, with Ernest A. Testa, January 2006

"Highlights of the 2005 CIU Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 21, No. 4, 2005

"Underwriting for the New Millennium: Simplified Product Survey" NewsDirect, September 2005

"Sleep Problems and Accidents" On The Risk - Journal of the Academy of Life Underwriting, Vol. 21, No. 1, 2005

"Customer Relationship Management: A Reinsurer's Experience" On The Risk - Journal of the Academy of Life Underwriting, Vol. 20, No. 2, 2004

"Current Concepts in the Insulin Resistance Syndrome" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 20, No. 1, 2004

"Highlights of the 2003 AAIM" On The Risk - Journal of the Academy of Life Underwriting, Vol. 20, No. 1, 2004

"Current Concepts in Multiple Sclerosis" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 19, No. 4, 2003

"Multiple Sclerosis" Canada Life Review Online, Third Quarter 2003, with Robert Weir

"Highlights of the 2003 CIU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 3, 2003

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Web-Assisted Inspection Reports: Part 2 of 2" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 3, 2003

"Keynote Presentation to the Annual Meeting, Canadian Institute of Underwriters" Canada Life Review Online, Second Quarter 2003

"Web-Assisted Inspection Reports: Part 1 of 2" On The Risk - Journal of the Academy of Life Underwriting, On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 2, 2003

"Highlights of the 2002 AAIM" On The Risk - Journal of the Academy of Life Underwriting, Vol. 19, No. 1, 2003

Project Manager, "Report of the 2002 Automated Risk Assessment System Study" Thomson Management Solutions, February 2003

"Insulin Resistance Syndrome" Canada Life Review Online, Fourth Quarter 2002

"The New Paradigm of Coronary Artery Disease: Part 1. The Pathophysiology of Vulnerable Plaque" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 18, No. 4, 2002

"Orthostatic Hypotension" On The Risk - Journal of the Academy of Life Underwriting, with Robert Weir, Vol. 18, No. 3, 2002

"Highlights of the 2002 CLIMOA" On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 3, 2002

"Treatment of Localized Prostate Cancer" On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 2, 2002

"Privacy Rules and Regulations: An Interview with Linda S. Kaiser, Esq." On The Risk - Journal of the Academy of Life Underwriting, Vol. 18, No. 1, 2002

"Treated Cholesterol; A Preferred Risk?" Canada Life Review Online, First Quarter 2002, with Robert Weir

"Body Mass Index and Mortality" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 4, 2001, with Robert Weir

"Innovations in Underwriting Build" Canada Life Review No. 2, 2001

"Honoring Past HOLUA Presidents" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 3, 2001

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Highlights of the 2001 HOLUA: An Underwriter's Odyssey" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 3, 2001

"Genetic Testing Provides Challenge to Insurers" American Clinical Laboratory, Vol. 20, No. 4, 2001 pp. 18-9

"Highlights of the Spring 2001 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 2, 2001

"Highlights of the 2000 IHOU: Gateway to Change" On The Risk- Journal of the Academy of Life Underwriting, Vol. 17, No. 1, 2001

"Progress in Establishing the Association of Home Office Underwriters" On The Risk - Journal of the Academy of Life Underwriting, Vol. 17, No. 1, 2001

"Innovative Technologies for Detecting Alcohol Abuse and Monitoring Drinking Status" American Clinical Laboratory, Vol. 20, No. 1, 2001

"Highlights of the 2000 CIU: Take a Risk!" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000

"Alternative/Complementary Medicine" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000

"Life Settlements" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 4, 2000, with Chris Cook

"Underwriting Settlements" In: Viatical and Life Settlements: The Challenge Facing the Life Insurance Industry, Jean Gora, ed., Life Office Management Association, Chapter 4, 2000

"Detecting Alcohol Abuse and Monitoring Drinking Status" LabOne Insight, Fall 2000

"Building Corporate E-Commerce" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Highlights of the 2000 HOLUA: Brave New World" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Progress Report on the Formation of the New Underwriting Organization" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 3, 2000

"Highlights of the Spring 2000 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 2, 2000

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Les Grubin Hosts Risk Appraisal Forum in the City by the Bay" Broker World, Vol. 20, No. 6, 2000

"Highlights of the 1999 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 1, 2000

"A Substandard Life Brokerage Agent's Perspective on Underwriting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 16, No. 1, 2000

"Liquid Gold: What Urine Can Do for You" NAILBA Magazine, Winter 2000, with Kip Whitefield

"Highlights of the 1999 CIU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 4, 1999

"Highlights of the 2nd International Underwriting Congress" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 3, 1999

"Highlights of the 1999 HOIUA Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 3, 1999

"Predicting Motor Vehicle Accidents Among the Elderly" Underwriter Alert, Vol. 9, No. 2, 1999

"Risk Factors for Elder Abuse" Journal of Insurance Medicine, Vol. 31, No. 1, 1999, pp 13-20

"Insurance Securitization" On The Risk - Journal of the Academy of Life Underwriting, Vol. 15, No. 1, 1999

"Highlights of the 1998 HOIUA: Capitol Crossfire" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 3, 1998

"DNA Typing for Individual Identification" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 2, 1998

"DNA Typing for Individual Identification" FALU Paper, 1998

"Highlights of the 1997 IHOU: Remember Our Mission" On The Risk - Journal of the Academy of Life Underwriting, Vol. 14, No. 1, 1998

"Underwriting and Risk Classification" Society of Actuaries' International Section News, No. 15, February 1998, with Chris Cook

"Highlights of the 1997 CIU: Reach for the Top" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 4, 1997

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Highlights of the 1997 HOLUA: The Heat Is On" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 3, 1997

"First International Underwriting Congress" Society of Actuaries' International Section News, No. 14, August 1997, with Chris Cook

"Highlights of the 1997 International Underwriting Congress" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 2, with Chris Cook

"International Outlook: Highlights of the 1997 International Underwriting Congress" Resources, Vol. 17, No. 6 Supplement, 1997, with Chris Cook

"Highlights of the 1996 IHOU: Building Bridges" On The Risk - Journal of the Academy of Life Underwriting, Vol. 13, No. 1, 1997

"Medical Studies: Where Do They Come From? Transferring Medical Knowledge to Risk Selection" (Part 2 of 2) Underwriter Alert, Vol. 6, No. 6, 1997

"Elevated GGT, Hypertension and Obesity" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 4, 1996

"Clinical Trials and Population Studies (Part 1 of 2)" Underwriter Alert, Vol. 6, No. 5, 1996

"Highlights of the 1996 HOLUA: Navigating the Waves of Change" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 3, 1996

"Underwriting Cultural Markets: Focus on Asian Indian Ethnicity" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 3, 1996

"Highlights of the Spring 1996 Risk Appraisal Forum" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 2, 1996

"Tobacco and User/Abstainer Pricing" Product Development News Society of Actuaries, Issue 40, May 1996

"Underwriting Research Resources Among Life Insurers: A Survey" VFD Consulting, Inc. 1996

"Highlights of the 1995 ICLAM/AAIM Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 1, 1996, with John J. Krinik

"The Quest for Excellence: Highlights of the 1995 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 12, No. 1, 1996

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Conference Review: 1995 Nucleic Acid-Based Technologies" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 4, 1995

"Scaling New Peaks - Highlights of the 1995 HOLUA Annual Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 3, 1995

"OTR Meeting Review: 1995 Society of Insurance Research Planning and Economics Conference" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 3, 1995

"Tobacco and User/Abstainer Pricing" On The Risk - Journal of the Academy of Life Underwriting Vol. 11, No. 2, 1995

"OTR Meeting Review: Highlights of the 1994 IHOU" On The Risk - Journal of the Academy of Life Underwriting, Vol. 11, No. 1, 1995

"Underwriting Marital Violence" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 5, 1994

"Highlights of the 1994 HOLUA Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 4, 1994

"How Agents Can Cope With Reluctance to Sell DI" National Underwriter, Vol. 97, No. 49, 1993

"Both 'Supply' and 'Demand' Causing Sales Doldrums" National Underwriter, Vol. 97, No. 44, 1993

"Sailing for Success: Highlights of the 1993 IHOU Meeting" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 2, 1994

"Moderate Alcohol Intake and Reduced Mortality: Illusion or Preferred Risk?" On The Risk - Journal of the Academy of Life Underwriting, Vol. 10, No. 1, 1993

"Expanding Horizons: Highlights of the 1993 HOLUA" On The Risk - Journal of the Academy of Life Underwriting, Vol. 9, No. 4, 1993

"Underwriters Urged to Tap More Into Elderly Mkt" National Underwriter, Vol. 97, No. 23, 1993

Contributing Analyst, Medical Risks: Trends in Mortality by Age and Time Elapsed, Edward Lew and Jerzy Gajewski, Praeger Publishers, New York, 1990 (as Vera F. Kelly)

"Notes on Breast Cancer" On The Risk - Journal of the Academy of Life Underwriting, Vol. 4, No. 3, 1988 (as Vera F. Kelly)

Vera F. Dolan

Curriculum Vitae, continued

PUBLICATIONS - INSURANCE, continued

"Underwriting Epilepsy" On The Risk - Journal of the Academy of Life Underwriting, Vol. 2, No. 4, 1986
(as Vera F. Kelly)

PUBLICATIONS – BUSINESS, HEALTH and OTHER

"Selling Our Children in the U.S.: An Interview with Russ Combs" The Voice: The Journal of the Domestic Violence Movement, Winter 2005

Contributor, After the Guns Fall Silent: The Enduring Legacy of Landmines, S. Roberts and J. Williams, Vietnam Veterans of America Foundation, Washington, D.C. 1995

Editor, The Politics of Information Systems, Paul Strassmann, Information Economics Press, New Canaan, CT, 1994

Invited Editorial Response, American Programmer, January, 1993

Editor-Producer, Win Some, Lose Some: My 40 Years in Corporate America, John Titsworth, Information Economics Press, New Canaan, CT, 1992

Editor, The Business Value of Computers, Paul Strassmann, Information Economics Press, New Canaan, CT, 1990

Editor, Information Payoff: The Transformation of Work in the Electronic Age, Paul Strassmann, Macmillan Free Press, NY, 1985 (as Vera F. Kelly)

"A Proportionate Mortality Study of an Oil, Chemical and Atomic Workers Local in Texas City, Texas" Annals of the New York Academy of Sciences, 381(1982): 54-61, with Reeve, Waxweiler, Thomas and Itaya (as Vera F. Kelly)

PRESENTATIONS

"Life Expectancy for Litigation" Collegium of Pecuniary Damage Experts, Las Vegas, Nevada, March 31, 2017

"Juvenile Life Without Parole Sentencing and Resentencing Case Update" CLE presentation (4.5 hours, course no. 168516), University of South Carolina School of Law, Columbia, South Carolina, December 16, 2016

"Isolated Hematuria: What Is the Risk?" Northern California Life Insurance Association, Walnut Creek, California, May 10, 2012

"Positive Cocaine Tests and Mortality" Northern California Life Insurance Association, Berkeley, California, September 17, 2009

Vera F. Dolan

Curriculum Vitae, continued

PRESENTATIONS, continued

“Actuaries and Public Health: From Analysis to Action” Society of Actuaries Health Spring Meeting, Los Angeles, California, May 28, 2008, with Grady Catterall and Dana Goldman

“Research Results: Potential Impact of a Pandemic on the U.S. Health Insurance System” Society of Actuaries Health Spring Meeting, Los Angeles, California, May 28, 2008, with Jim Toole and Jim Walbridge

“How the World Has Changed, and How Medical Underwriting Will Benefit Your Applicants and Your Companies’ Bottom Line” Annual Product Development Actuary Symposium, Denver, Colorado, June 26, 2007, with Robert L. Stout

“Non-Underwritten Life Products – Do They Work?” Annual Product Development Actuary Symposium, Denver, Colorado, June 25, 2007, with Jack Simon

“Pandemics and Extreme Events” Actuarial Society of Greater New York Annual Meeting, New York City, New York, November 9, 2006, with Janet Carstens

“Underwriting Simplified Issue Life Insurance Products” Group Underwriting Association of America, San Diego, California, October 31, 2006, with Ernie Testa

“The Life Settlements Market” Society of Actuaries Annual Meeting, Chicago, Illinois, October 18, 2006, with Tony Duscio and Jay Vadivello

“Preparing for Extreme Events” Society of Actuaries Annual Meeting, Chicago, Illinois, October 18, 2006, with Janet Carstens and Max Rudolph

“Pandemic Exposure and Risk Management Strategies in Asia as Compared to the United States” Society of Actuaries Life Spring Meeting, Hollywood, Florida, May 24, 2006, with Ronald Klein

“Current Trends in Distribution Channels: New Underwriting for a New Millennium” Society of Actuaries Life Spring Meeting, New Orleans, Louisiana, May 23, 2005, with Jim McArdle and Ernie Testa

“Gynecologic and Obstetric Disorders” Institute of Caribbean Home Office Underwriters, Almond Beach Resort, Barbados, September 14, 2004

“Sleep Dysfunction and Disorders” Institute of Caribbean Home Office Underwriters, Almond Beach Resort, Barbados, September 13, 2004

“Sleep Dysfunction and Disorders” Western Home Office Underwriters Association, Colorado Springs, Colorado, June 3, 2004

“Nail a Front Door on Your Back Room” Social Enterprise Alliance, San Francisco, California, March 5, 2004, with David Allburn and Russ Combs

Vera F. Dolan

Curriculum Vitae, continued

PRESENTATIONS, continued

"Multiple Sclerosis" Northern California Life Insurance Association, Emeryville, California, October 22, 2003

"Post-Stroke Morbidity" Northern California Life Insurance Association, San Rafael, California, March 21, 2001

"Variable Life Insurance – The New Frontier!" National Association of Variable Annuities, Palm Beach, Florida, November 6, 2000, with Mark Daley

"Analysis of Profitability by Customer: Banking Case Study" Society of Actuaries, Orlando, Florida, June 19, 1997, with Rex Atwood and Nancy Church

"Establishing Underwriting Guidelines Using General Population Data" International Underwriting Congress, Mexico City, Mexico, February 25, 1997, with Rick Bergstrom

"They Came for AIDS; They Stayed for Liver" Society of Actuaries, Orlando, Florida, October 28, 1996, with Rick Bergstrom and Hank George

"Detecting and Evaluating Marital Violence" Western Home Office Underwriters Association, Squaw Valley, California, June 9, 1995

Last update March 31, 2017

Exhibit 2

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for all races; N=64,204

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	All races Dead	Total	Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
15	3	0	3	0.000000		0.000439	
16	90	0	90	0.000000		0.000552	
17	831	0	831	0.000000		0.000675	
18	2,272	6	2,278	0.002634	0.002701	0.000807	3.3
19	4,322	12	4,334	0.002769	0.003011	0.000942	3.2
20	6,585	24	6,609	0.003631	0.003233	0.001085	3.0
21	8,457	28	8,485	0.003300	0.003812	0.001216	3.1
22	9,725	44	9,769	0.004504	0.004359	0.001310	3.3
23	10,374	55	10,429	0.005274	0.005486	0.001353	4.1
24	10,409	70	10,479	0.006680	0.006254	0.001358	4.6
25	10,065	69	10,134	0.006809	0.006646	0.001351	4.9
26	9,552	62	9,614	0.006449	0.007431	0.001349	5.5
27	8,993	82	9,075	0.009036	0.007899	0.001353	5.8
28	8,454	70	8,524	0.008212	0.008922	0.001371	6.5
29	8,014	77	8,091	0.009517	0.009048	0.001399	6.5
30	7,681	73	7,754	0.009414	0.009188	0.001432	6.4
31	7,465	65	7,530	0.008632	0.010131	0.001464	6.9
32	7,199	90	7,289	0.012347	0.010670	0.001496	7.1
33	6,904	77	6,981	0.011030	0.011365	0.001528	7.4
34	6,738	73	6,811	0.010718	0.010614	0.001563	6.8
35	6,473	66	6,539	0.010093	0.010348	0.001613	6.4
36	6,288	65	6,353	0.010231	0.011223	0.001682	6.7
37	5,989	81	6,070	0.013344	0.012599	0.001764	7.1
38	5,823	84	5,907	0.014220	0.014226	0.001857	7.7
39	5,670	87	5,757	0.015112	0.015292	0.001964	7.8
40	5,529	93	5,622	0.016542	0.016436	0.002083	7.9
41	5,286	95	5,381	0.017655	0.017101	0.002227	7.7
42	5,114	89	5,203	0.017106	0.017659	0.002414	7.3
43	5,012	93	5,105	0.018217	0.018047	0.002653	6.8
44	4,901	94	4,995	0.018819	0.019173	0.002939	6.5
45	4,734	99	4,833	0.020484	0.021675	0.003243	6.7
46	4,545	120	4,665	0.025723	0.025268	0.003563	7.1
47	4,164	127	4,291	0.029597	0.027663	0.003922	7.1
48	3,971	113	4,084	0.027669	0.030107	0.004320	7.0
49	3,715	127	3,842	0.033056	0.032962	0.004749	6.9
50	3,453	137	3,590	0.038162	0.038314	0.005193	7.4
51	3,193	146	3,339	0.043726	0.041608	0.005647	7.4
52	2,920	131	3,051	0.042937	0.044710	0.006122	7.3
53	2,669	133	2,802	0.047466	0.045803	0.006630	6.9
54	2,372	117	2,489	0.047007	0.050491	0.007181	7.0
55	2,068	125	2,193	0.057000	0.053517	0.007779	6.9
56	1,852	111	1,963	0.056546	0.055167	0.008415	6.6
57	1,624	89	1,713	0.051956	0.057715	0.009074	6.4
58	1,418	98	1,516	0.064644	0.061413	0.009727	6.3
59	1,213	88	1,301	0.067640	0.069713	0.010371	6.7
60	1,057	88	1,145	0.076856	0.078531	0.011034	7.1
61	878	88	966	0.091097	0.082366	0.011738	7.0
62	733	63	796	0.079146	0.086399	0.012489	6.9
63	635	62	697	0.088953	0.083857	0.013335	6.3
64	549	50	599	0.083472	0.085654	0.014319	6.0
65	444	41	485	0.084536	0.087103	0.015482	5.6
66	379	39	418	0.093301	0.096722	0.016824	5.7
67	324	41	365	0.112329	0.097724	0.018330	5.3
68	271	26	297	0.087542	0.091657	0.019900	4.6
69	234	19	253	0.075099	0.089544	0.021539	4.2

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for all races; N=64,204

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	All races Dead	Total	Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
70	194	23	217	0.105991	0.095649	0.023396	4.1
71	152	20	172	0.116279	0.090170	0.025476	3.5
72	136	14	150	0.093333	0.096203	0.027794	3.5
73	125	8	133	0.060150	0.097922	0.030350	3.2
74	102	12	114	0.105263	0.091534	0.033204	2.8
75	85	11	96	0.114583	0.094742	0.036345	2.6
76	76	7	83	0.084337	0.109378	0.039788	2.7
77	57	7	64	0.109375	0.111855	0.043720	2.6
78	52	8	60	0.133333	0.114580	0.048335	2.4
79	45	6	51	0.117647	0.116462	0.053650	2.2
80	34	5	39	0.128205	0.125356	0.059565	2.1
81	29	3	32	0.093750		0.065848	
82	22	4	26	0.153846		0.072956	
83	20	1	21	0.047619		0.080741	
84	19	0	19	0.000000		0.089357	
85	17	1	18	0.055556		0.099650	
86	14	2	16	0.125000		0.110901	
87	13	1	14	0.071429		0.123146	
88	10	3	13	0.230769		0.136412	
89	13	0	13	0.000000		0.150710	
90	9	0	9	0.000000		0.166038	
91	8	0	8	0.000000		0.182374	
92	7	0	7	0.000000		0.199676	
93	10	0	10	0.000000		0.217880	
94	15	1	16	0.062500		0.236903	
95	2	0	2	0.000000		0.256636	
96	2	0	2	0.000000		0.276954	
97	2	0	2	0.000000		0.297713	
Total deaths		4,239					

Exhibit 3

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for blacks only; N=40,454

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
15	2	0	2	0.000000		0.000655	
16	60	0	60	0.000000		0.000822	
17	543	0	543	0.000000		0.001004	
18	1,504	5	1,509	0.003313	0.003033	0.001206	2.5
19	2,898	8	2,906	0.002753	0.003351	0.001421	2.4
20	4,488	18	4,516	0.003986	0.003383	0.001654	2.0
21	5,847	20	5,887	0.003409	0.004059	0.001874	2.2
22	6,867	33	6,900	0.004783	0.004333	0.002041	2.1
23	7,453	36	7,489	0.004807	0.005139	0.002134	2.4
24	7,508	44	7,552	0.005826	0.005656	0.002168	2.6
25	7,216	46	7,262	0.006334	0.005943	0.002186	2.7
26	6,842	39	6,881	0.005668	0.006574	0.002212	3.0
27	6,426	50	6,476	0.007721	0.007412	0.002230	3.3
28	5,938	53	5,991	0.008847	0.008178	0.002245	3.6
29	5,604	45	5,649	0.007966	0.008357	0.002259	3.7
30	5,284	44	5,328	0.008258	0.007893	0.002267	3.5
31	5,059	38	5,097	0.007455	0.008957	0.002276	3.9
32	4,786	54	4,840	0.011157	0.009753	0.002300	4.2
33	4,554	49	4,603	0.010645	0.010648	0.002350	4.5
34	4,392	45	4,437	0.010142	0.010346	0.002426	4.3
35	4,152	43	4,195	0.010250	0.009901	0.002527	3.9
36	3,937	37	3,974	0.009311	0.010548	0.002646	4.0
37	3,679	45	3,724	0.012084	0.012161	0.002772	4.4
38	3,525	54	3,579	0.015088	0.013441	0.002896	4.6
39	3,452	46	3,498	0.013150	0.015186	0.003027	5.0
40	3,291	58	3,349	0.017319	0.015133	0.003179	4.8
41	3,101	47	3,148	0.014930	0.015972	0.003369	4.7
42	3,016	48	3,064	0.015666	0.015002	0.003607	4.2
43	2,941	43	2,984	0.014410	0.014833	0.003902	3.8
44	2,870	42	2,912	0.014423	0.015822	0.004251	3.7
45	2,739	52	2,791	0.018631	0.019842	0.004616	4.3
46	2,611	71	2,682	0.026473	0.024402	0.005016	4.9
47	2,421	70	2,491	0.028101	0.026482	0.005513	4.8
48	2,274	58	2,332	0.024871	0.026654	0.006129	4.3
49	2,127	59	2,186	0.026990	0.028625	0.006838	4.2
50	1,988	70	2,058	0.034014	0.032107	0.007586	4.2
51	1,830	67	1,897	0.035319	0.035336	0.008344	4.2
52	1,681	64	1,745	0.036676	0.038086	0.009145	4.2
53	1,541	68	1,609	0.042262	0.041294	0.010011	4.1
54	1,360	64	1,424	0.044944	0.046430	0.010959	4.2
55	1,183	65	1,248	0.052083	0.049429	0.011995	4.1
56	1,055	57	1,112	0.051259	0.050691	0.013107	3.9
57	937	48	985	0.048731	0.056749	0.014274	4.0
58	794	60	854	0.070258	0.061732	0.015455	4.0
59	677	48	725	0.066207	0.072218	0.016630	4.3
60	585	51	636	0.080189	0.082261	0.017888	4.6
61	466	52	518	0.100386	0.093277	0.019207	4.9
62	363	40	403	0.099256	0.093367	0.020451	4.6
63	320	28	348	0.080460	0.093350	0.021595	4.3
64	269	30	299	0.100334	0.089763	0.022717	4.0
65	206	20	226	0.088496	0.097257	0.023933	4.1
66	183	21	204	0.102941	0.107622	0.025369	4.2
67	152	23	175	0.131429	0.114021	0.027104	4.2
68	116	14	130	0.107692	0.117090	0.029089	4.0
69	95	12	107	0.112150	0.107763	0.031191	3.5

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for blacks only; N=40,454

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	Black Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
70	78	9	87	0.103448	0.115344	0.033429	3.5
71	60	9	69	0.130435	0.116942	0.035780	3.3
72	55	4	59	0.067797		0.038397	
73	48	3	51	0.058824		0.041254	
74	39	5	44	0.113636		0.044174	
75	30	5	35	0.142857		0.047704	
76	27	2	29	0.068966		0.051047	
77	18	3	21	0.142857		0.054624	
78	17	3	20	0.150000		0.059628	
79	15	2	17	0.117647		0.064976	
80	11	2	13	0.153846		0.070676	
81	9	1	10	0.100000		0.076651	
82	8	0	8	0.000000		0.085516	
83	7	0	7	0.000000		0.092664	
84	6	0	6	0.000000		0.100307	
85	5	0	5	0.000000		0.108460	
86	4	1	5	0.200000		0.117140	
87	5	0	5	0.000000		0.126357	
88	4	0	4	0.000000		0.136120	
89	3	0	3	0.000000		0.146432	
90	2	0	2	0.000000		0.157294	
91	3	0	3	0.000000		0.168701	
92	2	0	2	0.000000		0.180641	
93	3	0	3	0.000000		0.193099	
94	7	0	7	0.000000		0.206052	
95	1	0	1	0.000000		0.219470	
96	1	0	1	0.000000		0.233321	
97	1	0	1	0.000000		0.247561	
Total deaths		2,351					

Exhibit 4

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for whites only; N=22,081

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
15	1	0	1	0.000000		0.000414	
16	28	0	28	0.000000		0.000522	
17	268	0	268	0.000000		0.000641	
18	717	1	718	0.001393		0.000773	
19	1,325	4	1,329	0.003010		0.000909	
20	1,944	6	1,950	0.003077	0.003181	0.001053	3.0
21	2,427	8	2,435	0.003285	0.003500	0.001185	3.0
22	2,647	11	2,658	0.004138	0.004808	0.001283	3.7
23	2,697	19	2,716	0.006996	0.006919	0.001333	5.2
24	2,676	26	2,702	0.009623	0.008440	0.001349	6.3
25	2,620	23	2,643	0.008702	0.009056	0.001354	6.7
26	2,466	22	2,488	0.008842	0.010391	0.001365	7.6
27	2,316	32	2,348	0.013629	0.009974	0.001379	7.2
28	2,265	17	2,282	0.007450	0.011864	0.001401	8.5
29	2,173	32	2,205	0.014512	0.011735	0.001432	8.2
30	2,161	29	2,190	0.013242	0.013335	0.001467	9.1
31	2,177	27	2,204	0.012250	0.013876	0.001502	9.2
32	2,195	36	2,231	0.016136	0.013753	0.001536	9.0
33	2,147	28	2,175	0.012874	0.013955	0.001570	8.9
34	2,150	28	2,178	0.012856	0.012136	0.001609	7.5
35	2,131	23	2,154	0.010678	0.011928	0.001665	7.2
36	2,177	27	2,204	0.012250	0.013112	0.001742	7.5
37	2,158	36	2,194	0.016408	0.014128	0.001829	7.7
38	2,156	30	2,186	0.013724	0.016339	0.001921	8.5
39	2,078	40	2,118	0.018886	0.016139	0.002023	8.0
40	2,117	34	2,151	0.015807	0.019133	0.002135	9.0
41	2,066	48	2,114	0.022706	0.019370	0.002273	8.5
42	2,001	40	2,041	0.019598	0.022267	0.002459	9.1
43	1,991	50	2,041	0.024498	0.023331	0.002703	8.6
44	1,956	52	2,008	0.025896	0.024755	0.002997	8.3
45	1,922	47	1,969	0.023870	0.025127	0.003309	7.6
46	1,864	49	1,913	0.025614	0.027223	0.003631	7.5
47	1,684	56	1,740	0.032184	0.030096	0.003984	7.6
48	1,638	55	1,693	0.032487	0.035454	0.004366	8.1
49	1,540	67	1,607	0.041693	0.039239	0.004768	8.2
50	1,428	65	1,493	0.043537	0.046941	0.005179	9.1
51	1,325	78	1,403	0.055595	0.050285	0.005596	9.0
52	1,210	66	1,276	0.051724	0.054307	0.006034	9.0
53	1,104	65	1,169	0.055603	0.052714	0.006508	8.1
54	990	53	1,043	0.050815	0.057024	0.007026	8.1
55	868	60	928	0.064655	0.060073	0.007591	7.9
56	780	54	834	0.064748	0.062302	0.008191	7.6
57	672	41	713	0.057504	0.060358	0.008812	6.8
58	608	38	646	0.058824	0.062585	0.009425	6.6
59	520	40	560	0.071429	0.068333	0.010028	6.8
60	458	37	495	0.074747	0.076123	0.010645	7.2
61	402	36	438	0.082192	0.072227	0.011305	6.4
62	362	23	385	0.059740	0.079569	0.012031	6.6
63	308	33	341	0.096774	0.074694	0.012880	5.8
64	276	20	296	0.067568	0.082340	0.013896	5.9
65	233	21	254	0.082677	0.085880	0.015110	5.7
66	191	18	209	0.086124	0.079940	0.016503	4.8
67	169	18	187	0.096257	0.074702	0.018045	4.1
68	153	11	164	0.067073	0.079705	0.019623	4.1
69	139	6	145	0.041379	0.083840	0.021262	3.9

South Carolina DC men admitted 1996 to 2015, followed to 2016

Last admission only, duplicate IDs removed, admission year errors removed

Exposure for whites only; N=22,081

Mortality rates are smoothed for ≥ 5 deaths (running average of 3 or 5 raw rates, previous age, current age & next age)

Age	Alive	White Dead	Total	Raw Mortality Rate	Smoothed Mortality Rate	US Population Mortality Rate	Mortality Ratios (≥ 5 deaths only)
70	116	14	130	0.107692	0.086566	0.023146	3.7
71	92	11	103	0.106796	0.085347	0.025278	3.4
72	81	10	91	0.109890	0.097071	0.027630	3.5
73	77	5	82	0.060976	0.095204	0.030219	3.2
74	63	7	70	0.100000	0.092364	0.033126	2.8
75	55	6	61	0.098361	0.088990	0.036255	2.5
76	49	5	54	0.092593	0.095477	0.039716	2.4
77	39	4	43	0.093023		0.043757	
78	35	5	40	0.125000		0.048405	
79	30	4	34	0.117647		0.053785	
80	23	3	26	0.115385		0.059839	
81	20	2	22	0.090909		0.066176	
82	14	4	18	0.222222		0.073348	
83	13	1	14	0.071429		0.081302	
84	13	0	13	0.000000		0.090236	
85	12	1	13	0.076923		0.100743	
86	10	1	11	0.090909		0.112235	
87	8	1	9	0.111111		0.124750	
88	6	3	9	0.333333		0.138311	
89	7	0	7	0.000000		0.152931	
90	6	0	6	0.000000		0.168603	
91	5	0	5	0.000000		0.185302	
92	5	0	5	0.000000		0.202980	
93	7	0	7	0.000000		0.221569	
94	8	1	9	0.111111		0.240976	
95	1	0	1	0.000000		0.261085	
96	1	0	1	0.000000		0.281762	
97	1	0	1	0.000000		0.302853	
Total deaths		1,874					

EXHIBIT 5

Table 2. Life table for males: United States, 2011Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1	0.006575	100,000	658	99,427	7,629,389	76.3
1-2	0.000445	99,342	44	99,320	7,529,961	75.8
2-3	0.000301	99,298	30	99,283	7,430,641	74.8
3-4	0.000240	99,268	24	99,256	7,331,358	73.9
4-5	0.000183	99,244	18	99,235	7,232,101	72.9
5-6	0.000169	99,226	17	99,218	7,132,866	71.9
6-7	0.000150	99,210	15	99,202	7,033,648	70.9
7-8	0.000134	99,195	13	99,188	6,934,446	69.9
8-9	0.000115	99,181	11	99,176	6,835,258	68.9
9-10	0.000097	99,170	10	99,165	6,736,082	67.9
10-11	0.000085	99,160	8	99,156	6,636,917	66.9
11-12	0.000092	99,152	9	99,147	6,537,761	65.9
12-13	0.000132	99,143	13	99,136	6,438,613	64.9
13-14	0.000213	99,130	21	99,119	6,339,477	64.0
14-15	0.000323	99,109	32	99,093	6,240,358	63.0
15-16	0.000439	99,077	43	99,055	6,141,265	62.0
16-17	0.000552	99,033	55	99,006	6,042,210	61.0
17-18	0.000675	98,979	67	98,945	5,943,204	60.0
18-19	0.000807	98,912	80	98,872	5,844,259	59.1
19-20	0.000942	98,832	93	98,785	5,745,387	58.1
20-21	0.001085	98,739	107	98,685	5,646,602	57.2
21-22	0.001216	98,632	120	98,572	5,547,917	56.2
22-23	0.001310	98,512	129	98,447	5,449,345	55.3
23-24	0.001353	98,383	133	98,316	5,350,898	54.4
24-25	0.001358	98,250	133	98,183	5,252,582	53.5
25-26	0.001351	98,116	133	98,050	5,154,399	52.5
26-27	0.001349	97,984	132	97,918	5,056,349	51.6
27-28	0.001353	97,852	132	97,785	4,958,431	50.7
28-29	0.001371	97,719	134	97,652	4,860,646	49.7
29-30	0.001399	97,585	137	97,517	4,762,994	48.8
30-31	0.001432	97,449	140	97,379	4,665,477	47.9
31-32	0.001464	97,309	143	97,238	4,568,098	46.9
32-33	0.001496	97,167	145	97,094	4,470,860	46.0
33-34	0.001528	97,021	148	96,947	4,373,766	45.1
34-35	0.001563	96,873	151	96,797	4,276,819	44.1
35-36	0.001613	96,722	156	96,643	4,180,022	43.2
36-37	0.001682	96,565	162	96,484	4,083,378	42.3
37-38	0.001764	96,403	170	96,318	3,986,894	41.4
38-39	0.001857	96,233	179	96,144	3,890,576	40.4
39-40	0.001964	96,054	189	95,960	3,794,432	39.5
40-41	0.002083	95,866	200	95,766	3,698,472	38.6
41-42	0.002227	95,666	213	95,560	3,602,706	37.7
42-43	0.002414	95,453	230	95,338	3,507,147	36.7
43-44	0.002653	95,223	253	95,096	3,411,809	35.8
44-45	0.002939	94,970	279	94,830	3,316,713	34.9
45-46	0.003243	94,691	307	94,537	3,221,882	34.0
46-47	0.003583	94,384	336	94,216	3,127,345	33.1
47-48	0.003922	94,047	369	93,863	3,033,129	32.3
48-49	0.004320	93,679	405	93,476	2,939,266	31.4
49-50	0.004749	93,274	443	93,062	2,845,790	30.5
50-51	0.005193	92,831	482	92,590	2,752,738	29.7
51-52	0.005647	92,349	522	92,088	2,660,148	28.8
52-53	0.006122	91,827	562	91,546	2,568,060	28.0
53-54	0.006630	91,265	605	90,963	2,476,514	27.1
54-55	0.007181	90,660	651	90,335	2,385,551	26.3
55-56	0.007779	90,009	700	89,859	2,295,216	25.5
56-57	0.008415	89,309	752	89,333	2,205,557	24.7
57-58	0.009074	88,557	804	88,156	2,116,624	23.9
58-59	0.009727	87,754	854	87,327	2,028,469	23.1
59-60	0.010371	86,900	901	86,450	1,941,141	22.3
60-61	0.011034	85,999	949	85,525	1,854,692	21.6

See footnote at end of table.

Table 2. Life table for males: United States, 2011—Con.Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table02.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61-62	0.011738	85,050	998	84,551	1,769,167	20.8
62-63	0.012489	84,052	1,050	83,527	1,684,616	20.0
63-64	0.013335	83,002	1,107	82,449	1,601,089	19.3
64-65	0.014319	81,895	1,173	81,309	1,518,641	18.5
65-66	0.015482	80,723	1,250	80,098	1,437,332	17.8
66-67	0.016824	79,473	1,337	78,804	1,357,234	17.1
67-68	0.018330	78,136	1,432	77,420	1,278,430	16.4
68-69	0.019900	76,703	1,526	75,940	1,201,010	15.7
69-70	0.021539	75,177	1,619	74,367	1,125,070	15.0
70-71	0.023396	73,558	1,721	72,697	1,050,702	14.3
71-72	0.025476	71,837	1,830	70,922	978,005	13.6
72-73	0.027794	70,007	1,946	69,034	907,083	13.0
73-74	0.030350	68,061	2,066	67,028	838,049	12.3
74-75	0.033204	65,995	2,191	64,900	771,021	11.7
75-76	0.036345	63,804	2,319	62,645	706,121	11.1
76-77	0.039788	61,485	2,446	60,262	643,477	10.5
77-78	0.043720	59,039	2,581	57,748	583,215	9.9
78-79	0.048335	56,458	2,729	55,093	525,467	9.3
79-80	0.053650	53,729	2,883	52,287	470,374	8.8
80-81	0.059665	50,846	3,029	49,332	418,086	8.2
81-82	0.065848	47,817	3,149	46,243	368,754	7.7
82-83	0.072956	44,669	3,259	43,039	322,511	7.2
83-84	0.080741	41,410	3,343	39,738	279,472	6.7
84-85	0.089357	38,066	3,402	36,365	239,734	6.3
85-86	0.099650	34,665	3,454	32,938	203,368	5.9
86-87	0.110901	31,211	3,481	29,480	170,430	5.5
87-88	0.123146	27,749	3,417	26,041	140,950	5.1
88-89	0.136412	24,332	3,319	22,672	114,910	4.7
89-90	0.150710	21,013	3,167	19,429	92,237	4.4
90-91	0.166038	17,846	2,963	16,364	72,808	4.1
91-92	0.182374	14,883	2,714	13,526	56,443	3.8
92-93	0.199676	12,169	2,430	10,954	42,918	3.5
93-94	0.217880	9,739	2,122	8,678	31,964	3.3
94-95	0.236903	7,617	1,804	6,715	23,286	3.1
95-96	0.256636	5,812	1,492	5,067	16,571	2.9
96-97	0.276954	4,321	1,197	3,722	11,505	2.7
97-98	0.297713	3,124	930	2,659	7,782	2.5
98-99	0.318755	2,194	699	1,844	5,123	2.3
99-100	0.339914	1,495	508	1,241	3,279	2.2
100 and over	1.000000	987	987	2,038	2,038	2.1

SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 6

Table 17. Life table for non-Hispanic black males: United States, 2011Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSRI/64_11/Table17.xlsx

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1	0.012502	100,000	1,250	98,927	7,173,820	71.7
1-2	0.000674	98,750	67	98,716	7,074,893	71.6
2-3	0.000494	98,683	49	98,659	6,976,177	70.7
3-4	0.000356	98,634	35	98,617	6,877,518	69.7
4-5	0.000316	98,599	31	98,584	6,778,901	68.8
5-6	0.000258	98,568	25	98,555	6,680,317	67.8
6-7	0.000224	98,543	22	98,532	6,581,762	66.8
7-8	0.000193	98,521	19	98,511	6,483,230	65.8
8-9	0.000161	98,502	16	98,494	6,384,719	64.8
9-10	0.000128	98,486	13	98,480	6,286,225	63.8
10-11	0.000107	98,473	11	98,468	6,187,746	62.8
11-12	0.000118	98,463	12	98,457	6,089,278	61.8
12-13	0.000183	98,451	18	98,442	5,990,821	60.9
13-14	0.000310	98,433	31	98,418	5,892,379	59.9
14-15	0.000481	98,402	47	98,379	5,793,961	58.9
15-16	0.000655	98,355	64	98,323	5,695,583	57.9
16-17	0.000822	98,291	81	98,250	5,597,260	56.9
17-18	0.001004	98,210	99	98,160	5,499,010	56.0
18-19	0.001206	98,111	118	98,052	5,400,849	55.0
19-20	0.001421	97,993	139	97,923	5,302,797	54.1
20-21	0.001654	97,854	162	97,773	5,204,874	53.2
21-22	0.001874	97,692	183	97,600	5,107,101	52.3
22-23	0.002041	97,509	199	97,409	5,009,501	51.4
23-24	0.002134	97,310	208	97,206	4,912,092	50.5
24-25	0.002168	97,102	211	96,997	4,814,886	49.6
25-26	0.002186	96,891	212	96,786	4,717,890	48.7
26-27	0.002212	96,680	214	96,573	4,621,104	47.8
27-28	0.002230	96,466	215	96,358	4,524,531	46.9
28-29	0.002245	96,251	216	96,143	4,428,173	46.0
29-30	0.002259	96,035	217	95,926	4,332,030	45.1
30-31	0.002267	95,818	217	95,709	4,236,104	44.2
31-32	0.002276	95,600	218	95,492	4,140,395	43.3
32-33	0.002300	95,383	219	95,273	4,044,904	42.4
33-34	0.002350	95,163	224	95,052	3,949,631	41.5
34-35	0.002426	94,940	230	94,825	3,854,579	40.6
35-36	0.002527	94,709	239	94,590	3,759,755	39.7
36-37	0.002646	94,470	250	94,345	3,665,165	38.8
37-38	0.002772	94,220	261	94,089	3,570,820	37.9
38-39	0.002896	93,959	272	93,823	3,476,730	37.0
39-40	0.003027	93,687	284	93,545	3,382,908	36.1
40-41	0.003179	93,403	297	93,255	3,289,363	35.2
41-42	0.003369	93,106	314	92,949	3,196,108	34.3
42-43	0.003607	92,793	335	92,625	3,103,159	33.4
43-44	0.003902	92,458	361	92,277	3,010,533	32.6
44-45	0.004251	92,097	392	91,901	2,918,256	31.7
45-46	0.004616	91,706	423	91,494	2,826,355	30.8
46-47	0.005016	91,282	458	91,053	2,734,861	30.0
47-48	0.005513	90,824	501	90,574	2,643,807	29.1
48-49	0.006129	90,324	554	90,047	2,553,233	28.3
49-50	0.006838	89,770	614	89,463	2,463,186	27.4
50-51	0.007586	89,156	676	88,818	2,373,723	26.6
51-52	0.008344	88,480	738	88,111	2,284,905	25.8
52-53	0.009145	87,742	802	87,340	2,196,794	25.0
53-54	0.010011	86,939	870	86,504	2,109,454	24.3
54-55	0.010959	86,069	943	85,597	2,022,950	23.5
55-56	0.011995	85,126	1,021	84,615	1,937,352	22.8
56-57	0.013107	84,105	1,102	83,553	1,852,737	22.0
57-58	0.014274	83,002	1,185	82,410	1,769,184	21.3
58-59	0.015455	81,817	1,264	81,185	1,686,774	20.6
59-60	0.016630	80,553	1,340	79,883	1,605,589	19.9
60-61	0.017888	79,213	1,417	78,505	1,525,705	19.3

See footnotes at end of table.

Table 17. Life table for non-Hispanic black males: United States, 2011—Con.Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table17.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62	0.019207	77,796	1,494	77,049	1,447,201	18.6
62–63	0.020451	76,302	1,560	75,522	1,370,151	18.0
63–64	0.021595	74,742	1,614	73,935	1,294,629	17.3
64–65	0.022717	73,128	1,661	72,297	1,220,695	16.7
65–66	0.023933	71,466	1,710	70,611	1,148,398	16.1
66–67	0.025369	69,756	1,770	68,871	1,077,787	15.5
67–68	0.027104	67,986	1,843	67,065	1,008,915	14.8
68–69	0.029089	66,144	1,924	65,182	941,851	14.2
69–70	0.031191	64,220	2,003	63,218	876,669	13.7
70–71	0.033429	62,216	2,080	61,177	813,451	13.1
71–72	0.035780	60,137	2,152	59,061	752,274	12.5
72–73	0.038397	57,985	2,226	56,872	693,214	12.0
73–74	0.041254	55,759	2,300	54,608	636,342	11.4
74–75	0.044174	53,458	2,361	52,278	581,733	10.9
75–76	0.047704	51,097	2,438	49,878	529,456	10.4
76–77	0.051047	48,659	2,484	47,417	479,578	9.9
77–78	0.054624	46,175	2,522	44,914	432,161	9.4
78–79	0.059628	43,653	2,603	42,352	387,246	8.9
79–80	0.064976	41,050	2,667	39,716	344,895	8.4
80–81	0.070676	38,383	2,713	37,026	305,178	8.0
81–82	0.076651	35,670	2,734	34,303	268,152	7.5
82–83	0.085516	32,936	2,817	31,528	233,849	7.1
83–84	0.092664	30,119	2,791	28,724	202,321	6.7
84–85	0.100307	27,328	2,741	25,958	173,597	6.4
85–86	0.108460	24,587	2,667	23,254	147,639	6.0
86–87	0.117140	21,920	2,568	20,637	124,386	5.7
87–88	0.126357	19,353	2,445	18,130	103,749	5.4
88–89	0.136120	16,907	2,301	15,757	85,619	5.1
89–90	0.146432	14,606	2,139	13,537	69,862	4.8
90–91	0.157294	12,467	1,961	11,487	56,326	4.5
91–92	0.168701	10,506	1,772	9,620	44,839	4.3
92–93	0.180641	8,734	1,578	7,945	35,219	4.0
93–94	0.193099	7,156	1,382	6,465	27,274	3.8
94–95	0.206052	5,774	1,190	5,179	20,809	3.6
95–96	0.219470	4,584	1,006	4,081	15,630	3.4
96–97	0.233321	3,578	835	3,161	11,548	3.2
97–98	0.247561	2,743	679	2,404	8,388	3.1
98–99	0.262144	2,064	541	1,794	5,984	2.9
99–100	0.277019	1,523	422	1,312	4,190	2.8
100 and over	1.000000	1,101	1,101	2,878	2,878	2.6

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.

SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 7

Table 14. Life table for non-Hispanic white males: United States, 2011Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1	0.005524	100,000	552	99,517	7,643,091	76.4
1-2	0.000413	99,448	41	99,427	7,543,575	75.9
2-3	0.000273	99,407	27	99,393	7,444,148	74.9
3-4	0.000229	99,379	23	99,368	7,344,755	73.9
4-5	0.000156	99,357	15	99,349	7,245,387	72.9
5-6	0.000160	99,341	16	99,333	7,146,038	71.9
6-7	0.000146	99,325	14	99,318	7,046,705	70.9
7-8	0.000132	99,311	13	99,304	6,947,387	70.0
8-9	0.000114	99,298	11	99,292	6,848,082	69.0
9-10	0.000095	99,286	9	99,282	6,748,790	68.0
10-11	0.000082	99,277	8	99,273	6,649,509	67.0
11-12	0.000088	99,269	9	99,264	6,550,236	66.0
12-13	0.000125	99,260	12	99,254	6,450,972	65.0
13-14	0.000201	99,248	20	99,238	6,351,718	64.0
14-15	0.000305	99,228	30	99,213	6,252,480	63.0
15-16	0.000414	99,197	41	99,177	6,153,268	62.0
16-17	0.000522	99,156	52	99,130	6,054,081	61.1
17-18	0.000641	99,105	64	99,073	5,954,960	60.1
18-19	0.000773	99,041	77	99,003	5,855,888	59.1
19-20	0.000909	98,964	90	98,920	5,756,885	58.2
20-21	0.001053	98,875	104	98,822	5,657,965	57.2
21-22	0.001185	98,770	117	98,712	5,559,143	56.3
22-23	0.001283	98,653	127	98,590	5,460,431	55.3
23-24	0.001333	98,527	131	98,461	5,361,841	54.4
24-25	0.001349	98,395	133	98,329	5,263,380	53.5
25-26	0.001354	98,263	133	98,196	5,165,051	52.6
26-27	0.001365	98,130	134	98,063	5,066,855	51.6
27-28	0.001379	97,996	135	97,928	4,968,792	50.7
28-29	0.001401	97,860	137	97,792	4,870,864	49.8
29-30	0.001432	97,723	140	97,653	4,773,072	48.8
30-31	0.001467	97,583	143	97,512	4,675,419	47.9
31-32	0.001502	97,440	146	97,367	4,577,907	47.0
32-33	0.001536	97,294	149	97,219	4,480,540	46.1
33-34	0.001570	97,145	153	97,068	4,383,321	45.1
34-35	0.001609	96,992	156	96,914	4,286,252	44.2
35-36	0.001665	96,836	161	96,755	4,189,338	43.3
36-37	0.001742	96,675	166	96,591	4,092,583	42.3
37-38	0.001829	96,506	177	96,418	3,995,992	41.4
38-39	0.001921	96,330	185	96,237	3,899,574	40.5
39-40	0.002023	96,145	195	96,047	3,803,337	39.6
40-41	0.002135	95,950	205	95,848	3,707,290	38.6
41-42	0.002273	95,745	216	95,637	3,611,442	37.7
42-43	0.002459	95,528	235	95,410	3,515,805	36.8
43-44	0.002703	95,293	258	95,164	3,420,395	35.9
44-45	0.002997	95,035	285	94,893	3,325,231	35.0
45-46	0.003309	94,750	313	94,594	3,230,338	34.1
46-47	0.003631	94,437	343	94,266	3,135,744	33.2
47-48	0.003984	94,094	375	93,907	3,041,479	32.3
48-49	0.004366	93,719	409	93,515	2,947,572	31.5
49-50	0.004768	93,310	445	93,088	2,854,058	30.6
50-51	0.005179	92,865	481	92,625	2,760,970	29.7
51-52	0.005596	92,384	517	92,126	2,668,345	28.9
52-53	0.006034	91,867	554	91,590	2,576,220	28.0
53-54	0.006508	91,313	594	91,016	2,484,630	27.2
54-55	0.007026	90,719	637	90,400	2,393,614	26.4
55-56	0.007591	90,081	684	89,739	2,303,214	25.6
56-57	0.008191	89,397	732	89,031	2,213,475	24.8
57-58	0.008812	88,665	781	88,274	2,124,444	24.0
58-59	0.009425	87,884	828	87,470	2,036,169	23.2
59-60	0.010028	87,056	873	86,619	1,948,700	22.4
60-61	0.010645	86,183	917	85,724	1,862,081	21.6

See footnotes at end of table.

Table 14. Life table for non-Hispanic white males: United States, 2011—Con.Spreadsheet version available from: http://ftp.cdc.gov/pub/Health_Statistics/NCHS/Publications/NVSR/64_11/Table14.xlsx.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62	0.011305	85,265	964	84,783	1,776,357	20.8
62–63	0.012031	84,301	1,014	83,794	1,691,574	20.1
63–64	0.012880	83,287	1,073	82,751	1,607,780	19.3
64–65	0.013896	82,214	1,142	81,643	1,525,029	18.5
65–66	0.015110	81,072	1,225	80,459	1,443,386	17.8
66–67	0.016503	79,847	1,318	79,188	1,362,927	17.1
67–68	0.018045	78,529	1,417	77,821	1,283,739	16.3
68–69	0.019623	77,112	1,513	76,355	1,205,919	15.6
69–70	0.021262	75,599	1,607	74,795	1,129,563	14.9
70–71	0.023146	73,991	1,713	73,135	1,054,768	14.3
71–72	0.025278	72,279	1,827	71,365	981,633	13.6
72–73	0.027630	70,452	1,947	69,478	910,268	12.9
73–74	0.030219	68,505	2,070	67,470	840,789	12.3
74–75	0.033126	66,435	2,201	65,335	773,319	11.6
75–76	0.036255	64,234	2,329	63,070	707,985	11.0
76–77	0.039716	61,905	2,459	60,676	644,915	10.4
77–78	0.043757	59,447	2,601	58,146	584,239	9.8
78–79	0.048405	56,845	2,752	55,470	526,093	9.3
79–80	0.053785	54,094	2,909	52,639	470,623	8.7
80–81	0.059839	51,184	3,063	49,653	417,984	8.2
81–82	0.066176	48,122	3,184	46,529	368,331	7.7
82–83	0.073348	44,937	3,296	43,289	321,802	7.2
83–84	0.081302	41,641	3,395	39,948	278,513	6.7
84–85	0.090236	38,256	3,452	36,530	238,565	6.2
85–86	0.100743	34,804	3,506	33,050	202,035	5.8
86–87	0.112235	31,297	3,513	29,541	168,985	5.4
87–88	0.124750	27,785	3,466	26,052	139,444	5.0
88–89	0.138311	24,319	3,364	22,637	113,392	4.7
89–90	0.152931	20,955	3,205	19,353	90,755	4.3
90–91	0.168603	17,750	2,993	16,254	71,402	4.0
91–92	0.185302	14,758	2,735	13,390	55,149	3.7
92–93	0.202980	12,023	2,440	10,803	41,758	3.5
93–94	0.221569	9,583	2,123	8,521	30,955	3.2
94–95	0.240976	7,459	1,798	6,561	22,435	3.0
95–96	0.261085	5,662	1,476	4,923	15,874	2.8
96–97	0.281762	4,184	1,179	3,594	10,951	2.6
97–98	0.302853	3,005	910	2,550	7,357	2.4
98–99	0.324194	2,095	679	1,755	4,807	2.3
99–100	0.345609	1,416	489	1,171	3,052	2.2
100 and over	1.000000	926	926	1,881	1,881	2.0

NOTE: This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates.

SOURCE: CDC/NCHS, National Vital Statistics System.

EXHIBIT 8

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.006575	1.0	0.0065750	100,000	658	99,427	5,474,009	54.7
1-2	0.000445	1.0	0.0004450	99,342	44	99,320	5,374,582	54.1
2-3	0.000301	1.0	0.0003010	99,298	30	99,283	5,275,262	53.1
3-4	0.000240	1.0	0.0002400	99,268	24	99,256	5,175,979	52.1
4-5	0.000183	1.0	0.0001830	99,244	18	99,235	5,076,723	51.2
5-6	0.000169	1.0	0.0001690	99,226	17	99,218	4,977,488	50.2
6-7	0.000150	1.0	0.0001500	99,209	15	99,202	4,878,271	49.2
7-8	0.000134	1.0	0.0001340	99,194	13	99,188	4,779,069	48.2
8-9	0.000115	1.0	0.0001150	99,181	11	99,176	4,679,882	47.2
9-10	0.000097	1.0	0.0000970	99,170	10	99,165	4,580,706	46.2
10-11	0.000085	1.0	0.0000850	99,160	8	99,156	4,481,541	45.2
11-12	0.000092	1.0	0.0000920	99,152	9	99,148	4,382,385	44.2
12-13	0.000132	1.0	0.0001320	99,143	13	99,137	4,283,238	43.2
13-14	0.000213	1.0	0.0002130	99,130	21	99,120	4,184,101	42.2
14-15	0.000323	1.0	0.0003230	99,109	32	99,093	4,084,982	41.2
15-16	0.000439	1.0	0.0004390	99,077	43	99,056	3,985,889	40.2
16-17	0.000552	1.0	0.0005520	99,034	55	99,007	3,886,833	39.2
17-18	0.000675	1.0	0.0006750	98,979	67	98,946	3,787,827	38.3
18-19	0.000807	3.3	0.0027013	98,912	267	98,779	3,688,881	37.3
19-20	0.000942	3.2	0.0030114	98,645	297	98,497	3,590,103	36.4
20-21	0.001085	3.0	0.0032334	98,348	318	98,189	3,491,606	35.5
21-22	0.001216	3.1	0.0038118	98,030	374	97,843	3,393,417	34.6
22-23	0.001310	3.3	0.0043592	97,656	426	97,443	3,295,574	33.7
23-24	0.001353	4.1	0.0054859	97,230	533	96,964	3,198,131	32.9
24-25	0.001358	4.6	0.0062542	96,697	605	96,395	3,101,168	32.1
25-26	0.001351	4.9	0.0066459	96,092	639	95,773	3,004,773	31.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.001349	5.5	0.0074312	95,453	709	95,099	2,909,001	30.5
27-28	0.001353	5.8	0.0078989	94,744	748	94,370	2,813,902	29.7
28-29	0.001371	6.5	0.0089216	93,996	839	93,577	2,719,532	28.9
29-30	0.001399	6.5	0.0090478	93,157	843	92,736	2,625,956	28.2
30-31	0.001432	6.4	0.0091878	92,314	848	91,890	2,533,220	27.4
31-32	0.001464	6.9	0.0101313	91,466	927	91,003	2,441,330	26.7
32-33	0.001496	7.1	0.0106698	90,539	966	90,056	2,350,328	26.0
33-34	0.001528	7.4	0.0113651	89,573	1,018	89,064	2,260,272	25.2
34-35	0.001563	6.8	0.0106137	88,555	940	88,085	2,171,208	24.5
35-36	0.001613	6.4	0.0103475	87,615	907	87,162	2,083,123	23.8
36-37	0.001682	6.7	0.0112230	86,708	973	86,222	1,995,961	23.0
37-38	0.001764	7.1	0.0125987	85,735	1,080	85,195	1,909,740	22.3
38-39	0.001857	7.7	0.0142256	84,655	1,204	84,053	1,824,545	21.6
39-40	0.001964	7.8	0.0152915	83,451	1,276	82,813	1,740,492	20.9
40-41	0.002083	7.9	0.0164363	82,175	1,351	81,500	1,657,679	20.2
41-42	0.002227	7.7	0.0171008	80,824	1,382	80,133	1,576,179	19.5
42-43	0.002414	7.3	0.0176592	79,442	1,403	78,741	1,496,046	18.8
43-44	0.002653	6.8	0.0180473	78,039	1,408	77,335	1,417,306	18.2
44-45	0.002939	6.5	0.0191735	76,631	1,469	75,897	1,339,971	17.5
45-46	0.003243	6.7	0.0216755	75,162	1,629	74,348	1,264,074	16.8
46-47	0.003563	7.1	0.0252682	73,533	1,858	72,604	1,189,727	16.2
47-48	0.003922	7.1	0.0276631	71,675	1,983	70,684	1,117,123	15.6
48-49	0.004320	7.0	0.0301072	69,692	2,098	68,643	1,046,439	15.0
49-50	0.004749	6.9	0.0329621	67,594	2,228	66,480	977,796	14.5
50-51	0.005193	7.4	0.0383143	65,366	2,504	64,114	911,316	13.9
51-52	0.005647	7.4	0.0416080	62,862	2,616	61,554	847,202	13.5

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.006122	7.3	0.0447095	60,246	2,694	58,899	785,648	13.0
53-54	0.006630	6.9	0.0458032	57,552	2,636	56,234	726,749	12.6
54-55	0.007181	7.0	0.0504908	54,916	2,773	53,530	670,515	12.2
55-56	0.007779	6.9	0.0535175	52,143	2,791	50,748	616,986	11.8
56-57	0.008415	6.6	0.0551671	49,352	2,723	47,991	566,238	11.5
57-58	0.009074	6.4	0.0577152	46,629	2,691	45,284	518,248	11.1
58-59	0.009727	6.3	0.0614132	43,938	2,698	42,589	472,964	10.8
59-60	0.010371	6.7	0.0697133	41,240	2,875	39,803	430,375	10.4
60-61	0.011034	7.1	0.0785312	38,365	3,013	36,859	390,573	10.2
61-62	0.011738	7.0	0.0823663	35,352	2,912	33,896	353,714	10.0
62-63	0.012489	6.9	0.0863986	32,440	2,803	31,039	319,818	9.9
63-64	0.013335	6.3	0.0838569	29,637	2,485	28,395	288,780	9.7
64-65	0.014319	6.0	0.0856537	27,152	2,326	25,989	260,385	9.6
65-66	0.015482	5.6	0.0871033	24,826	2,162	23,745	234,396	9.4
66-67	0.016824	5.7	0.0967221	22,664	2,192	21,568	210,651	9.3
67-68	0.018330	5.3	0.0977241	20,472	2,001	19,472	189,083	9.2
68-69	0.019900	4.6	0.0916566	18,471	1,693	17,625	169,612	9.2
69-70	0.021539	4.2	0.0895439	16,778	1,502	16,027	151,987	9.1
70-71	0.023396	4.1	0.0956488	15,276	1,461	14,546	135,960	8.9
71-72	0.025476	3.5	0.0901705	13,815	1,246	13,192	121,415	8.8
72-73	0.027794	3.5	0.0962033	12,569	1,209	11,965	108,223	8.6
73-74	0.030350	3.2	0.0979219	11,360	1,112	10,804	96,258	8.5
74-75	0.033204	2.8	0.0915335	10,248	938	9,779	85,454	8.3

Appendix A. 2011 U.S. General Population Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All races

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk I_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.036345	2.6	0.0947418	9,310	882	8,869	75,675	8.1
76-77	0.039788	2.7	0.1093784	8,428	922	7,967	66,806	7.9
77-78	0.043720	2.6	0.1118552	7,506	840	7,086	58,839	7.8
78-79	0.048335	2.4	0.1145796	6,666	764	6,284	51,753	7.8
79-80	0.053650	2.2	0.1164621	5,902	687	5,559	45,469	7.7
80-81	0.059565	2.1	0.1253563	5,215	654	4,888	39,911	7.7
81-82	0.065848	1.0	0.0658480	4,561	300	4,411	35,023	7.7
82-83	0.072956	1.0	0.0729560	4,261	311	4,106	30,612	7.2
83-84	0.080741	1.0	0.0807410	3,950	319	3,791	26,506	6.7
84-85	0.089357	1.0	0.0893570	3,631	324	3,469	22,716	6.3
85-86	0.099650	1.0	0.0996500	3,307	330	3,142	19,247	5.8
86-87	0.110901	1.0	0.1109010	2,977	330	2,812	16,105	5.4
87-88	0.123146	1.0	0.1231460	2,647	326	2,484	13,293	5.0
88-89	0.136412	1.0	0.1364120	2,321	317	2,163	10,809	4.7
89-90	0.150710	1.0	0.1507100	2,004	302	1,853	8,646	4.3
90-91	0.166038	1.0	0.1660380	1,702	283	1,561	6,793	4.0
91-92	0.182374	1.0	0.1823740	1,419	259	1,290	5,233	3.7
92-93	0.199676	1.0	0.1996760	1,160	232	1,044	3,943	3.4
93-94	0.217880	1.0	0.2178800	928	202	827	2,899	3.1
94-95	0.236903	1.0	0.2369030	726	172	640	2,072	2.9
95-96	0.256636	1.0	0.2566360	554	142	483	1,432	2.6
96-97	0.276954	1.0	0.2769540	412	114	355	949	2.3
97-98	0.297713	1.0	0.2977130	298	89	254	594	2.0
98-99	0.318755	1.0	0.3187550	209	67	176	341	1.6
99-100	0.339914	1.0	0.3399140	142	48	118	165	1.2
100+	1.00000	1.0	1.0000000	94	94	47	47	0.5

EXHIBIT 9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.012502	1.0	0.0125020	100,000	1,250	99,007	5,516,944	55.2
1-2	0.000674	1.0	0.0006740	98,750	67	98,717	5,417,937	54.9
2-3	0.000494	1.0	0.0004940	98,683	49	98,659	5,319,221	53.9
3-4	0.000356	1.0	0.0003560	98,634	35	98,617	5,220,562	52.9
4-5	0.000316	1.0	0.0003160	98,599	31	98,584	5,121,946	51.9
5-6	0.000258	1.0	0.0002580	98,568	25	98,556	5,023,362	51.0
6-7	0.000224	1.0	0.0002240	98,543	22	98,532	4,924,807	50.0
7-8	0.000193	1.0	0.0001930	98,521	19	98,512	4,826,275	49.0
8-9	0.000161	1.0	0.0001610	98,502	16	98,494	4,727,763	48.0
9-10	0.000128	1.0	0.0001280	98,486	13	98,480	4,629,269	47.0
10-11	0.000107	1.0	0.0001070	98,473	11	98,468	4,530,790	46.0
11-12	0.000118	1.0	0.0001180	98,462	12	98,456	4,432,322	45.0
12-13	0.000183	1.0	0.0001830	98,450	18	98,441	4,333,866	44.0
13-14	0.000310	1.0	0.0003100	98,432	31	98,417	4,235,425	43.0
14-15	0.000481	1.0	0.0004810	98,401	47	98,378	4,137,009	42.0
15-16	0.000655	1.0	0.0006550	98,354	64	98,322	4,038,631	41.1
16-17	0.000822	1.0	0.0008220	98,290	81	98,250	3,940,309	40.1
17-18	0.001004	1.0	0.0010040	98,209	99	98,160	3,842,060	39.1
18-19	0.001206	2.5	0.0030332	98,110	298	97,961	3,743,900	38.2
19-20	0.001421	2.4	0.0033507	97,812	328	97,648	3,645,939	37.3
20-21	0.001654	2.0	0.0033826	97,484	330	97,319	3,548,291	36.4
21-22	0.001874	2.2	0.0040591	97,154	394	96,957	3,450,972	35.5
22-23	0.002041	2.1	0.0043329	96,760	419	96,551	3,354,015	34.7
23-24	0.002134	2.4	0.0051386	96,341	495	96,094	3,257,465	33.8
24-25	0.002168	2.6	0.0056559	95,846	542	95,575	3,161,371	33.0
25-26	0.002186	2.7	0.0059428	95,304	566	95,021	3,065,796	32.2

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.002212	3.0	0.0065743	94,738	623	94,427	2,970,775	31.4
27-28	0.002230	3.3	0.0074117	94,115	698	93,766	2,876,349	30.6
28-29	0.002245	3.6	0.0081778	93,417	764	93,035	2,782,583	29.8
29-30	0.002259	3.7	0.0083570	92,653	774	92,266	2,689,548	29.0
30-31	0.002267	3.5	0.0078932	91,879	725	91,517	2,597,282	28.3
31-32	0.002276	3.9	0.0089569	91,154	816	90,746	2,505,765	27.5
32-33	0.002300	4.2	0.0097525	90,338	881	89,898	2,415,019	26.7
33-34	0.002350	4.5	0.0106481	89,457	953	88,981	2,325,122	26.0
34-35	0.002426	4.3	0.0103458	88,504	916	88,046	2,236,141	25.3
35-36	0.002527	3.9	0.0099009	87,588	867	87,155	2,148,095	24.5
36-37	0.002646	4.0	0.0105482	86,721	915	86,264	2,060,941	23.8
37-38	0.002772	4.4	0.0121608	85,806	1,043	85,285	1,974,677	23.0
38-39	0.002896	4.6	0.0134407	84,763	1,139	84,194	1,889,393	22.3
39-40	0.003027	5.0	0.0151857	83,624	1,270	82,989	1,805,199	21.6
40-41	0.003179	4.8	0.0151330	82,354	1,246	81,731	1,722,210	20.9
41-42	0.003369	4.7	0.0159715	81,108	1,295	80,461	1,640,479	20.2
42-43	0.003607	4.2	0.0150020	79,813	1,197	79,215	1,560,019	19.5
43-44	0.003902	3.8	0.0148330	78,616	1,166	78,033	1,480,804	18.8
44-45	0.004251	3.7	0.0158215	77,450	1,225	76,838	1,402,771	18.1
45-46	0.004616	4.3	0.0198424	76,225	1,512	75,469	1,325,934	17.4
46-47	0.005016	4.9	0.0244018	74,713	1,823	73,802	1,250,465	16.7
47-48	0.005513	4.8	0.0264818	72,890	1,930	71,925	1,176,663	16.1
48-49	0.006129	4.3	0.0266542	70,960	1,891	70,015	1,104,738	15.6
49-50	0.006838	4.2	0.0286250	69,069	1,977	68,081	1,034,724	15.0
50-51	0.007586	4.2	0.0321075	67,092	2,154	66,015	966,643	14.4
51-52	0.008344	4.2	0.0353362	64,938	2,295	63,791	900,628	13.9

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.009145	4.2	0.0380858	62,643	2,386	61,450	836,838	13.4
53-54	0.010011	4.1	0.0412941	60,257	2,488	59,013	775,388	12.9
54-55	0.010959	4.2	0.0464298	57,769	2,682	56,428	716,375	12.4
55-56	0.011995	4.1	0.0494287	55,087	2,723	53,726	659,947	12.0
56-57	0.013107	3.9	0.0506911	52,364	2,654	51,037	606,221	11.6
57-58	0.014274	4.0	0.0567492	49,710	2,821	48,300	555,184	11.2
58-59	0.015455	4.0	0.0617318	46,889	2,895	45,442	506,885	10.8
59-60	0.016630	4.3	0.0722177	43,994	3,177	42,406	461,443	10.5
60-61	0.017888	4.6	0.0822606	40,817	3,358	39,138	419,038	10.3
61-62	0.019207	4.9	0.0932768	37,459	3,494	35,712	379,900	10.1
62-63	0.020451	4.6	0.0933672	33,965	3,171	32,380	344,188	10.1
63-64	0.021595	4.3	0.0933499	30,794	2,875	29,357	311,808	10.1
64-65	0.022717	4.0	0.0897633	27,919	2,506	26,666	282,452	10.1
65-66	0.023933	4.1	0.0972571	25,413	2,472	24,177	255,786	10.1
66-67	0.025369	4.2	0.1076218	22,941	2,469	21,707	231,609	10.1
67-68	0.027104	4.2	0.1140207	20,472	2,334	19,305	209,902	10.3
68-69	0.029089	4.0	0.1170901	18,138	2,124	17,076	190,597	10.5
69-70	0.031191	3.5	0.1077634	16,014	1,726	15,151	173,521	10.8
70-71	0.033429	3.5	0.1153442	14,288	1,648	13,464	158,370	11.1
71-72	0.035780	3.3	0.1169415	12,640	1,478	11,901	144,906	11.5
72-73	0.038397	1.0	0.0383970	11,162	429	10,948	133,005	11.9
73-74	0.041254	1.0	0.0412540	10,733	443	10,512	122,058	11.4
74-75	0.044174	1.0	0.0441740	10,290	455	10,063	111,546	10.8

Appendix B. 2011 U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.047704	1.0	0.0477040	9,835	469	9,601	101,484	10.3
76-77	0.051047	1.0	0.0510470	9,366	478	9,127	91,883	9.8
77-78	0.054624	1.0	0.0546240	8,888	485	8,646	82,756	9.3
78-79	0.059628	1.0	0.0596280	8,403	501	8,153	74,111	8.8
79-80	0.064976	1.0	0.0649760	7,902	513	7,646	65,958	8.3
80-81	0.070676	1.0	0.0706760	7,389	522	7,128	58,313	7.9
81-82	0.076651	1.0	0.0766510	6,867	526	6,604	51,185	7.5
82-83	0.085516	1.0	0.0855160	6,341	542	6,070	44,581	7.0
83-84	0.092664	1.0	0.0926640	5,799	537	5,531	38,511	6.6
84-85	0.100307	1.0	0.1003070	5,262	528	4,998	32,980	6.3
85-86	0.108460	1.0	0.1084600	4,734	513	4,478	27,982	5.9
86-87	0.117140	1.0	0.1171400	4,221	494	3,974	23,505	5.6
87-88	0.126357	1.0	0.1263570	3,727	471	3,492	19,531	5.2
88-89	0.136120	1.0	0.1361200	3,256	443	3,035	16,039	4.9
89-90	0.146432	1.0	0.1464320	2,813	412	2,607	13,005	4.6
90-91	0.157294	1.0	0.1572940	2,401	378	2,212	10,398	4.3
91-92	0.168701	1.0	0.1687010	2,023	341	1,853	8,186	4.0
92-93	0.180641	1.0	0.1806410	1,682	304	1,530	6,333	3.8
93-94	0.193099	1.0	0.1930990	1,378	266	1,245	4,803	3.5
94-95	0.206052	1.0	0.2060520	1,112	229	998	3,558	3.2
95-96	0.219470	1.0	0.2194700	883	194	786	2,561	2.9
96-97	0.233321	1.0	0.2333210	689	161	609	1,775	2.6
97-98	0.247561	1.0	0.2475610	528	131	463	1,166	2.2
98-99	0.262144	1.0	0.2621440	397	104	345	704	1.8
99-100	0.277019	1.0	0.2770190	293	81	253	359	1.2
100+	1.000000	1.0	1.0000000	212	212	106	106	0.5

EXHIBIT 10

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
 Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
 White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.005524	1.0	0.0055240	100,000	552	99,517	5,349,849	53.5
1-2	0.000413	1.0	0.0004130	99,448	41	99,428	5,250,332	52.8
2-3	0.000273	1.0	0.0002730	99,407	27	99,394	5,150,905	51.8
3-4	0.000229	1.0	0.0002290	99,380	23	99,369	5,051,511	50.8
4-5	0.000156	1.0	0.0001560	99,357	15	99,350	4,952,143	49.8
5-6	0.000160	1.0	0.0001600	99,342	16	99,334	4,852,793	48.8
6-7	0.000146	1.0	0.0001460	99,326	15	99,319	4,753,459	47.9
7-8	0.000132	1.0	0.0001320	99,311	13	99,305	4,654,141	46.9
8-9	0.000114	1.0	0.0001140	99,298	11	99,293	4,554,836	45.9
9-10	0.000095	1.0	0.0000950	99,287	9	99,283	4,455,544	44.9
10-11	0.000082	1.0	0.0000820	99,278	8	99,274	4,356,261	43.9
11-12	0.000088	1.0	0.0000880	99,270	9	99,266	4,256,987	42.9
12-13	0.000125	1.0	0.0001250	99,261	12	99,255	4,157,722	41.9
13-14	0.000201	1.0	0.0002010	99,249	20	99,239	4,058,467	40.9
14-15	0.000305	1.0	0.0003050	99,229	30	99,214	3,959,228	39.9
15-16	0.000414	1.0	0.0004140	99,199	41	99,179	3,860,014	38.9
16-17	0.000522	1.0	0.0005220	99,158	52	99,132	3,760,835	37.9
17-18	0.000641	1.0	0.0006410	99,106	64	99,074	3,661,703	36.9
18-19	0.000773	1.0	0.0007730	99,042	77	99,004	3,562,629	36.0
19-20	0.000909	1.0	0.0009090	98,965	90	98,920	3,463,626	35.0
20-21	0.001053	3.0	0.0031812	98,875	315	98,718	3,364,706	34.0
21-22	0.001185	3.0	0.0035003	98,560	345	98,388	3,265,988	33.1
22-23	0.001283	3.7	0.0048065	98,215	472	97,979	3,167,601	32.3
23-24	0.001333	5.2	0.0069188	97,743	676	97,405	3,069,622	31.4
24-25	0.001349	6.3	0.0084401	97,067	819	96,658	2,972,217	30.6
25-26	0.001354	6.7	0.0090557	96,248	872	95,812	2,875,559	29.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.001365	7.6	0.0103911	95,376	991	94,881	2,779,747	29.1
27-28	0.001379	7.2	0.0099736	94,385	941	93,915	2,684,867	28.4
28-29	0.001401	8.5	0.0118636	93,444	1,109	92,890	2,590,952	27.7
29-30	0.001432	8.2	0.0117347	92,335	1,084	91,793	2,498,063	27.1
30-31	0.001467	9.1	0.0133350	91,251	1,217	90,643	2,406,270	26.4
31-32	0.001502	9.2	0.0138762	90,034	1,249	89,410	2,315,627	25.7
32-33	0.001536	9.0	0.0137534	88,785	1,221	88,175	2,226,218	25.1
33-34	0.001570	8.9	0.0139552	87,564	1,222	86,953	2,138,043	24.4
34-35	0.001609	7.5	0.0121357	86,342	1,048	85,818	2,051,090	23.8
35-36	0.001665	7.2	0.0119280	85,294	1,017	84,786	1,965,272	23.0
36-37	0.001742	7.5	0.0131122	84,277	1,105	83,725	1,880,487	22.3
37-38	0.001829	7.7	0.0141275	83,172	1,175	82,585	1,796,762	21.6
38-39	0.001921	8.5	0.0163393	81,997	1,340	81,327	1,714,178	20.9
39-40	0.002023	8.0	0.0161387	80,657	1,302	80,006	1,632,851	20.2
40-41	0.002135	9.0	0.0191327	79,355	1,518	78,596	1,552,845	19.6
41-42	0.002273	8.5	0.0193702	77,837	1,508	77,083	1,474,249	18.9
42-43	0.002459	9.1	0.0222673	76,329	1,700	75,479	1,397,166	18.3
43-44	0.002703	8.6	0.0233308	74,629	1,741	73,759	1,321,687	17.7
44-45	0.002997	8.3	0.0247547	72,888	1,804	71,986	1,247,928	17.1
45-46	0.003309	7.6	0.0251269	71,084	1,786	70,191	1,175,942	16.5
46-47	0.003631	7.5	0.0272227	69,298	1,886	68,355	1,105,751	16.0
47-48	0.003984	7.6	0.0300949	67,412	2,029	66,398	1,037,396	15.4
48-49	0.004366	8.1	0.0354544	65,383	2,318	64,224	970,999	14.9
49-50	0.004768	8.2	0.0392386	63,065	2,475	61,828	906,775	14.4
50-51	0.005179	9.1	0.0469414	60,590	2,844	59,168	844,947	13.9
51-52	0.005596	9.0	0.0502853	57,746	2,904	56,294	785,779	13.6

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.006034	9.0	0.0543075	54,842	2,978	53,353	729,485	13.3
53-54	0.006508	8.1	0.0527141	51,864	2,734	50,497	676,132	13.0
54-55	0.007026	8.1	0.0570244	49,130	2,802	47,729	625,635	12.7
55-56	0.007591	7.9	0.0600728	46,328	2,783	44,937	577,906	12.5
56-57	0.008191	7.6	0.0623023	43,545	2,713	42,189	532,970	12.2
57-58	0.008812	6.8	0.0603584	40,832	2,465	39,600	490,781	12.0
58-59	0.009425	6.6	0.0625852	38,367	2,401	37,167	451,182	11.8
59-60	0.010028	6.8	0.0683332	35,966	2,458	34,737	414,015	11.5
60-61	0.010645	7.2	0.0761226	33,508	2,551	32,233	379,278	11.3
61-62	0.011305	6.4	0.0722265	30,957	2,236	29,839	347,046	11.2
62-63	0.012031	6.6	0.0795687	28,721	2,285	27,579	317,207	11.0
63-64	0.012880	5.8	0.0746940	26,436	1,975	25,449	289,628	11.0
64-65	0.013896	5.9	0.0823396	24,461	2,014	23,454	264,180	10.8
65-66	0.015110	5.7	0.0858800	22,447	1,928	21,483	240,726	10.7
66-67	0.016503	4.8	0.0799398	20,519	1,640	19,699	219,243	10.7
67-68	0.018045	4.1	0.0747021	18,879	1,410	18,174	199,544	10.6
68-69	0.019623	4.1	0.0797052	17,469	1,392	16,773	181,370	10.4
69-70	0.021262	3.9	0.0838395	16,077	1,348	15,403	164,597	10.2
70-71	0.023146	3.7	0.0865662	14,729	1,275	14,092	149,194	10.1
71-72	0.025278	3.4	0.0853467	13,454	1,148	12,880	135,102	10.0
72-73	0.027630	3.5	0.0970708	12,306	1,195	11,709	122,222	9.9
73-74	0.030219	3.2	0.0952045	11,111	1,058	10,582	110,514	9.9
74-75	0.033126	2.8	0.0923638	10,053	929	9,589	99,932	9.9

Appendix C. 2011 U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.036255	2.5	0.0889904	9,124	812	8,718	90,343	9.9
76-77	0.039716	2.4	0.0954766	8,312	794	7,915	81,625	9.8
77-78	0.043757	1.0	0.0437570	7,518	329	7,354	73,710	9.8
78-79	0.048405	1.0	0.0484050	7,189	348	7,015	66,357	9.2
79-80	0.053785	1.0	0.0537850	6,841	368	6,657	59,342	8.7
80-81	0.059839	1.0	0.0598390	6,473	387	6,280	52,685	8.1
81-82	0.066176	1.0	0.0661760	6,086	403	5,885	46,405	7.6
82-83	0.073348	1.0	0.0733480	5,683	417	5,475	40,521	7.1
83-84	0.081302	1.0	0.0813020	5,266	428	5,052	35,046	6.7
84-85	0.090236	1.0	0.0902360	4,838	437	4,620	29,994	6.2
85-86	0.100743	1.0	0.1007430	4,401	443	4,180	25,375	5.8
86-87	0.112235	1.0	0.1122350	3,958	444	3,736	21,195	5.4
87-88	0.124750	1.0	0.1247500	3,514	438	3,295	17,459	5.0
88-89	0.138311	1.0	0.1383110	3,076	425	2,864	14,164	4.6
89-90	0.152931	1.0	0.1529310	2,651	405	2,449	11,301	4.3
90-91	0.168603	1.0	0.1686030	2,246	379	2,057	8,852	3.9
91-92	0.185302	1.0	0.1853020	1,867	346	1,694	6,796	3.6
92-93	0.202980	1.0	0.2029800	1,521	309	1,367	5,102	3.4
93-94	0.221569	1.0	0.2215690	1,212	269	1,078	3,735	3.1
94-95	0.240976	1.0	0.2409760	943	227	830	2,658	2.8
95-96	0.261085	1.0	0.2610850	716	187	623	1,828	2.6
96-97	0.281762	1.0	0.2817620	529	149	455	1,206	2.3
97-98	0.302853	1.0	0.3028530	380	115	323	751	2.0
98-99	0.324194	1.0	0.3241940	265	86	222	429	1.6
99-100	0.345609	1.0	0.3456090	179	62	148	207	1.2
100+	1.00000	1.0	1.0000000	117	117	59	59	0.5

EXHIBIT 11

Table I-2. Provisional life table for males: United States, 2021

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1.....	0.005796	100,000	580	99,495	7,322,022	73.2
1-2.....	0.000406	99,420	40	99,400	7,222,527	72.6
2-3.....	0.000268	99,380	27	99,367	7,123,127	71.7
3-4.....	0.000221	99,353	22	99,342	7,023,760	70.7
4-5.....	0.000173	99,331	17	99,323	6,924,417	69.7
5-6.....	0.000159	99,314	16	99,306	6,825,095	68.7
6-7.....	0.000149	99,298	15	99,291	6,725,788	67.7
7-8.....	0.000138	99,284	14	99,277	6,626,497	66.7
8-9.....	0.000120	99,270	12	99,264	6,527,220	65.8
9-10.....	0.000100	99,258	10	99,253	6,427,956	64.8
10-11.....	0.000086	99,248	9	99,244	6,328,703	63.8
11-12.....	0.000096	99,240	10	99,235	6,229,459	62.8
12-13.....	0.000150	99,230	15	99,223	6,130,225	61.8
13-14.....	0.000259	99,215	26	99,202	6,031,002	60.8
14-15.....	0.000413	99,189	41	99,169	5,931,800	59.8
15-16.....	0.000585	99,149	58	99,120	5,832,631	58.8
16-17.....	0.000758	99,091	75	99,053	5,733,511	57.9
17-18.....	0.000934	99,015	92	98,969	5,634,458	56.9
18-19.....	0.001104	98,923	109	98,868	5,535,489	56.0
19-20.....	0.001269	98,814	125	98,751	5,436,621	55.0
20-21.....	0.001443	98,688	142	98,617	5,337,870	54.1
21-22.....	0.001621	98,546	160	98,466	5,239,253	53.2
22-23.....	0.001777	98,386	175	98,299	5,140,787	52.3
23-24.....	0.001900	98,211	187	98,118	5,042,488	51.3
24-25.....	0.001999	98,025	196	97,927	4,944,370	50.4
25-26.....	0.002084	97,829	204	97,727	4,846,443	49.5
26-27.....	0.002173	97,625	212	97,519	4,748,716	48.6
27-28.....	0.002269	97,413	221	97,302	4,651,197	47.7
28-29.....	0.002382	97,192	231	97,076	4,553,895	46.9
29-30.....	0.002506	96,960	243	96,839	4,456,819	46.0
30-31.....	0.002633	96,717	255	96,590	4,359,980	45.1
31-32.....	0.002755	96,463	266	96,330	4,263,390	44.2
32-33.....	0.002873	96,197	276	96,059	4,167,060	43.3
33-34.....	0.002989	95,921	287	95,777	4,071,002	42.4
34-35.....	0.003105	95,634	297	95,485	3,975,224	41.6
35-36.....	0.003229	95,337	308	95,183	3,879,739	40.7
36-37.....	0.003365	95,029	320	94,869	3,784,556	39.8
37-38.....	0.003508	94,709	332	94,543	3,689,687	39.0
38-39.....	0.003657	94,377	345	94,204	3,595,144	38.1
39-40.....	0.003813	94,032	359	93,853	3,500,939	37.2
40-41.....	0.003991	93,673	374	93,486	3,407,087	36.4
41-42.....	0.004188	93,300	391	93,104	3,313,600	35.5
42-43.....	0.004387	92,909	408	92,705	3,220,496	34.7
43-44.....	0.004587	92,501	424	92,289	3,127,791	33.8
44-45.....	0.004802	92,077	442	91,856	3,035,502	33.0
45-46.....	0.005048	91,635	463	91,403	2,943,646	32.1
46-47.....	0.005346	91,172	487	90,928	2,852,243	31.3
47-48.....	0.005698	90,685	517	90,426	2,761,314	30.4
48-49.....	0.006102	90,168	550	89,893	2,670,888	29.6
49-50.....	0.006546	89,618	587	89,325	2,580,995	28.8
50-51.....	0.007008	89,031	624	88,719	2,491,670	28.0
51-52.....	0.007502	88,407	663	88,076	2,402,951	27.2
52-53.....	0.008062	87,744	707	87,390	2,314,875	26.4
53-54.....	0.008707	87,037	758	86,658	2,227,485	25.6
54-55.....	0.009430	86,279	814	85,872	2,140,827	24.8
55-56.....	0.010174	85,465	870	85,031	2,054,955	24.0
56-57.....	0.010943	84,596	926	84,133	1,969,925	23.3
57-58.....	0.011797	83,670	987	83,177	1,885,792	22.5
58-59.....	0.012746	82,683	1,054	82,156	1,802,615	21.8
59-60.....	0.013761	81,629	1,123	81,067	1,720,459	21.1
60-61.....	0.014826	80,506	1,194	79,909	1,639,392	20.4

Vital Statistics Rapid Release 23. Provisional Life Expectancy Estimates for 2021

Table I-2. Provisional life table for males: United States, 2021—Con.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62.....	0.015892	79,312	1,260	78,682	1,559,483	19.7
62–63.....	0.016934	78,052	1,322	77,391	1,480,801	19.0
63–64.....	0.017952	76,730	1,377	76,041	1,403,410	18.3
64–65.....	0.018993	75,353	1,431	74,637	1,327,368	17.6
65–66.....	0.020109	73,922	1,486	73,178	1,252,731	16.9
66–67.....	0.021342	72,435	1,546	71,662	1,179,553	16.3
67–68.....	0.022696	70,889	1,609	70,085	1,107,891	15.6
68–69.....	0.024157	69,280	1,674	68,443	1,037,806	15.0
69–70.....	0.025700	67,607	1,738	66,738	969,363	14.3
70–71.....	0.027296	65,869	1,798	64,970	902,625	13.7
71–72.....	0.028997	64,071	1,858	63,142	837,655	13.1
72–73.....	0.030925	62,213	1,924	61,251	774,512	12.4
73–74.....	0.032920	60,289	1,985	59,297	713,261	11.8
74–75.....	0.036788	58,305	2,145	57,232	653,964	11.2
75–76.....	0.039894	56,160	2,240	55,039	596,732	10.6
76–77.....	0.044315	53,919	2,389	52,725	541,693	10.0
77–78.....	0.048328	51,530	2,490	50,285	488,968	9.5
78–79.....	0.053411	49,039	2,619	47,730	438,684	8.9
79–80.....	0.058083	46,420	2,696	45,072	390,954	8.4
80–81.....	0.063705	43,724	2,785	42,331	345,882	7.9
81–82.....	0.069581	40,939	2,849	39,514	303,550	7.4
82–83.....	0.076263	38,090	2,905	36,638	264,036	6.9
83–84.....	0.084816	35,185	2,984	33,693	227,398	6.5
84–85.....	0.094713	32,201	3,050	30,676	193,705	6.0
85–86.....	0.105131	29,151	3,065	27,619	163,029	5.6
86–87.....	0.119153	26,086	3,108	24,532	135,410	5.2
87–88.....	0.132163	22,978	3,037	21,460	110,878	4.8
88–89.....	0.146215	19,941	2,916	18,483	89,419	4.5
89–90.....	0.161309	17,026	2,746	15,652	70,935	4.2
90–91.....	0.177430	14,279	2,534	13,012	55,283	3.9
91–92.....	0.194543	11,746	2,285	10,603	42,270	3.6
92–93.....	0.212588	9,461	2,011	8,455	31,667	3.3
93–94.....	0.231487	7,449	1,724	6,587	23,212	3.1
94–95.....	0.251137	5,725	1,438	5,006	16,625	2.9
95–96.....	0.271414	4,287	1,164	3,705	11,619	2.7
96–97.....	0.292178	3,124	913	2,667	7,914	2.5
97–98.....	0.313271	2,211	693	1,865	5,246	2.4
98–99.....	0.334526	1,518	508	1,264	3,382	2.2
99–100.....	0.355772	1,010	359	831	2,117	2.1
100 and over.....	1.000000	651	651	1,287	1,287	2.0

NOTES: Estimates are based on provisional data for 2021. Provisional data are subject to change as additional data are received.

SOURCE: National Center for Health Statistics, National Vital Statistics System, Mortality.

EXHIBIT 12

Table I-14. Provisional life table for non-Hispanic Black males: United States, 2021

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1.....	0.011819	100,000	1,182	98,987	6,668,800	66.7
1-2.....	0.000711	98,818	70	98,783	6,569,812	66.5
2-3.....	0.000505	98,748	50	98,723	6,471,029	65.5
3-4.....	0.000408	98,698	40	98,678	6,372,306	64.6
4-5.....	0.000327	98,658	32	98,642	6,273,629	63.6
5-6.....	0.000303	98,626	30	98,611	6,174,987	62.6
6-7.....	0.000297	98,596	29	98,581	6,076,376	61.6
7-8.....	0.000278	98,566	27	98,553	5,977,795	60.6
8-9.....	0.000229	98,539	23	98,528	5,879,243	59.7
9-10.....	0.000157	98,516	15	98,509	5,780,715	58.7
10-11.....	0.000095	98,501	9	98,496	5,682,206	57.7
11-12.....	0.000093	98,492	9	98,487	5,583,710	56.7
12-13.....	0.000211	98,482	21	98,472	5,485,223	55.7
13-14.....	0.000487	98,462	48	98,438	5,386,751	54.7
14-15.....	0.000890	98,414	88	98,370	5,288,313	53.7
15-16.....	0.001355	98,326	133	98,259	5,189,943	52.8
16-17.....	0.001813	98,193	178	98,104	5,091,684	51.9
17-18.....	0.002242	98,015	220	97,905	4,993,580	50.9
18-19.....	0.002601	97,795	254	97,668	4,895,675	50.1
19-20.....	0.002898	97,541	283	97,399	4,798,007	49.2
20-21.....	0.003196	97,258	311	97,103	4,700,608	48.3
21-22.....	0.003499	96,947	339	96,778	4,603,505	47.5
22-23.....	0.003727	96,608	360	96,428	4,506,728	46.6
23-24.....	0.003855	96,248	371	96,063	4,410,300	45.8
24-25.....	0.003910	95,877	375	95,690	4,314,237	45.0
25-26.....	0.003931	95,502	375	95,314	4,218,548	44.2
26-27.....	0.003962	95,127	377	94,938	4,123,233	43.3
27-28.....	0.004019	94,750	381	94,559	4,028,295	42.5
28-29.....	0.004122	94,369	389	94,174	3,933,735	41.7
29-30.....	0.004263	93,980	401	93,780	3,839,561	40.9
30-31.....	0.004409	93,579	413	93,373	3,745,781	40.0
31-32.....	0.004552	93,167	424	92,955	3,652,408	39.2
32-33.....	0.004725	92,743	438	92,524	3,559,453	38.4
33-34.....	0.004941	92,305	456	92,076	3,466,930	37.6
34-35.....	0.005202	91,848	478	91,610	3,374,853	36.7
35-36.....	0.005513	91,371	504	91,119	3,283,244	35.9
36-37.....	0.005853	90,867	532	90,601	3,192,125	35.1
37-38.....	0.006185	90,335	559	90,056	3,101,524	34.3
38-39.....	0.006468	89,776	581	89,486	3,011,468	33.5
39-40.....	0.006708	89,196	598	88,897	2,921,982	32.8
40-41.....	0.006956	88,597	616	88,289	2,833,085	32.0
41-42.....	0.007241	87,981	637	87,663	2,744,796	31.2
42-43.....	0.007540	87,344	659	87,015	2,657,134	30.4
43-44.....	0.007869	86,685	682	86,344	2,570,119	29.6
44-45.....	0.008242	86,003	709	85,649	2,483,775	28.9
45-46.....	0.008666	85,294	739	84,925	2,398,126	28.1
46-47.....	0.009146	84,555	773	84,169	2,313,201	27.4
47-48.....	0.009688	83,782	812	83,376	2,229,032	26.6
48-49.....	0.010278	82,970	853	82,544	2,145,656	25.9
49-50.....	0.010903	82,117	895	81,670	2,063,112	25.1
50-51.....	0.011548	81,222	938	80,753	1,981,442	24.4
51-52.....	0.012241	80,284	983	79,793	1,900,689	23.7
52-53.....	0.013013	79,301	1,032	78,785	1,820,896	23.0
53-54.....	0.013887	78,270	1,087	77,726	1,742,111	22.3
54-55.....	0.014853	77,183	1,146	76,609	1,664,385	21.6
55-56.....	0.015822	76,036	1,203	75,435	1,587,775	20.9
56-57.....	0.016825	74,833	1,259	74,204	1,512,341	20.2
57-58.....	0.017999	73,574	1,324	72,912	1,438,137	19.5
58-59.....	0.019393	72,250	1,401	71,549	1,365,225	18.9
59-60.....	0.020959	70,849	1,485	70,106	1,293,676	18.3
60-61.....	0.022598	69,364	1,567	68,580	1,223,570	17.6

See footnotes at end of table.

Table I-14. Provisional life table for non-Hispanic Black males: United States, 2021—Con.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62.....	0.024230	67,796	1,643	66,975	1,154,990	17.0
62–63.....	0.025898	66,154	1,713	65,297	1,088,015	16.4
63–64.....	0.027630	64,440	1,780	63,550	1,022,718	15.9
64–65.....	0.029474	62,660	1,847	61,736	959,168	15.3
65–66.....	0.031533	60,813	1,918	59,854	897,432	14.8
66–67.....	0.033758	58,895	1,988	57,901	837,577	14.2
67–68.....	0.035959	56,907	2,046	55,884	779,676	13.7
68–69.....	0.037583	54,861	2,062	53,830	723,792	13.2
69–70.....	0.039360	52,799	2,078	51,760	669,962	12.7
70–71.....	0.041141	50,721	2,087	49,677	618,202	12.2
71–72.....	0.043085	48,634	2,095	47,586	568,525	11.7
72–73.....	0.045584	46,539	2,121	45,478	520,938	11.2
73–74.....	0.047441	44,417	2,107	43,364	475,460	10.7
74–75.....	0.051103	42,310	2,162	41,229	432,097	10.2
75–76.....	0.053769	40,148	2,159	39,069	390,868	9.7
76–77.....	0.058546	37,989	2,224	36,877	351,799	9.3
77–78.....	0.062802	35,765	2,246	34,642	314,922	8.8
78–79.....	0.067940	33,519	2,277	32,380	280,280	8.4
79–80.....	0.071819	31,242	2,244	30,120	247,900	7.9
80–81.....	0.077163	28,998	2,238	27,879	217,780	7.5
81–82.....	0.083034	26,760	2,222	25,649	189,901	7.1
82–83.....	0.090269	24,538	2,215	23,431	164,251	6.7
83–84.....	0.097661	22,323	2,180	21,233	140,821	6.3
84–85.....	0.106159	20,143	2,138	19,074	119,587	5.9
85–86.....	0.115809	18,005	2,085	16,962	100,513	5.6
86–87.....	0.126006	15,920	2,006	14,917	83,551	5.2
87–88.....	0.136877	13,914	1,904	12,961	68,634	4.9
88–89.....	0.148429	12,009	1,783	11,118	55,673	4.6
89–90.....	0.160660	10,227	1,643	9,405	44,555	4.4
90–91.....	0.173561	8,584	1,490	7,839	35,150	4.1
91–92.....	0.187115	7,094	1,327	6,430	27,311	3.8
92–93.....	0.201296	5,767	1,161	5,186	20,881	3.6
93–94.....	0.216067	4,606	995	4,108	15,694	3.4
94–95.....	0.231383	3,611	835	3,193	11,586	3.2
95–96.....	0.247190	2,775	686	2,432	8,393	3.0
96–97.....	0.263422	2,089	550	1,814	5,961	2.9
97–98.....	0.280009	1,539	431	1,323	4,147	2.7
98–99.....	0.296872	1,108	329	943	2,824	2.5
99–100.....	0.313925	779	245	657	1,880	2.4
100 and over.....	1.000000	534	534	1,224	1,224	2.3

NOTES: Estimates are based on provisional data for 2021. Provisional data are subject to change as additional data are received. This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates; see Technical Notes in this report.

SOURCE: National Center for Health Statistics, National Vital Statistics System, Mortality.

EXHIBIT 13

Table I-17. Provisional life table for non-Hispanic White males: United States, 2021

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
0-1.....	0.004455	100,000	446	99,609	7,370,194	73.7
1-2.....	0.000391	99,554	39	99,535	7,270,585	73.0
2-3.....	0.000266	99,516	27	99,502	7,171,050	72.1
3-4.....	0.000225	99,489	22	99,478	7,071,548	71.1
4-5.....	0.000164	99,467	16	99,459	6,972,070	70.1
5-6.....	0.000154	99,450	15	99,443	6,872,611	69.1
6-7.....	0.000140	99,435	14	99,428	6,773,169	68.1
7-8.....	0.000128	99,421	13	99,415	6,673,741	67.1
8-9.....	0.000115	99,408	11	99,403	6,574,326	66.1
9-10.....	0.000104	99,397	10	99,392	6,474,923	65.1
10-11.....	0.000101	99,387	10	99,382	6,375,531	64.1
11-12.....	0.000115	99,377	11	99,371	6,276,150	63.2
12-13.....	0.000161	99,365	16	99,357	6,176,779	62.2
13-14.....	0.000243	99,349	24	99,337	6,077,422	61.2
14-15.....	0.000354	99,325	35	99,307	5,978,085	60.2
15-16.....	0.000478	99,290	47	99,266	5,878,777	59.2
16-17.....	0.000605	99,242	60	99,212	5,779,511	58.2
17-18.....	0.000738	99,182	73	99,146	5,680,299	57.3
18-19.....	0.000874	99,109	87	99,066	5,581,153	56.3
19-20.....	0.001014	99,022	100	98,972	5,482,088	55.4
20-21.....	0.001163	98,922	115	98,864	5,383,115	54.4
21-22.....	0.001316	98,807	130	98,742	5,284,251	53.5
22-23.....	0.001461	98,677	144	98,605	5,185,509	52.6
23-24.....	0.001590	98,533	157	98,454	5,086,904	51.6
24-25.....	0.001707	98,376	168	98,292	4,988,450	50.7
25-26.....	0.001817	98,208	178	98,119	4,890,158	49.8
26-27.....	0.001930	98,030	189	97,935	4,792,039	48.9
27-28.....	0.002053	97,840	201	97,740	4,694,104	48.0
28-29.....	0.002191	97,640	214	97,533	4,596,364	47.1
29-30.....	0.002338	97,426	228	97,312	4,498,831	46.2
30-31.....	0.002488	97,198	242	97,077	4,401,520	45.3
31-32.....	0.002632	96,956	255	96,828	4,304,443	44.4
32-33.....	0.002769	96,701	268	96,567	4,207,614	43.5
33-34.....	0.002896	96,433	279	96,293	4,111,047	42.6
34-35.....	0.003021	96,154	290	96,008	4,014,754	41.8
35-36.....	0.003153	95,863	302	95,712	3,918,746	40.9
36-37.....	0.003294	95,561	315	95,404	3,823,034	40.0
37-38.....	0.003435	95,246	327	95,083	3,727,630	39.1
38-39.....	0.003573	94,919	339	94,749	3,632,548	38.3
39-40.....	0.003714	94,580	351	94,404	3,537,798	37.4
40-41.....	0.003876	94,228	365	94,046	3,443,394	36.5
41-42.....	0.004059	93,863	381	93,673	3,349,348	35.7
42-43.....	0.004243	93,482	397	93,284	3,255,676	34.8
43-44.....	0.004427	93,086	412	92,880	3,162,392	34.0
44-45.....	0.004628	92,673	429	92,459	3,069,512	33.1
45-46.....	0.004867	92,245	449	92,020	2,977,053	32.3
46-47.....	0.005164	91,796	474	91,559	2,885,033	31.4
47-48.....	0.005515	91,322	504	91,070	2,793,474	30.6
48-49.....	0.005908	90,818	537	90,550	2,702,404	29.8
49-50.....	0.006330	90,281	571	89,996	2,611,855	28.9
50-51.....	0.006761	89,710	606	89,407	2,521,859	28.1
51-52.....	0.007225	89,104	644	88,782	2,432,452	27.3
52-53.....	0.007762	88,460	687	88,116	2,343,670	26.5
53-54.....	0.008397	87,773	737	87,405	2,255,554	25.7
54-55.....	0.009118	87,036	794	86,639	2,168,150	24.9
55-56.....	0.009858	86,242	850	85,817	2,081,510	24.1
56-57.....	0.010615	85,392	906	84,939	1,995,693	23.4
57-58.....	0.011450	84,486	967	84,002	1,910,754	22.6
58-59.....	0.012369	83,518	1,033	83,002	1,826,752	21.9
59-60.....	0.013338	82,485	1,100	81,935	1,743,750	21.1
60-61.....	0.014348	81,385	1,168	80,801	1,661,814	20.4

See footnotes at end of table.

Table I-17. Provisional life table for non-Hispanic White males: United States, 2021—Con.

Age (years)	Probability of dying between ages x and $x + 1$	Number surviving to age x	Number dying between ages x and $x + 1$	Person-years lived between ages x and $x + 1$	Total number of person-years lived above age x	Expectation of life at age x
	q_x	l_x	d_x	L_x	T_x	e_x
61–62.....	0.015353	80,218	1,232	79,602	1,581,013	19.7
62–63.....	0.016324	78,986	1,289	78,341	1,501,411	19.0
63–64.....	0.017269	77,697	1,342	77,026	1,423,070	18.3
64–65.....	0.018240	76,355	1,393	75,659	1,346,044	17.6
65–66.....	0.019278	74,962	1,445	74,240	1,270,385	16.9
66–67.....	0.020644	73,517	1,518	72,758	1,196,146	16.3
67–68.....	0.021985	71,999	1,583	71,208	1,123,388	15.6
68–69.....	0.023491	70,416	1,654	69,589	1,052,180	14.9
69–70.....	0.025123	68,762	1,727	67,899	982,590	14.3
70–71.....	0.026552	67,035	1,780	66,145	914,692	13.6
71–72.....	0.028604	65,255	1,867	64,322	848,547	13.0
72–73.....	0.030648	63,388	1,943	62,417	784,225	12.4
73–74.....	0.032807	61,446	2,016	60,438	721,808	11.7
74–75.....	0.036877	59,430	2,192	58,334	661,370	11.1
75–76.....	0.039881	57,238	2,283	56,097	603,036	10.5
76–77.....	0.044162	54,955	2,427	53,742	546,939	10.0
77–78.....	0.048415	52,529	2,543	51,257	493,197	9.4
78–79.....	0.053719	49,985	2,685	48,643	441,940	8.8
79–80.....	0.058595	47,300	2,772	45,914	393,298	8.3
80–81.....	0.064491	44,529	2,872	43,093	347,383	7.8
81–82.....	0.070759	41,657	2,948	40,183	304,291	7.3
82–83.....	0.077221	38,709	2,989	37,215	264,107	6.8
83–84.....	0.087168	35,720	3,114	34,163	226,893	6.4
84–85.....	0.096045	32,607	3,132	31,041	192,729	5.9
85–86.....	0.108135	29,475	3,187	27,881	161,689	5.5
86–87.....	0.118815	26,288	3,123	24,726	133,807	5.1
87–88.....	0.132981	23,164	3,080	21,624	109,082	4.7
88–89.....	0.148379	20,084	2,980	18,594	87,458	4.4
89–90.....	0.165007	17,104	2,822	15,693	68,864	4.0
90–91.....	0.182842	14,282	2,611	12,976	53,171	3.7
91–92.....	0.201830	11,670	2,355	10,493	40,195	3.4
92–93.....	0.221884	9,315	2,067	8,281	29,703	3.2
93–94.....	0.242890	7,248	1,760	6,368	21,421	3.0
94–95.....	0.264702	5,488	1,453	4,761	15,054	2.7
95–96.....	0.287145	4,035	1,159	3,456	10,292	2.6
96–97.....	0.310023	2,876	892	2,430	6,837	2.4
97–98.....	0.333123	1,985	661	1,654	4,406	2.2
98–99.....	0.356226	1,323	471	1,088	2,752	2.1
99–100.....	0.379110	852	323	691	1,664	2.0
100 and over.....	1.000000	529	529	974	974	1.8

NOTES: Estimates are based on provisional data for 2021. Provisional data are subject to change as additional data are received. This life table is based on death rates that have been adjusted for race and ethnicity misclassification on death certificates; see Technical Notes in this report.

SOURCE: National Center for Health Statistics, National Vital Statistics System, Mortality.

EXHIBIT 14

Appendix D. 2021 Provisional U.S. General Population All Males Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All males

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.0057960	1.0	0.0057960	100,000	580	99,427	4,891,040	48.9
1-2	0.0004060	1.0	0.0004060	99,420	40	99,400	4,791,613	48.2
2-3	0.0002680	1.0	0.0002680	99,380	27	99,367	4,692,213	47.2
3-4	0.0002210	1.0	0.0002210	99,353	22	99,342	4,592,847	46.2
4-5	0.0001730	1.0	0.0001730	99,331	17	99,323	4,493,505	45.2
5-6	0.0001590	1.0	0.0001590	99,314	16	99,306	4,394,182	44.2
6-7	0.0001490	1.0	0.0001490	99,298	15	99,291	4,294,876	43.3
7-8	0.0013800	1.0	0.0013800	99,283	137	99,215	4,195,586	42.3
8-9	0.0001200	1.0	0.0001200	99,146	12	99,140	4,096,371	41.3
9-10	0.0001000	1.0	0.0001000	99,134	10	99,129	3,997,231	40.3
10-11	0.0000860	1.0	0.0000860	99,124	9	99,120	3,898,102	39.3
11-12	0.0000960	1.0	0.0000960	99,115	10	99,110	3,798,983	38.3
12-13	0.0001500	1.0	0.0001500	99,105	15	99,098	3,699,873	37.3
13-14	0.0002590	1.0	0.0002590	99,090	26	99,077	3,600,775	36.3
14-15	0.0004130	1.0	0.0004130	99,064	41	99,044	3,501,698	35.3
15-16	0.0005850	1.0	0.0005850	99,023	58	98,994	3,402,655	34.4
16-17	0.0007580	1.0	0.0007580	98,965	75	98,928	3,303,661	33.4
17-18	0.0009340	1.0	0.0009340	98,890	92	98,844	3,204,733	32.4
18-19	0.0011040	3.3	0.0036955	98,798	365	98,616	3,105,889	31.4
19-20	0.0012690	3.2	0.0040567	98,433	399	98,234	3,007,274	30.6
20-21	0.0014430	3.0	0.0043003	98,034	422	97,823	2,909,040	29.7
21-22	0.0016210	3.1	0.0050814	97,612	496	97,364	2,811,217	28.8
22-23	0.0017770	3.3	0.0059133	97,116	574	96,829	2,713,853	27.9
23-24	0.0019000	4.1	0.0077038	96,542	744	96,170	2,617,024	27.1
24-25	0.0019990	4.6	0.0092063	95,798	882	95,357	2,520,854	26.3
25-26	0.0020840	4.9	0.0102517	94,916	973	94,430	2,425,497	25.6

Appendix D. 2021 Provisional U.S. General Population All Males Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All males

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.0021730	5.5	0.0119703	93,943	1,125	93,381	2,331,068	24.8
27-28	0.0022690	5.8	0.0132466	92,818	1,230	92,203	2,237,687	24.1
28-29	0.0023820	6.5	0.0155005	91,588	1,420	90,878	2,145,484	23.4
29-30	0.0025060	6.5	0.0162071	90,168	1,461	89,438	2,054,606	22.8
30-31	0.0026330	6.4	0.0168935	88,707	1,499	87,958	1,965,169	22.2
31-32	0.0027550	6.9	0.0190655	87,208	1,663	86,377	1,877,211	21.5
32-33	0.0028730	7.1	0.0204909	85,545	1,753	84,669	1,790,835	20.9
33-34	0.0029890	7.4	0.0222318	83,792	1,863	82,861	1,706,166	20.4
34-35	0.0031050	6.8	0.0210849	81,929	1,727	81,066	1,623,306	19.8
35-36	0.0032290	6.4	0.0207143	80,202	1,661	79,372	1,542,240	19.2
36-37	0.0033650	6.7	0.0224527	78,541	1,763	77,660	1,462,869	18.6
37-38	0.0035080	7.1	0.0250546	76,778	1,924	75,816	1,385,209	18.0
38-39	0.0036570	7.7	0.0280145	74,854	2,097	73,806	1,309,393	17.5
39-40	0.0038130	7.8	0.0296877	72,757	2,160	71,677	1,235,588	17.0
40-41	0.0039910	7.9	0.0314917	70,597	2,223	69,486	1,163,911	16.5
41-42	0.0041880	7.7	0.0321590	68,374	2,199	67,275	1,094,425	16.0
42-43	0.0043870	7.3	0.0320924	66,175	2,124	65,113	1,027,151	15.5
43-44	0.0045870	6.8	0.0312035	64,051	1,999	63,052	962,038	15.0
44-45	0.0048020	6.5	0.0313273	62,052	1,944	61,080	898,986	14.5
45-46	0.0050480	6.7	0.0337397	60,108	2,028	59,094	837,906	13.9
46-47	0.0053460	7.1	0.0379129	58,080	2,202	56,979	778,812	13.4
47-48	0.0056980	7.1	0.0401898	55,878	2,246	54,755	721,833	12.9
48-49	0.0061020	7.0	0.0425264	53,632	2,281	52,492	667,078	12.4
49-50	0.0065460	6.9	0.0454348	51,351	2,333	50,185	614,587	12.0
50-51	0.0070080	7.4	0.0517055	49,018	2,535	47,751	564,402	11.5
51-52	0.0075020	7.4	0.0552759	46,483	2,569	45,199	516,652	11.1

Appendix D. 2021 Provisional U.S. General Population All Males Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All males

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.0080620	7.3	0.0588775	43,914	2,586	42,621	471,453	10.7
53-54	0.0087070	6.9	0.0601521	41,328	2,486	40,085	428,832	10.4
54-55	0.0094300	7.0	0.0663039	38,842	2,575	37,555	388,747	10.0
55-56	0.0101740	6.9	0.0699945	36,267	2,538	34,998	351,193	9.7
56-57	0.0109430	6.6	0.0717402	33,729	2,420	32,519	316,195	9.4
57-58	0.0117970	6.4	0.0750348	31,309	2,349	30,135	283,676	9.1
58-59	0.0127460	6.3	0.0804743	28,960	2,331	27,795	253,541	8.8
59-60	0.0137610	6.7	0.0925007	26,629	2,463	25,398	225,747	8.5
60-61	0.0148260	7.1	0.1055196	24,166	2,550	22,891	200,349	8.3
61-62	0.0158920	7.0	0.1115152	21,616	2,411	20,411	177,458	8.2
62-63	0.0169340	6.9	0.1171490	19,205	2,250	18,080	157,048	8.2
63-64	0.0179520	6.3	0.1128909	16,955	1,914	15,998	138,968	8.2
64-65	0.0189930	6.0	0.1136128	15,041	1,709	14,187	122,970	8.2
65-66	0.0201090	5.6	0.1131353	13,332	1,508	12,578	108,783	8.2
66-67	0.0213420	5.7	0.1226963	11,824	1,451	11,099	96,205	8.1
67-68	0.0226960	5.3	0.1210009	10,373	1,255	9,746	85,107	8.2
68-69	0.0241570	4.6	0.1112637	9,118	1,015	8,611	75,361	8.3
69-70	0.0257000	4.2	0.1068424	8,103	866	7,670	66,751	8.2
70-71	0.0272960	4.1	0.1115930	7,237	808	6,833	59,081	8.2
71-72	0.0289970	3.5	0.1026328	6,429	660	6,099	52,248	8.1
72-73	0.0309250	3.5	0.1070407	5,769	618	5,460	46,149	8.0
73-74	0.0329200	3.2	0.1062138	5,151	547	4,878	40,689	7.9
74-75	0.0367880	2.8	0.1014135	4,604	467	4,371	35,811	7.8

Appendix D. 2021 Provisional U.S. General Population All Males Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
All males

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.0398940	2.6	0.1039932	4,137	430	3,922	31,441	7.6
76-77	0.0443150	2.7	0.1218233	3,707	452	3,481	27,519	7.4
77-78	0.0483280	2.6	0.1236445	3,255	402	3,054	24,038	7.4
78-79	0.0534110	2.4	0.1266124	2,853	361	2,673	20,984	7.4
79-80	0.0580830	2.2	0.1260852	2,492	314	2,335	18,311	7.3
80-81	0.0637050	2.1	0.1340691	2,178	292	2,032	15,976	7.3
81-82	0.0695810	1.0	0.0695810	1,886	131	1,821	13,944	7.4
82-83	0.0762630	1.0	0.0762630	1,755	134	1,688	12,124	6.9
83-84	0.0848160	1.0	0.0848160	1,621	137	1,553	10,436	6.4
84-85	0.0947130	1.0	0.0947130	1,484	141	1,414	8,883	6.0
85-86	0.1051310	1.0	0.1051310	1,343	141	1,273	7,470	5.6
86-87	0.1191530	1.0	0.1191530	1,202	143	1,131	6,197	5.2
87-88	0.1321630	1.0	0.1321630	1,059	140	989	5,067	4.8
88-89	0.1462150	1.0	0.1462150	919	134	852	4,078	4.4
89-90	0.1613090	1.0	0.1613090	785	127	722	3,226	4.1
90-91	0.1774300	1.0	0.1774300	658	117	600	2,504	3.8
91-92	0.1945430	1.0	0.1945430	541	105	489	1,905	3.5
92-93	0.2125880	1.0	0.2125880	436	93	390	1,416	3.2
93-94	0.2314870	1.0	0.2314870	343	79	304	1,027	3.0
94-95	0.2511370	1.0	0.2511370	264	66	231	723	2.7
95-96	0.2714140	1.0	0.2714140	198	54	171	492	2.5
96-97	0.2921780	1.0	0.2921780	144	42	123	321	2.2
97-98	0.3132710	1.0	0.3132710	102	32	86	198	1.9
98-99	0.3345260	1.0	0.3345260	70	23	59	112	1.6
99-100	0.3557720	1.0	0.3557720	47	17	39	54	1.1
100+	1.00000	1.0	1.0000000	30	30	15	15	0.5

EXHIBIT 15

Appendix E. 2021 Provisional U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.0118190	1.0	0.0118190	100,000	1,182	99,007	4,794,189	47.9
1-2	0.0007110	1.0	0.0007110	98,818	70	98,783	4,695,182	47.5
2-3	0.0005050	1.0	0.0005050	98,748	50	98,723	4,596,399	46.5
3-4	0.0004080	1.0	0.0004080	98,698	40	98,678	4,497,676	45.6
4-5	0.0003270	1.0	0.0003270	98,658	32	98,642	4,398,998	44.6
5-6	0.0003030	1.0	0.0003030	98,626	30	98,611	4,300,356	43.6
6-7	0.0002970	1.0	0.0002970	98,596	29	98,582	4,201,745	42.6
7-8	0.0002780	1.0	0.0002780	98,567	27	98,554	4,103,164	41.6
8-9	0.0002290	1.0	0.0002290	98,540	23	98,529	4,004,610	40.6
9-10	0.0001570	1.0	0.0001570	98,517	15	98,510	3,906,082	39.6
10-11	0.0000950	1.0	0.0000950	98,502	9	98,498	3,807,572	38.7
11-12	0.0000930	1.0	0.0000930	98,493	9	98,489	3,709,075	37.7
12-13	0.0002110	1.0	0.0002110	98,484	21	98,474	3,610,586	36.7
13-14	0.0004870	1.0	0.0004870	98,463	48	98,439	3,512,113	35.7
14-15	0.0008900	1.0	0.0008900	98,415	88	98,371	3,413,674	34.7
15-16	0.0013550	1.0	0.0013550	98,327	133	98,261	3,315,303	33.7
16-17	0.0018130	1.0	0.0018130	98,194	178	98,105	3,217,042	32.8
17-18	0.0022420	1.0	0.0022420	98,016	220	97,906	3,118,937	31.8
18-19	0.0026010	2.5	0.0065417	97,796	640	97,476	3,021,031	30.9
19-20	0.0028980	2.4	0.0068335	97,156	664	96,824	2,923,555	30.1
20-21	0.0031960	2.0	0.0065361	96,492	631	96,177	2,826,731	29.3
21-22	0.0034990	2.2	0.0075789	95,861	727	95,498	2,730,555	28.5
22-23	0.0037270	2.1	0.0079121	95,134	753	94,758	2,635,057	27.7
23-24	0.0038550	2.4	0.0092828	94,381	876	93,943	2,540,300	26.9
24-25	0.0039100	2.6	0.0102004	93,505	954	93,028	2,446,357	26.2
25-26	0.0039310	2.7	0.0106867	92,551	989	92,057	2,353,329	25.4

Appendix E. 2021 Provisional U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.0039620	3.0	0.0117755	91,562	1,078	91,023	2,261,272	24.7
27-28	0.0040190	3.3	0.0133577	90,484	1,209	89,880	2,170,249	24.0
28-29	0.0041220	3.6	0.0150151	89,275	1,340	88,605	2,080,370	23.3
29-30	0.0042630	3.7	0.0157706	87,935	1,387	87,242	1,991,765	22.7
30-31	0.0044090	3.5	0.0153512	86,548	1,329	85,884	1,904,523	22.0
31-32	0.0045520	3.9	0.0179138	85,219	1,527	84,456	1,818,640	21.3
32-33	0.0047250	4.2	0.0200351	83,692	1,677	82,854	1,734,184	20.7
33-34	0.0049410	4.5	0.0223882	82,015	1,836	81,097	1,651,331	20.1
34-35	0.0052020	4.3	0.0221843	80,179	1,779	79,290	1,570,234	19.6
35-36	0.0055130	3.9	0.0216003	78,400	1,693	77,554	1,490,944	19.0
36-37	0.0058530	4.0	0.0233328	76,707	1,790	75,812	1,413,391	18.4
37-38	0.0061850	4.4	0.0271336	74,917	2,033	73,901	1,337,579	17.9
38-39	0.0064680	4.6	0.0300189	72,884	2,188	71,790	1,263,678	17.3
39-40	0.0067080	5.0	0.0336523	70,696	2,379	69,507	1,191,888	16.9
40-41	0.0069560	4.8	0.0331127	68,317	2,262	67,186	1,122,382	16.4
41-42	0.0072410	4.7	0.0343276	66,055	2,268	64,921	1,055,196	16.0
42-43	0.0075400	4.2	0.0313599	63,787	2,000	62,787	990,275	15.5
43-44	0.0078690	3.8	0.0299131	61,787	1,848	60,863	927,488	15.0
44-45	0.0082420	3.7	0.0306754	59,939	1,839	59,020	866,625	14.5
45-46	0.0086660	4.3	0.0372518	58,100	2,164	57,018	807,605	13.9
46-47	0.0091460	4.9	0.0444933	55,936	2,489	54,692	750,587	13.4
47-48	0.0096880	4.8	0.0465364	53,447	2,487	52,204	695,896	13.0
48-49	0.0102780	4.3	0.0446976	50,960	2,278	49,821	643,692	12.6
49-50	0.0109030	4.2	0.0456417	48,682	2,222	47,571	593,871	12.2
50-51	0.0115480	4.2	0.0488765	46,460	2,271	45,325	546,300	11.8
51-52	0.0122410	4.2	0.0518398	44,189	2,291	43,044	500,976	11.3

Appendix E. 2021 Provisional U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.0130130	4.2	0.0541947	41,898	2,271	40,763	457,932	10.9
53-54	0.0138870	4.1	0.0572821	39,627	2,270	38,492	417,170	10.5
54-55	0.0148530	4.2	0.0629275	37,357	2,351	36,182	378,678	10.1
55-56	0.0158220	4.1	0.0651989	35,006	2,282	33,865	342,496	9.8
56-57	0.0168250	3.9	0.0650704	32,724	2,129	31,660	308,631	9.4
57-58	0.0179990	4.0	0.0715587	30,595	2,189	29,501	276,972	9.1
58-59	0.0193930	4.0	0.0774614	28,406	2,200	27,306	247,471	8.7
59-60	0.0209590	4.3	0.0910169	26,206	2,385	25,014	220,165	8.4
60-61	0.0225980	4.6	0.1039202	23,821	2,475	22,584	195,152	8.2
61-62	0.0242300	4.9	0.1176705	21,346	2,512	20,090	172,568	8.1
62-63	0.0258980	4.6	0.1182349	18,834	2,227	17,721	152,478	8.1
63-64	0.0276300	4.3	0.1194378	16,607	1,984	15,615	134,758	8.1
64-65	0.0294740	4.0	0.1164627	14,623	1,703	13,772	119,143	8.1
65-66	0.0315330	4.1	0.1281414	12,920	1,656	12,092	105,371	8.2
66-67	0.0337580	4.2	0.1432101	11,264	1,613	10,458	93,279	8.3
67-68	0.0359590	4.2	0.1512718	9,651	1,460	8,921	82,822	8.6
68-69	0.0375830	4.0	0.1512805	8,191	1,239	7,572	73,901	9.0
69-70	0.0393600	3.5	0.1359869	6,952	945	6,480	66,329	9.5
70-71	0.0411410	3.5	0.1419539	6,007	853	5,581	59,850	10.0
71-72	0.0430850	3.3	0.1408168	5,154	726	4,791	54,269	10.5
72-73	0.0455840	1.0	0.0455840	4,428	202	4,327	49,478	11.2
73-74	0.0474410	1.0	0.0474410	4,226	200	4,126	45,151	10.7
74-75	0.0511030	1.0	0.0511030	4,026	206	3,923	41,025	10.2

Appendix E. 2021 Provisional U.S. General Population Non-Hispanic Black Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
Black men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.0537690	1.0	0.0537690	3,820	205	3,718	37,102	9.7
76-77	0.0585460	1.0	0.0585460	3,615	212	3,509	33,385	9.2
77-78	0.0628020	1.0	0.0628020	3,403	214	3,296	29,876	8.8
78-79	0.0679400	1.0	0.0679400	3,189	217	3,081	26,580	8.3
79-80	0.0718190	1.0	0.0718190	2,972	213	2,866	23,499	7.9
80-81	0.0771630	1.0	0.0771630	2,759	213	2,653	20,634	7.5
81-82	0.0830340	1.0	0.0830340	2,546	211	2,441	17,981	7.1
82-83	0.0902690	1.0	0.0902690	2,335	211	2,230	15,541	6.7
83-84	0.0976610	1.0	0.0976610	2,124	207	2,021	13,311	6.3
84-85	0.1061590	1.0	0.1061590	1,917	204	1,815	11,291	5.9
85-86	0.1158090	1.0	0.1158090	1,713	198	1,614	9,476	5.5
86-87	0.1260060	1.0	0.1260060	1,515	191	1,420	7,862	5.2
87-88	0.1368770	1.0	0.1368770	1,324	181	1,234	6,442	4.9
88-89	0.1484290	1.0	0.1484290	1,143	170	1,058	5,209	4.6
89-90	0.1606600	1.0	0.1606600	973	156	895	4,151	4.3
90-91	0.1735610	1.0	0.1735610	817	142	746	3,256	4.0
91-92	0.1871150	1.0	0.1871150	675	126	612	2,510	3.7
92-93	0.2012960	1.0	0.2012960	549	111	494	1,898	3.5
93-94	0.2160670	1.0	0.2160670	438	95	391	1,404	3.2
94-95	0.2313830	1.0	0.2313830	343	79	304	1,014	3.0
95-96	0.2471900	1.0	0.2471900	264	65	232	710	2.7
96-97	0.2634220	1.0	0.2634220	199	52	173	479	2.4
97-98	0.2800090	1.0	0.2800090	147	41	127	306	2.1
98-99	0.2968720	1.0	0.2968720	106	31	91	179	1.7
99-100	0.3139250	1.0	0.3139250	75	24	63	89	1.2
100+	1.00000	1.0	1.0000000	51	51	26	26	0.5

EXHIBIT 16

Appendix F. 2021 Provisional U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk I_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
0-1	0.0044550	1.0	0.0044550	100,000	446	99,517	4,808,458	48.1
1-2	0.0003910	1.0	0.0003910	99,554	39	99,535	4,708,941	47.3
2-3	0.0002660	1.0	0.0002660	99,515	26	99,502	4,609,407	46.3
3-4	0.0002250	1.0	0.0002250	99,489	22	99,478	4,509,905	45.3
4-5	0.0001640	1.0	0.0001640	99,467	16	99,459	4,410,427	44.3
5-6	0.0001540	1.0	0.0001540	99,451	15	99,444	4,310,968	43.3
6-7	0.0001400	1.0	0.0001400	99,436	14	99,429	4,211,524	42.4
7-8	0.0001280	1.0	0.0001280	99,422	13	99,416	4,112,095	41.4
8-9	0.0001150	1.0	0.0001150	99,409	11	99,404	4,012,680	40.4
9-10	0.0001040	1.0	0.0001040	99,398	10	99,393	3,913,276	39.4
10-11	0.0001010	1.0	0.0001010	99,388	10	99,383	3,813,883	38.4
11-12	0.0001150	1.0	0.0001150	99,378	11	99,373	3,714,500	37.4
12-13	0.0001610	1.0	0.0001610	99,367	16	99,359	3,615,128	36.4
13-14	0.0002430	1.0	0.0002430	99,351	24	99,339	3,515,769	35.4
14-15	0.0003540	1.0	0.0003540	99,327	35	99,310	3,416,430	34.4
15-16	0.0004780	1.0	0.0004780	99,292	47	99,269	3,317,120	33.4
16-17	0.0006050	1.0	0.0006050	99,245	60	99,215	3,217,852	32.4
17-18	0.0007380	1.0	0.0007380	99,185	73	99,149	3,118,637	31.4
18-19	0.0008740	1.0	0.0008740	99,112	87	99,069	3,019,488	30.5
19-20	0.0010140	1.0	0.0010140	99,025	100	98,975	2,920,420	29.5
20-21	0.0011630	3.0	0.0035135	98,925	348	98,751	2,821,445	28.5
21-22	0.0013160	3.0	0.0038872	98,577	383	98,386	2,722,694	27.6
22-23	0.0014610	3.7	0.0054733	98,194	537	97,926	2,624,308	26.7
23-24	0.0015900	5.2	0.0082528	97,657	806	97,254	2,526,383	25.9
24-25	0.0017070	6.3	0.0106800	96,851	1,034	96,334	2,429,129	25.1
25-26	0.0018170	6.7	0.0121523	95,817	1,164	95,235	2,332,795	24.3

Appendix F. 2021 Provisional U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk I_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
26-27	0.0019300	7.6	0.0146922	94,653	1,391	93,958	2,237,560	23.6
27-28	0.0020530	7.2	0.0148482	93,262	1,385	92,570	2,143,602	23.0
28-29	0.0021910	8.5	0.0185532	91,877	1,705	91,025	2,051,033	22.3
29-30	0.0023380	8.2	0.0191590	90,172	1,728	89,308	1,960,008	21.7
30-31	0.0024880	9.1	0.0226158	88,444	2,000	87,444	1,870,700	21.2
31-32	0.0026320	9.2	0.0243158	86,444	2,102	85,393	1,783,256	20.6
32-33	0.0027690	9.0	0.0247938	84,342	2,091	83,297	1,697,863	20.1
33-34	0.0028960	8.9	0.0257416	82,251	2,117	81,193	1,614,567	19.6
34-35	0.0030210	7.5	0.0227856	80,134	1,826	79,221	1,533,374	19.1
35-36	0.0031530	7.2	0.0225880	78,308	1,769	77,424	1,454,153	18.6
36-37	0.0032940	7.5	0.0247943	76,539	1,898	75,590	1,376,730	18.0
37-38	0.0034350	7.7	0.0265325	74,641	1,980	73,651	1,301,140	17.4
38-39	0.0035730	8.5	0.0303905	72,661	2,208	71,557	1,227,489	16.9
39-40	0.0037140	8.0	0.0296288	70,453	2,087	69,410	1,155,932	16.4
40-41	0.0038760	9.0	0.0347346	68,366	2,375	67,179	1,086,522	15.9
41-42	0.0040590	8.5	0.0345903	65,991	2,283	64,850	1,019,344	15.4
42-43	0.0042430	9.1	0.0384221	63,708	2,448	62,484	954,494	15.0
43-44	0.0044270	8.6	0.0382114	61,260	2,341	60,090	892,010	14.6
44-45	0.0046280	8.3	0.0382265	58,919	2,252	57,793	831,921	14.1
45-46	0.0048670	7.6	0.0369575	56,667	2,094	55,620	774,128	13.7
46-47	0.0051640	7.5	0.0387161	54,573	2,113	53,517	718,508	13.2
47-48	0.0055150	7.6	0.0416600	52,460	2,185	51,368	664,991	12.7
48-49	0.0059080	8.1	0.0479763	50,275	2,412	49,069	613,624	12.2
49-50	0.0063300	8.2	0.0520932	47,863	2,493	46,617	564,555	11.8
50-51	0.0067610	9.1	0.0612803	45,370	2,780	43,980	517,938	11.4
51-52	0.0072250	9.0	0.0649233	42,590	2,765	41,208	473,958	11.1

Appendix F. 2021 Provisional U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk I_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
52-53	0.0077620	9.0	0.0698599	39,825	2,782	38,434	432,751	10.9
53-54	0.0083970	8.1	0.0680147	37,043	2,519	35,784	394,317	10.6
54-55	0.0091180	8.1	0.0740035	34,524	2,555	33,247	358,533	10.4
55-56	0.0098580	7.9	0.0780131	31,969	2,494	30,722	325,287	10.2
56-57	0.0106150	7.6	0.0807397	29,475	2,380	28,285	294,565	10.0
57-58	0.0114500	6.8	0.0784276	27,095	2,125	26,033	266,280	9.8
58-59	0.0123690	6.6	0.0821344	24,970	2,051	23,945	240,247	9.6
59-60	0.0133380	6.8	0.0908883	22,919	2,083	21,878	216,303	9.4
60-61	0.0143480	7.2	0.1026028	20,836	2,138	19,767	194,425	9.3
61-62	0.0153530	6.4	0.0980888	18,698	1,834	17,781	174,658	9.3
62-63	0.0163240	6.6	0.1079611	16,864	1,821	15,954	156,877	9.3
63-64	0.0172690	5.8	0.1001468	15,043	1,507	14,290	140,924	9.4
64-65	0.0182400	5.9	0.1080797	13,536	1,463	12,805	126,634	9.4
65-66	0.0192780	5.7	0.1095695	12,073	1,323	11,412	113,830	9.4
66-67	0.0206440	4.8	0.0999986	10,750	1,075	10,213	102,418	9.5
67-68	0.0219850	4.1	0.0910128	9,675	881	9,235	92,206	9.5
68-69	0.0234910	4.1	0.0954163	8,794	839	8,375	82,971	9.4
69-70	0.0251230	3.9	0.0990641	7,955	788	7,561	74,597	9.4
70-71	0.0265520	3.7	0.0993047	7,167	712	6,811	67,036	9.4
71-72	0.0286040	3.4	0.0965763	6,455	623	6,144	60,225	9.3
72-73	0.0306480	3.5	0.1076738	5,832	628	5,518	54,081	9.3
73-74	0.0328070	3.2	0.1033580	5,204	538	4,935	48,563	9.3
74-75	0.0368770	2.8	0.1028225	4,666	480	4,426	43,628	9.4

Appendix F. 2021 Provisional U.S. General Population Non-Hispanic White Male Life Table
Life Expectancies Adjusted for South Carolina DC experience 1996 to 2015, followed to 2016
White men only

Age (years)	Basic Mortality q_x	Mortality Risk Factor	Adjusted Mortality q_x	Population at Risk l_x	Deaths d_x	Interval Person-years L_x	Cumulative Person-years T_x	Life Expectancy e_x
75-76	0.0398810	2.5	0.0978907	4,186	410	3,981	39,202	9.4
76-77	0.0441620	2.4	0.1061647	3,776	401	3,576	35,221	9.3
77-78	0.0484150	1.0	0.0484150	3,375	163	3,294	31,646	9.4
78-79	0.0537190	1.0	0.0537190	3,212	173	3,126	28,352	8.8
79-80	0.0585950	1.0	0.0585950	3,039	178	2,950	25,227	8.3
80-81	0.0644910	1.0	0.0644910	2,861	185	2,769	22,277	7.8
81-82	0.0707590	1.0	0.0707590	2,676	189	2,582	19,508	7.3
82-83	0.0772210	1.0	0.0772210	2,487	192	2,391	16,927	6.8
83-84	0.0871680	1.0	0.0871680	2,295	200	2,195	14,536	6.3
84-85	0.0960450	1.0	0.0960450	2,095	201	1,995	12,341	5.9
85-86	0.1081350	1.0	0.1081350	1,894	205	1,792	10,346	5.5
86-87	0.1188150	1.0	0.1188150	1,689	201	1,589	8,555	5.1
87-88	0.1329810	1.0	0.1329810	1,488	198	1,389	6,966	4.7
88-89	0.1483790	1.0	0.1483790	1,290	191	1,195	5,577	4.3
89-90	0.1650070	1.0	0.1650070	1,099	181	1,009	4,383	4.0
90-91	0.1828420	1.0	0.1828420	918	168	834	3,374	3.7
91-92	0.2018300	1.0	0.2018300	750	151	675	2,540	3.4
92-93	0.2218840	1.0	0.2218840	599	133	533	1,866	3.1
93-94	0.2428900	1.0	0.2428900	466	113	410	1,333	2.9
94-95	0.2647020	1.0	0.2647020	353	93	307	924	2.6
95-96	0.2871450	1.0	0.2871450	260	75	223	617	2.4
96-97	0.3100230	1.0	0.3100230	185	57	157	395	2.1
97-98	0.3331230	1.0	0.3331230	128	43	107	238	1.9
98-99	0.3562260	1.0	0.3562260	85	30	70	132	1.5
99-100	0.3791100	1.0	0.3791100	55	21	45	62	1.1
100+	1.00000	1.0	1.0000000	34	34	17	17	0.5

THE STATE OF SOUTH CAROLINA

COUNTY OF CHEROKEE

The State of South Carolina,
Plaintiff,

vs.

John Bendarian Bonner

Defendant.

IN THE COURT OF GENERAL
SESSIONS

FOR THE SEVENTH JUDICIAL
CIRCUIT

Case Nos. 2009-GS-11-00824 to

2009-GS-11-00829

MOTION FOR RECONSIDERATION

Defendant John Bendarian Bonner hereby moves this Court, pursuant to Rule 29(a), SCRCrimP, to reconsider its order, signed on August 21, 2024 and served on September 2, 2024,¹ denying Bonner's "motion for reconsideration of sentence." Order, *State of South Carolina v. John Bendarian Bonner*, Nos. 2009-GS-00824 to 2009-GS-11-00829 (Aug. 21, 2024). The Order followed Bonner's February 8, 2024 appearance before the Court for a *de novo* resentencing hearing. Bonner, through undersigned counsel, respectfully requests this Court reconsider its decision to deny resentencing to Bonner and submits the following grounds in support of his motion for reconsideration:

- I. Relief was granted on Bonner's PCR application in which the remedy requested was a resentencing, not a motion to reconsider his sentence.**

As an initial matter, the relief requested by Bonner in his PCR application was a resentencing hearing, not the reconsideration of his sentence. Supplemental Petition for Post-Conviction Relief, *John B. Bonner v. State of South Carolina*, No. 2015-CP-11-0381 (Oct. 26,

¹ The parties were served with this order until September 12, 2024. Exhibit 1. As such, Bonner's motion to reconsider is due on September 23, 2024 and has been timely filed. See Rule 29(a), SCRCrimP.

2016). As such, when the PCR court granted Bonner relief based on his PCR petition, it granted Bonner a resentencing hearing.²

Not only was reconsideration not requested, but it was also not appropriate. Post-conviction relief “must closely fit the constitutional violation” such that it restores the petitioner to the same position the petitioner would have been in if not for the constitutional violation. See *Milliken v. Bradley*, 418 U.S. 717, 746 (1974). In Bonner’s case, the PCR court granted relief because there was a “strong possibility” that Bonner’s “60-year resentencing on [his] LWOP charge, particularly in that there was also a 10-year concurrent sentence for ABHAN after it” was a *de facto* life sentence that violated *Graham v. Florida*, 560 U.S. 48 (2010). Order, *State of South Carolina v. John Bendarian Bonner*, Nos. 2009-GS-00824 to 2009-GS-11-00829 (Aug. 21, 2024) at 5. As such, the appropriate remedy was to set aside the sentence and remand it for a new resentencing hearing. See *Aiken v. Byars*, 410 S.C. 534, 765 S.E.2d 572 (2014) (finding that any juvenile who receives LWOP is entitled to a resentencing hearing at which they can “present evidence specific to their attributes of youth and allow the judge to consider such evidence in the light of its constitutional weight” even when “some of the [prior] hearings touch[ed] on the issues of youth, [because] none of them approach[ed] the sort of hearing envisioned by *Miller* where the factors of youth are carefully and thoughtfully considered.”) (citing *Miller v. Alabama*, 567 U.S. 460 (2012)); *State v. Smart*, 439 S.C. 641, 644-45, 889 S.E.2d 573, 575 (2023) (clarifying that the court’s holding in *Aiken* “effectively granted every motion for resentencing for any juvenile sentenced to life without parole prior to *Miller* and *Aiken*.”).

² While Bonner also requested “all other relief as the Court deems just and proper,” such relief was requested in addition to, and not in lieu of, a resentencing hearing if the PCR court granted relief. Supplemental Petition for Post-Conviction Relief, *John B. Bonner v. State of South Carolina*, No. 2015-CP-11-0381 (Oct. 26, 2016). (“Further, Petitioner requests all other relief as the Court deems just and proper.”) (emphasis added).

Because the PCR court granted Bonner relief, and the relief sought by Bonner in his PCR petition was a resentencing hearing, the Court should reconsider its decision to treat this matter as a motion for reconsideration hearing rather than a resentencing hearing.

II. This Court did not conduct a *de novo* resentencing as required by *Smart*, *Jones*, and *Mack*.

Regardless of the relief Bonner requested or received, the effect of the PCR court's grant of relief was to reopen the sentencing judgment in Bonner's case. Thus, his sentence was not final when it came before this Court on remand, and this Court required to apply the current laws applicable to juvenile sentencing at Bonner's 2024 hearing. The Court erred by neglecting recent and relevant case law that bears on Bonner's case.

A. *State v. Smart*, 439 S.C. 641, 889 S.E.2d 573 (2023).

In *Smart*, the Supreme Court of South Carolina explicitly held that when a case is remanded for a resentencing hearing pursuant to *Aiken*³, the resentencing court may "give no deference to [any] prior sentencing court's decision." *Id.* at 645, 889 S.E.2d at 575. Instead, the resentencing court *must* review the case anew as if it were sentencing the defendant for the first time. This requires the court to make factual determinations based on the evidence presented to it and apply the law as it stands *at the time of resentencing*. *See id.* at 647, 889 S.E.2d at 576.

Here, the Court failed to do this. The Court's order gives no indication that it reconsidered the facts of Bonner's case presented at his resentencing hearing as required by *Smart*, 439 S.C. at 647, 889 S.E.2d. at 576. Further, the Court's analysis of the applicable law reflects a failure to apply new juvenile sentencing law.

³ In *Smart*, the court recognized *Aiken* "effectively granted every motion for resentencing for any juvenile sentenced to life without parole prior to *Miller* and *Aiken*." *Id.* at 644-645, 889 S.E.2d at 575.

***B. Jones v. State*, 440 S.C. 14, 889 S.C. 590 (2023).**

In *Jones v. State*, 440 S.C. 14, 889 S.E.2d 590 (2023), the Supreme Court of South Carolina extended the holding in *Aiken* beyond homicide cases (applying *Aiken* when the defendant was convicted of first-degree burglary and armed robbery). The court held that a sentencing court must consider the *Aiken* factors in *all* cases where a juvenile is being sentenced, regardless of the offense. *See id.* at 19, 889 S.E.2d at 593. As such, *Jones* requires this Court to extend *Aiken* to Bonner's case and to conduct "an individualized hearing on [the] mitigating factors of youth." *Id.* at 27, 889 S.E.2d at 598. Since Bonner's initial sentencing and resentencing were prior to *Aiken*, this Court's denial of resentencing in the current proceeding has resulted in Bonner once again being sentenced without consideration of the hallmark features of youth as required by *Aiken* and *Jones*.

***C. State v. Mack*, 441 S.C. 526, 894 S.E.2d 820 (Ct. App. 2023).**

The Court failed to apply the substantive content of the *Aiken* factors to the evidence presented by Bonner as the Court of Appeals held is required in *Mack*. When sentencing a defendant for an offense committed as a juvenile, the court *must* conduct a "specific and individualized" inquiry into the "mitigating factors of youth" enumerated by *Aiken* any time a defendant is being sentenced as a juvenile. *Mack*, 441 S.C. at 544, 894 S.E.2d at 830 (citing *Jones*, 440 S.C. at 27, 889 S.E.2d at 598). Specifically, the sentencing court is required to consider five factors:

"(1) [T]he chronological age of the offender and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate the risks and consequence; (2) the family and home environment that surrounded the offender; (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him; (4) the incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement) or [the offender's] incapacity to assist his own attorneys; and (5) the possibility of rehabilitation."

Aiken, 410 S.C. at 544, 765 S.E.2d at 577 (citation omitted). Importantly for present purposes, “[a]pplying the *Aiken* factors involves more than repeating the words; it requires applying the substantive content of those factors.” *Mack*, 441 S.C. at 544, 894 S.E.2d at 830.

This Court’s order does not reflect any effort to apply the *Aiken* factors in Bonner’s case. By no account do the “findings” set forth in this court’s order even approach the level of consideration required by *Aiken*. All the Court said about the *Aiken* factors was:

Having considered the evidence presented at the hearing for reconsideration of sentence in mitigation and in aggravation of punishment, including the trial transcript, this Court has taken into account evidence presented relevant to (1) the chronological age of the defendant, (2) the family and home environment surrounding his existence, (3) the nature and circumstances of the offenses for which he was convicted, including the extent of his participation and any peer pressures, (4) his capacity and maturity at the time of the crimes, and (5) his potential for rehabilitation, this Court finds that the record in this case does not persuade the court to alter or amend the sentence previously imposed for the defendant’s conviction for Burglary 1st Degree.

Order at 4-5. As the Court of Appeals concluded in *Mack*, both *Aiken* and *Miller* require more from the Court than a list of factors it purports to have considered in its sentencing decision. *Cf. McCray v. State*, 305 S.C. 329, 330, 408 S.E.2d 240, 241 (1991) (remanding a PCR case in which the trial court failed to make sufficient factual findings on each issue raised below to allow for appellate review).

Regarding the first factor, this Court’s assertion that it took Bonner’s chronological age into consideration undoubtedly falls short of the standard adopted by *Aiken*. *Mack*, 441 S.C. at 540, 894 S.E.2d at 828 (citing *Aiken*, 410 S.C. at 543, 765 S.E.2d at 577). While the closeness of a defendant’s age to age eighteen is relevant to a degree, “age is not a sliding scale that necessarily weighs against mitigation the closer the offender is to turning eighteen years old at the time of the crime...[the *Miller* court] did not suggest that a seventeen-year-old child is more deserving of adult punishment than a sixteen-year-old child...[C]ategorical age groups do not exist for children to justify using age alone as a factor against granting eligibility for parole.” *Id.* at 541-42, 894 S.E.2d

at 828 (quoting *State v. Roby*, 897 N.W.2d 127, 145-46 (Iowa 2017)). The court's consideration of a defendant's youth is inadequate when "other than stating it has considered all the *Aiken* factors, the resentencing court order makes no reference to "the hallmark features of youth, including 'immaturity, impetuosity, and failure to appreciate [] risks and consequence[s.]' *Id.* at 543, 894 S.E.2d at 829. Here, the Court did not even go as far as mentioning Bonner's age at the time of the offense in its order. As such, the Court failed to adequately consider this factor.

As to the hallmark features of youth,⁴ an adequate inquiry requires, at minimum, that the "factors of youth [be] carefully and thoughtfully considered" during sentencing. *Aiken*, 410 S.C. at 543, 765 S.E.2d at 577. These characteristics include juveniles' "transient rashness, proclivity for risk, and inability to assess consequences." *Miller*, 567 U.S. at 472. In *State v. Smart*, 433 S.C. 651, 861 S.E.2d, 383 (Ct. App. 2021), the trial court's inquiry into this consideration was sufficient when the trial court referenced, in its reasoning on the record, the expert witness's testimony about the effects of the defendant's drug use on his mental health and ability to appreciate the wrongfulness of his conduct, and further discussed the defendant's planning of the crime, attempts to conceal the crime, and his conflicting statements to law enforcement. *Id.* at 661-62, 861 S.E.2d at 389. In *Jones v. State*, 440 S.C. 14, 889 S.E.2d 590 (2023), the inquiry into this factor was sufficient when the court considered that the defendant had earned his GED; was not under the influence at the time of the offense; was single and had no children; worked in landscaping; and did not have any emotional or physical disabilities. *Id.* at 30, 889 S.E.2d at 599. The court also inquired into the defendant's understanding of his relationship with his attorney. *Id.*

As to the second factor, juveniles "have limited "contro[l] over their own environment" and lack the ability to extricate themselves from horrific, crime-producing settings." *Miller*, 567

⁴ These features include, but are not limited to, "immaturity, impetuosity, and failure to appreciate the risks and consequence." *Mack*, 441 S.C. at 543, 894 S.E.2d at 829.

U.S. at 461 (citing *Roper v. Simmons*, 543 U.S. 551, 569 (2005)). As such, “the [*Aiken*] inquiry requires the court to consider the impact of *the defendant’s* family and home environment *on his crimes*. It is a specific and individualized inquiry.” *Mack*, 441 S.C. at 544, 894 S.E.2d at 830 (emphasis supplied) (finding that the resentencing court’s order failed to show meaningful consideration when its analysis of this factor was limited to a statement providing that “[the defendant] grew up in a bad home environment, whereby he witnessed several traumatic events in his childhood[] and was affected by these events as well as many other things in his life.”). Here, this Court merely stated it had considered Bonner’s family and home environment without providing any substantive analysis.

As to the third and fourth factors, the nature of the offense and the defendant’s capacity and maturity at the time of the offense, the Supreme Court of South Carolina has found the court conducted a sufficient inquiry into these factors when: the court clarified that [the defendant] knew the severity of his charges and possible sentences, “heard a detailed recitation of the facts underlying the charges and admonished [the defendant] to ‘listen carefully to the facts’”; warned him of the risks of waiving his right to a jury trial; and “asked [him] if he certainly pleaded guilty no less than eight times.” *Jones*, 440 S.C. at 30, 889 S.E.2d at 599.

As to the final factor, rehabilitation potential, the Court should have addressed the opinion of the expert witness in prison systems and inmate behavior that was presented at the hearing and pointed to the facts it used in assessing this factor. For example, in *Smart*, the defendant’s rehabilitation potential was properly considered in the trial court’s analysis when the court referenced an expert witness’s opinion regarding the defendant’s meant improvement and chance to become a productive member of society, as well as pointed to specific evidence that informed its conclusion: the defendant’s disciplinary history while incarcerated, planned escape, the nature

of the offense committed and attempts to conceal it, and the defendant's failure to participate in any rehabilitative or educational programming. 433 S.C. at 664, 861 S.E.2d at 391.

This Court was required to conduct a meaningful evaluation of the *Aiken* factors in light of the evidence presented by Bonner at the February 8, 2024 hearing. At the hearing, Bonner presented evidence relevant to each of the *Aiken* factors, including testimony from his mother, his childhood friend turned girlfriend, and an expert in prison systems and inmate behavior, who had personal experience working in the South Carolina Department of Corrections and evaluated Bonner in advance of the hearing. This testimony demonstrated Bonner was and continues to be a sweet and caring individual. He cares about his friends and loved ones deeply and is willing to give anyone the shirt off his back. As a child and leading up to this offense, Bonner lacked positive adult male influences. His father was absent for most of his youth, in and out of prison for fraudulent check offenses. Bonner's mother was caring and worked hard in an attempt to make ends meet for Bonner and his siblings, but eventually circumstances made this impossible. Bonner's mother was injured at her job and was unable to work for many years. She testified that it took time for the disability payments to begin and it was not sufficient to cover all the household expenses. This was especially true when Bonner's brother Tony was diagnosed with cancer. Bonner's mother devoted much of her energy and finances to Tony's treatment. This financial strain required the family to move to the West End neighborhood, which was dangerous and where drug dealing was prominent.

At fifteen, Bonner stopped going to school to help care for his newborn son. By the age of seventeen, he had two kids to provide for and take care of. Anxious to make money to support his children and help lessen the stress of his brother's treatment costs, Bonner began to associate with "the wrong crowd" of older men in the neighborhood. These men showed him easy ways to make

money and influenced him to participate in criminal activity. Bonner was particularly susceptible to older male influences, having lacked positive male role models for most of his life.

Bonner grew from adolescence to adulthood in high security prisons in the South Carolina Department of Corrections. As a vulnerable youth, because of his original life-without-parole sentence, he was housed in prisons known for being dangerous and violent. Youth were commonly preyed upon by older inmates and Bonner chose to fight back and not allow himself to be abused. As Bonner has grown up, he has adjusted to the institutional environment and has rehabilitated. He has obtained his GED, held jobs, had positive relationships with staff, and has lived in character dorms. He has not had any assaultive disciplinaries in years. Additionally, he has connected deeply with his faith, participating in Bible study and other faith-based programming, while also spending his free time engaging with the Bible. Bonner has also remained caring and engaged with his family members and loved ones, talking often with his own kids, his mother, and his girlfriend. Despite being incarcerated, Bonner has been a loving presence in his children's life and has played an active role in encouraging his own kids and his girlfriend's son to work through issues, make good decisions in their youth, and to stay out of trouble.

Because the Court failed to substantively apply the *Aiken* factors at all in its order, despite the wealth of evidence presented at the hearing, the Court should reconsider its decision to deny Bonner's motion for reconsideration of his sentence.

III. A sentence of 60-years fails to provide a meaningful opportunity for release because it is the functional equivalent of a sentence of life without parole.

This Court's order leaving in place Bonner's 60-year sentence violates *Graham* by failing to provide him a meaningful opportunity for release.⁵ Bonner has demonstrated that his sentence

⁵ While the Court's order states that the "sentences imposed for Burglary 1st Degree and ABHAN are now deemed to be concurrently and not consecutively imposed," his 60-year sentence still constitutes the functional equivalent of life for the reasons set forth in Bonner's Resentencing

is the functional equivalent of a sentence of life without parole.⁶ At the time of Bonner's offense, Bonner was 17-years-old. Sentencing him to 60 years means that he would not have an opportunity for release until he is 77-years-old. However, based on life expectancy data from an actuarial study commissioned by the South Carolina Office of Indigent Defense, this opportunity for release is not meaningful because Bonner can only reasonably expect to live to be 49.8 years old.⁷ In light of these findings, Bonner's 60-year sentence for burglary would deprive him of a meaningful or realistic opportunity to obtain release in violation of *Graham*.

Per the Court's order, "[t]he South Carolina Supreme Court in *Slocumb* was also presented with the opportunity to extend the holding announced in *Graham* to prohibit the imposition of a de facto life sentence on a juvenile convicted of a non-homicide offense in South Carolina" and "decline[d] *Slocumb*'s invitation to broaden *Graham*'s holding." Order at 4 (citing *State v. Slocumb*, 426 S.C. 297, 827 S.E.2d 148 (2019)). However, this Court's analysis of *Slocumb* is unavailing because it misapprehends the scope of *Slocumb*'s holding.

The *Slocumb* court "decline[d] to extend *Graham*'s explicit holding . . . to situations *where a juvenile nonhomicide offender commits multiple crimes against multiple victims at multiple*

Procedure Memorandum, *State of South Carolina v. John Bendarian Bonner*, Nos. 2009-GS-00824 to 2009-GS-11-00829 (Feb. 5, 2024) and at the hearing. Based on Bonner's life expectancy, a 60-year sentence still deprives Bonner of a meaningful opportunity for release in violation of *Graham*.

⁶ Notably, the Supreme Court of South Carolina has previously recognized that a non-life sentence may be "to all intents and purposes the equivalent of a life sentence" when the sentence exceeded the defendant's "ordinary expectancy of life." *State v. Kimbrough*, 212 S.C. 348, 357, 46 S.E.2d 273, 277 (1948) ("If a defendant convicted of burglary is a man of advanced years, the minimum sentence [of five years] provided by this statute might be equivalent to life imprisonment."). Albeit in a different context, the court recognized that a trial court should take a defendant's life expectancy into consideration when the sentence imposed requires a meaningful opportunity for relief, such as *Graham* requires this court to do in Bonner's case.

⁷ This study was submitted to this Court for consideration at the February 8, 2024 hearing.

points in time.” *Slocumb*, 426 S.C. at 312, 827 S.E.2d at 156 (emphasis added). The *Slocumb* court denied relief within the narrow set of factual circumstances of *Slocumb*’s case, where a juvenile offender committed “multiple offenses” on “multiple dates” and where there was no evidence of “maturity and rehabilitation.” However, the facts of Bonner’s case are factually distinct from those in *Slocumb*.

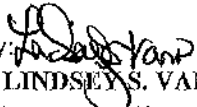
First, Bonner never demonstrated an intent to kill nor was he convicted of murder or attempted murder. In finding that *Graham* did not protect *Slocumb*, the *Slocumb* court noted that there was a “critical difference” in the nature of the offenses committed in *Graham* (armed burglary with assault or battery and attempted armed robbery) and by *Slocumb* (who “kidnapped and sexually assaulted a teacher before shooting her in the face and head five times and leaving her for dead.”). 426 S.C. at 299, 827 S.E.2d at 149. Bonner’s offenses are more similar to *Graham*’s than *Slocumb*’s. Second, the sentences Bonner challenged arise out of a single incident (like in *Graham*) whereas the sentence challenged in *Slocumb* was the accumulation of a series of crimes committed over the course of years. *Id.* at 310, S.E.2d at 155. In light of these differences, this Court misapprehended the scope of *Slocumb* and erred by reading *Slocumb* to apply in Bonner’s case.

CONCLUSION

WHEREFORE, for the reasons set forth above, Bonner requests this Court reconsider the evidence presented at the February 8, 2024 resentencing hearing and impose a new sentence based on independent findings with no deference to any prior sentencing determination. While this Court held Bonner’s 10-year ABIIAN sentence was to be served concurrently with his 60-year sentence for burglary, there is no meaningful distinction between a 60 or 70-year sentence in Bonner’s case as both exceed his life expectancy by at least a decade. This Court should reach a sentencing

determination that does not exceed Bonner's life expectancy, which would be the functional equivalent of a life sentence and provide Bonner with "no chance for fulfillment outside prison walls, no chance for reconciliation with society, no hope." *Graham v. Florida*, 560 U.S. 48, 79 (2010).

Respectfully submitted,

By: 

LINDSEY S. VANN (101408)

ROSALIND S.D. MAJOR (106017)

Justice 360

900 Elmwood Ave., Suite 200

Columbia, SC 29201

(803) 765-1044

lindsey@justice360sc.org

rosalind@justice360sc.org

September 23, 2024.

100-443887-2
 100-443887-2 A 3:58
 100-443887-2

Exhibit 1



Lindsey Vann <lindsey@deathpenaltyresource.org>

John Bonner

Ashley Byars <Ashley.Byars@cherokeecountysc.com>

Thu, Sep 12, 2024 at 9:14 AM

To: "lindsey@justice360sc.org" <lindsey@justice360sc.org>, "Barnette, Barry" <bbarnette@spartanburgcounty.org>, Brandy McBee <Brandy.McBee@cherokeecountysc.com>

Good morning,

Can you both please let me know if you have already received this Order or is the first time you are receiving it?

Thank you,
Ashley Byars
Chief Deputy Clerk of Court for Circuit & Family Court
PO Box 2289
Gaffney, SC 29342
Telephone: 864-902-2343
Fax: 864-487-2754

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178K

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SEP 12 2024
10:00 AM
COURT REPORTER
S.C.



Lindsey Vann <lindsey@deathpenaltyresource.org>

John Bonner

Lindsey S. Vann <lindsey@justice360sc.org>

Thu, Sep 12, 2024 at 2:02 PM

To: Ashley Byars <Ashley.Byars@cherokee-county-sc.com>

Cc: "Barnette, Barry" <bbarnette@spartanburgcounty.org>, Brandy McBee <Brandy.McBee@cherokee-county-sc.com>

Dear Ms. Byars,

This is my first time receiving the order. Thank you for sending it.

Best,

Lindsey S. Vann

Executive Director, Justice 360

900 Elmwood Avenue, Suite 200

Columbia, SC 29201 | (803) 765-1044

[Quoted text hidden]

RECEIVED
CLERK OF SUPERIOR COURT
CHEROKEE COUNTY, S.C.
SEP 12 - 2 A 6:58
BRANDY M. MCBEE



Lindsey Vann <lindsey@deathpenaltyresource.org>

John Bonner

Barnette, Barry <bbarnette@spartanburgcounty.org>

Thu, Sep 12, 2024 at 2:53 PM

To: "Lindsey S. Vann" <lindsey@justice360sc.org>, Ashley Byars <Ashley.Byars@cherokee-county-sc.gov>

Cc: Brandy McBee <Brandy.McBee@cherokee-county-sc.gov>, "Barnette, Barry" <bbarnette@spartanburgcounty.org>

This is also the first time that we have received it.

Thanks,

Barry

Barry Barnette

Solicitor

7th Circuit Solicitor's Office

RECEIVED
CLERK OF COURT
CHEROKEE COUNTY, S.C.
SEP 12 - 2 A 3:58
BRANDY MCBEE

From: Lindsey S. Vann

Sent: Thursday, September 12, 2024 2:02 PM

To: Ashley Byars <Ashley.Byars@cherokee-county-sc.gov>

Cc: Barnette, Barry <bbarnette@spartanburgcounty.org>; Brandy McBee <Brandy.McBee@cherokee-county-sc.gov>

Subject: Re: John Bonner

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STATE OF SOUTH CAROLINA)
COUNTY OF CHEROKEE)
The State of South Carolina,)
v.)
John Bendarian Bonner,)
Defendant.)

IN THE COURT OF GENERAL SESSIONS
SEVENTH JUDICIAL CIRCUIT

**STATE'S RETURN TO DEFENDANT'S
MOTION FOR RECONSIDERATION**

Indictment No.: 2009-GS-11-00824 through
2009-GS-11-00829

FILED IN OFFICE OF
CLERK OF COURT
CHEROKEE COUNTY, S.C.
2024 FEB -3
A 10:34
BRADY W. COLE

On September 23, 2024, the Defendant filed a Motion for Reconsideration of his sentence set forth in the Court's Order filed August 21, 2024. Plainly, the Defendant claims the August 21, 2024 Order following his February 8, 2024 sentencing hearing did not sufficiently set forth the Court's consideration of the *Aiken v. Byars* factors, and thereafter makes the supposition that the Court did not give the necessary consideration to his sentencing. The Defendant's conclusion is unconvincing and erroneous. Further, the Defendant's Motion for Reconsideration claims the Court did not apply new juvenile sentencing law and then argues with the Court's Order that clearly includes discussion of new juvenile sentencing caselaw. The State, by way of Return to Defendant's Motion for Reconsideration, would submit in opposition to Defendant's Motion for Reconsideration (hereafter "Motion") that the Court ruled correctly as to the Defendant's reconsideration. The Court correctly followed the law in its Order filed August 21, 2024, and the sentence of sixty (60) years is appropriate in this case.

The Defendant first argues that the relief granted by the Honorable Frank R. Addy, Jr. in response to the Defendant's application for Post Conviction Relief (PCR) filed May 12, 2015, is a resentencing and not a reconsideration of his sentence. This argument is patently false. While the Petitioner may have requested the relief of a resentencing hearing, the PCR Court in its Order dated January 17, 2017, and filed on January 30, 2017, stated, "[a]ccordingly, this Court grants

Petitioner's [Defendant] request for relief in this PCR solely on the issue of whether Petitioner may file a motion for *reconsideration* as to the 60-year sentence for Burglary, 1st degree with a consecutive sentence of 10 years for ABHAN" (emphasis added). In the current Motion Defendant alleges, "not only was reconsideration not requested, but it was also not appropriate." The Petitioner/Defendant could have appealed the PCR Order if he disagreed with the finding of the PCR Court, but he did not. The Defendant is displeased with the outcome of this Court's 2024 sentence reconsideration and now wants to ask for a resentencing. The State would argue this ground is not appropriate in this matter.

Second, the Defendant now argues that the *de novo* hearing was not held as required by *Smart, Jones, and Mack*. The PCR Court did not order a resentencing hearing in this matter; the PCR Court ordered the Petitioner/Defendant may file a motion for reconsideration of the sentences. The State would argue Defendant's claim for a *de novo* hearing is also not appropriate in this matter.

Third, the Defendant argues that a sentence of sixty (60) years fails to provide a meaningful opportunity for release because it is the functional equivalent of a life without parole sentence. The State would argue that the Court ruled within the law of this case based on the evidence presented at the February 8, 2024 hearing. The Court allowed a full hearing with testimony given regarding the *Aiken v. Byars* factors that must be considered during sentencing for a juvenile previously sentenced to life without parole. The Court clearly considered the evidence presented at the February 8, 2024 hearing and the law applicable to this case in making its determination as to the Defendant's sentence.

The State would argue that the *Aiken* factors – which both the Defendant and the State brought to the attention of the Court – showed ample reasons for the Court's denial of the

reconsideration of the Defendant's sixty (60) year sentence. The Defendant's South Carolina Department of Corrections (SCDC) disciplinary sanctions were numerous as shown by State's Exhibit #3 and State's Exhibit #4 during the hearing on February 8, 2024. Chief William Thomas Farr testified about the Defendant's disciplinary sanctions up to the point of the February 2024 hearing. Chief Farr testified about three major offenses that occurred on August 12, 2023 (sexual misconduct), October 26, 2023 (assist with social media site), and January 8, 2024 (use of marijuana or drug inhalant). These violations occurred after the Defendant was 31 years old. The drug incident on January 8, 2024, even occurred after Chief Farr had met with the Defendant's expert, George Martin, on November 7, 2023, at SCDC and while the Defendant knew his sentencing hearing was pending.

When Mr. Martin was questioned about the Defendant's history of misconduct in the SCDC and record of 51 rule violations that did not help the Defendant move up to attain better jobs in the SCDC, Mr. Martin answered in agreement, "Not at all, no" (page 69 of the February 8, 2024 transcript; lines 20-24). The Defendant could have followed the rules and in doing so risen to meaningful jobs to improve his standing in the SCDC, but he repeatedly chose not to do so. Further, Mr. Martin stated, **"I--- if I said anything that sounded like I was trying to portray him as a --- as a model inmate, you didn't hear me right because he--- he has not been"** (page 70 of the February 8, 2024 transcript; lines 1-3). The State would argue that the Defendant has not shown the level of rehabilitation in the SCDC that would justify a further reduction of his sentence for the Burglary 1st conviction. In the words of the Defendant's expert Mr. Martin, the Defendant has not been a model inmate. The Defendant's records and actions in the SCDC show that he cannot be rehabilitated as the defense now claims.

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The Defendant had a solid understanding of the criminal system at the time of his trial. The Defendant, through his trial attorney, presented a sophisticated alibi defense at the trial of his case as shown by the transcript of his November 2009 trial (State's Exhibit #1). On page 256 of the trial transcript, line 12, the following was shown:

Q: (by the undersigned) "What did the detective say to you?"

A: (the defendant) "They asked me where I was that morning."

A: "Yeah. They wanted me to say where I was earlier that morning."

Q: "Did you tell them the same thing you're telling me here today?"

A: "Yes, sir. I told them I was at home; I didn't know anything about the crime."

The Defendant consistently says that throughout his trial testimony, and on page 257 of the trial transcript,

Q: "But you never changed your story."

A: "No, sir, I didn't in this case."

The Defendant developed his defense before he ever met his defense attorney as shown by the evidence and testimony in this case. The Defendant produced two other witnesses who testified at his trial: Ms. Lipscomb, who also testified in the February 8, 2024 sentencing; and Kevin Bonner who testified on the Defendant's behalf for the motive and/or alibi defense in the Defendant's underlying trial. The Defendant also spoke to his attorney about calling two other witnesses at trial, Joshua Manning and Labrontae Agnew, as the trial transcript showed. The Defendant and his attorney discussed Manning and Agnew's potential testimonies, and the Defendant was actively involved with his defense before and during in the trial. The State would argue that the Defendant clearly understood the criminal justice system and used an untruthful,

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alibi defense that, if believed, could have allowed him to walk free from his appalling criminal actions.

The Defendant, in his final statement to the Court on February 8, 2024, admitted that he got on the stand in his underlying trial and lied about having zero involvement in this crime at the beginning and during the trial. He stated, “Everybody that testified in this hearing today is right—everybody. And none of this would have happened if it wasn’t for me, if I wouldn’t came up with the plan that I did to do any of this” (page 72 of the February 8, 2024 transcript; lines 10-13). The Defendant made this statement on his own without any questioning from the Court and without any cross-examination by the State. The Defendant’s statements show that he came up with the plan and none of this would have happened if it wasn’t for him. The State would argue that he was the leader of the group that committed this crime and that his sentence is appropriate for his involvement in the crime.

The State would disagree with the Defendant’s position that “[t]his Court did not conduct a *de novo* resentencing as required by *Smart*, *Jones*, and *Mack*.” The State’s position is that the February 8, 2024 hearing itself was conducted like a resentencing hearing instead of a reconsideration hearing, but a *de novo* hearing for resentencing was not required in this matter since only a reconsideration hearing was ordered by the PCR Court.

Our South Carolina Supreme Court held in *State v. Smart*, 889 S.E.2d 573, 439 S.C. 641, that, “We now clarify that in an *Aiken* resentencing hearing—as with almost any other sentencing proceeding—there is no burden of proof or persuasion placed on either party and there is no presumption for or against any sentence. Instead, both the State and the defendant have a mutual burden of production to provide the resentencing court with any evidence and arguments they believe bear on the *Aiken* factors or otherwise relate to what should be the

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appropriate sentence. The sentence to be imposed is within the discretion of the resentencing court.” The South Carolina Supreme Court also stated that the decision belongs to the resentencing court, and the Supreme Court will not recognize any presumption nor impose any burden of proof or persuasion. They stated, “We trust our circuit judges are well-equipped to make the right decision in each case.”

The Defendant and the State were not limited in any way in their presentation of evidence or testimony in the sentencing hearing as shown by the February 8, 2024 transcript. The Court followed the law in *Smart* and allowed both sides to present evidence and arguments, and the Court decided this matter based on this information given to it by counsel for the Defendant and the State. This Court also allowed an individualized hearing with the mitigating hallmark features which were fully explored in this case. In its August 2024 Order the Court stated:

Having considered the evidence presented at the hearing for reconsideration of sentence in mitigation and in aggravation of punishment, including the trial transcript, this Court has taken into account evidence presented relevant to (1) the chronological age of the defendant; (2) the family and home environment surrounding his existence; (3) the nature and circumstances of the offenses for which he was convicted, including the extent of his participation and any peer pressures, (4) his capacity and maturity at the time of the crimes, and (5) his potential for rehabilitation, this Court finds that the record in this case does not persuade the Court to alter or amend the sentence previously imposed for the defendant’s conviction for Burglary 1st Degree.

The State would argue that the sentencing judge gave the Defendant an individual hearing and soundly exercised its sentencing discretion without placing any burden of proof or persuasion on the Defendant nor giving any deference to the previously imposed sentence.

The Defendant argues that *Jones v. State*, 889 S.E.2d 590, 440 S.C. 14 (2023), shows the sentencing Court did not consider the proper facts. The Court did consider these factors as stated by its Order and these matters were presented in the February 8, 2024 hearing without limitations for the Court to consider. The Defendant placed factors on the record and the Court considered

them; the testimony and evidence presented did not persuade the Court to alter or amend the sixty (60) year sentence.

The Defendant also argues that the sentencing judge did not consider the matters addressed in *State v. Mack*, 894 S.E.2d 820, 441 S.C. 526 (Ct. App. 2023). The Court listened to the testimony presented on February 8, 2024, before deciding the sentence in this case. The Court considered the factors on which testimony was presented and the factors involved, period. The Court also reviewed the entire record before handing down its sentence more than six (6) months after the February 8, 2024 hearing. The Court did not make a snap judgement in this matter. The State would argue that the record shows the Defendant's failure to take advantage of the rehabilitation opportunities in the SCDC, the Defendant's capacity and maturity at the time of the offenses, and the nature and circumstances of the offenses for which he was convicted. The Defendant's own expert, George Martin, showed that the Defendant has not taken advantage of available programs in the SCDC. The State, as argued previously in this Return, would submit that the Defendant had a very through understanding of the criminal justice system as he developed a detailed alibi from the beginning of the law enforcement investigation and continued throughout his jury trial. Further, the Court also examined the chronological age of the Defendant and his family and home environment as well as the extent of his participation and any peer pressures. Indeed, testimony to those factors was presented by the Defendant at the February 8, 2024 hearing and was thereafter considered by the Court. The Defendant does not like the Court's sentencing and now seeks to argue against it on the basis of the detail elucidated in the Court's August 2024 Order.

The Defendant argues that a sentence of sixty-years fails to provide a meaningful opportunity for release because it is the functional equivalent of life without parole.

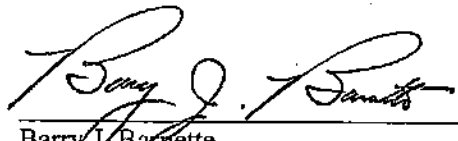
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Carolina Supreme Court stated in *State v. Slocumb*, 827 S.E.2d 148, 426 S.C. 297 (2019) that neither *Graham* nor the Eighth Amendment, as interpreted by the (United States) Supreme Court, currently prohibits the imposition of aggregate sentences for multiple offenses amounting to a *de facto* life sentence on a juvenile nonhomicide offender. The South Carolina Supreme Court referred to the respect for separation of powers and to recognize that the General Assembly is the author of our state's public policy for the sentencing of criminal offenders - both juveniles and adults.

The State disagrees with the argument that the *Slocumb* court denied relief within the narrow set of factual circumstances of the *Slocumb* case. The Defendant committed several crimes in which the victim was horrifically physically and mentally affected by the events perpetrated by the Defendant as shown by the trial transcript well as the testimony of Kimberly Lee Keller in the hearing on February 8, 2024. The Defendant in his statement to the Court without questioning by the Court or the State admitted, "Everybody that testified in this hearing today is right—everybody. And none of this would have happened if it wasn't for me, if I wouldn't came up with the plan that I did to do any of this" (page 72 of the February 8, 2024 transcript; lines 10-13). The Defendant planned these horrific crimes, and they would not have occurred without him. Further, in the February 8, 2024 hearing the Court asked the Defendant if the victim had previously testified truthfully and accurately about the criminal event. He stated that she did absolutely (page 73 of the February 8, 2024 transcript; line 23). The State would argue that the Court's holding in *Slocumb* applies to this case based on the horrible facts of this case; the Court did not misapprehend the scope of *Slocumb* and did not err in this matter.

The State would also incorporate any and all prior positions that the State included in any earlier appeals, motions, briefs, and PCRs involving this matter in any court. The State would

argue that the Defendant was properly given his day in court as well as in the post-trial process. The Court has correctly applied the law to the facts of this case during the February 8, 2024 hearing and in the Court's Order issued six months after the hearing. The Defendant was appropriately sentenced in this matter under the reconsideration ordered by the PCR Court. The State would ask this Honorable Court to deny the Defendant's Motion for Reconsideration in this matter.


Barry J. Barnette
Solicitor for the Seventh Judicial Circuit

February 3, 2025
Spartanburg, South Carolina

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS
3
4 THE STATE) TRANSCRIPT OF RECORD
5 -vs-) 2009-GS-11-824
6 JOHN BENDARIAN BONNER,) 2009-GS-11-825
7 DEFENDANT.) 2009-GS-11-826
8) 2009-GS-11-827
9) 2009-GS-11-828
10) 2009-GS-11-829
11) NOVEMBER 17, 2009
12) GAFFNEY, SOUTH CAROLINA
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(VOLUME I)

B E F O R E:

THE HONORABLE J. DERHAM COLE, JUDGE. ; And a Jury.

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

BARRY BARNETTE, PRINCIPAL DEPUTY SOLICITOR
PRINA TAILOR, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

E. JOSHUA SCHULTZ, ESQUIRE
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

1	INDEX	
2	(NOVEMBER 17, 2009)	
3	WITNESSES	PAGE
4	JURY VOIR DIRE -- PAGE 9.	
5	JURY SWORN -- PAGE 59	
6	OPENING STATEMENT BY MR. BARNETTE -- PAGE 67	
7	OPENING STATEMENT BY MR. SCHULTZ -- PAGE 72	
8	OFFICER J.R. SIZEMORE (SW)	
9	DIRECT EXAMINATION BY MR. BARNETTE	77
10	CROSS EXAMINATION BY MR. SCHULTZ	86
11	MILSELI PATEL (SW)	
12	DIRECT EXAMINATION BY MS. TAILOR	92
13	CROSS EXAMINATION BY MR. SCHULTZ	97
14	REDIRECT EXAMINATION BY MS. TAILOR	98
15	ROBERT J. WILSON, JR. (SW)	
16	DIRECT EXAMINATION BY MR. BARNETTE	99
17	CROSS EXAMINATION BY MR. SCHULTZ	114
18	REDIRECT EXAMINATION BY MR. BARNETTE	126
19	RE CROSS EXAMINATION BY MR. SCHULTZ	127
20	KENDRICK TATE (SW)	
21	DIRECT EXAMINATION BY MR. BARNETTE	128
22	CROSS EXAMINATION BY MR. SCHULTZ	142
23	REDIRECT EXAMINATION BY MR. BARNETTE	156
24	RE CROSS EXAMINATION BY MR. SCHULTZ	157
25		

1	INDEX	
2	(NOVEMBER 17, 2009)	
3	WITNESSES	PAGE
4	OFFICER CHRIS SKINNER (SW)	
5	DIRECT EXAMINATION BY MS. TAILOR	159
6	CROSS EXAMINATION BY MR. SCHULTZ	160
7	OFFICER MIKE SEGINA (SW)	
8	DIRECT EXAMINATION BY MR. BARNETTE	161
9	CROSS EXAMINATION BY MR. SCHULTZ	169
10	REDIRECT EXAMINATION BY MR. BARNETTE	179
11	KWAME DOUGLAS (SW)	
12	DIRECT EXAMINATION BY MR. BARNETTE	179
13	CROSS EXAMINATION BY MR. SCHULTZ	195
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	INDEX	
2	(NOVEMBER 18, 2009)	
3	WITNESSES	PAGE
4	BILLY RODGERS (SW)	
5	DIRECT EXAMINATION BY MR. BARNETTE	217
6	CROSS EXAMINATION BY MR. SCHULTZ	225
7	DIPALI DARJI (SW)	
8	DIRECT EXAMINATION BY MR. BARNETTE	237
9	(NO CROSS EXAMINATION)	
10		
11	STATE RESTS -- PAGE 245	
12		
13	JOHN BENDARIAN BONNER (DW)	
14	DIRECT EXAMINATION BY MR. SCHULTZ	251
15	CROSS EXAMINATION BY MR. BARNETTE	257
16	EVA BONNER LIPSCOMB (DW)	
17	DIRECT EXAMINATION BY MR. SCHULTZ	262
18	CROSS EXAMINATION BY MR. BARNETTE	265
19	REDIRECT EXAMINATION BY MR. SCHULTZ	271
20	KELVIN BONNER (DW)	
21	DIRECT EXAMINATION BY MR. SCHULTZ	271
22	CROSS EXAMINATION BY MR. BARNETTE	274
23		
24	DEFENSE RESTS -- PAGE 282	
25		

INDEX

(NOVEMBER 18, 2009)

WITNESSES

PAGE

CLOSING ARGUMENT BY MR. SCHULTZ -- PAGE 282

FINAL ARGUMENT BY MR. BARNETTE -- PAGE 293

COURT'S JURY INSTRUCTIONS -- PAGE 299

JURY VERDICT -- PAGE 330

SENTENCING -- PAGE 336

REPORTER'S CERTIFICATION PAGE -- PAGE 338

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-1	PHOTOGRAPH		243
4	S-2	PHOTOGRAPH		243
5	S-3	PHOTOGRAPH		243
6	S-4	PHOTOGRAPH		243
7	S-5	PHOTOGRAPH		243
8	S-6	PHOTOGRAPH		243
9	S-7	PHOTOGRAPH		243
10	S-8	PHOTOGRAPH		243
11	S-9	PHOTOGRAPH		243
12	S-10	PHOTOGRAPH		243
13	S-11	PHOTOGRAPH		243
14	S-12	PHOTOGRAPH		81
15	S-13	PHOTOGRAPH		81
16	S-13	PHOTOGRAPH		81
17	S-14	PHOTOGRAPH		81
18	S-15	PHOTOGRAPH		81
19	S-16	PHOTOGRAPH		81
20	S-17	PHOTOGRAPH		81
21	S-18	PHOTOGRAPH		81
22	S-19	PHOTOGRAPH		81
23	S-20	PHOTOGRAPH		81
24	S-21	PHOTOGRAPH		81
25	S-22	PHOTOGRAPH		81

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-23	PHOTOGRAPH		81
4	S-24	PHOTOGRAPH		81
5	S-25	PHOTOGRAPH		81
6	S-26	PHOTOGRAPH		81
7	S-27	PHOTOGRAPH		81
8	S-28	PHOTOGRAPH		81
9	S-29	PHOTOGRAPH		81
10	S-30	PHOTOGRAPH		81
11	S-31	PHOTOGRAPH		81
12	S-32	PHOTOGRAPH		81
13	S-33	PHOTOGRAPH		81
14	S-34	PHOTOGRAPH		81
15	S-35	PHOTOGRAPH		81
16	S-36	PHOTOGRAPH		81
17	S-37	PHOTOGRAPH		162
18	S-38	PHOTOGRAPH		162
19	S-39	PHOTOGRAPH		162
20	S-40	PHOTOGRAPH		162
21	S-41	PHOTOGRAPH		162
22	S-42	PHOTOGRAPH		162
23	S-43	VIDEO		94
24	S-44	PHOTOGRAPH		95
25	S-45	PHOTOGRAPH		95

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-46	PHOTOGRAPH		95
4	S-47	PHOTOGRAPH		95
5	S-48	PHOTOGRAPH		95
6	S-49	PHOTOGRAPH		95
7	S-50	PHOTOGRAPH		95
8	S-51	PHOTOGRAPH		95
9	S-52	PHOTOGRAPH		95
10	S-53	PHOTOGRAPH		95
11	S-54	PHOTOGRAPH		84
12	S-55	PHOTOGRAPH		84
13	S-56	PHOTOGRAPH		84
14	S-57	FINGERPRINTS		108
15	S-58	CREDIT CARD		109
16	S-59	PHOTOGRAPH		109
17	S-60	PHOTOGRAPH		109
18	S-61	AERIAL VIEW OF CRIME SCENE		79
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, NOVEMBER 17, 2009)

2 THE COURT: Are we ready to begin with the
3 selection?

4 MR. BARNETTE: The State is ready, Your Honor.

5 MR. SCHULTZ: The defense is ready, Your Honor.

6 THE COURT: All right.

7 Ladies and gentlemen, we are ready to begin with
8 the jury selection in the first case that's going to require
9 some of your participation, and the title of that case is
10 the State versus John Bendarian Bonner.

11 Mr. Bonner has been accused by the State of having
12 committed, it looks like, six separate and distinct
13 offenses, although they are alleged to have arisen out of
14 one particular event or a course of events which the State
15 alleges occurred back on April the 2nd of 2008.

16 I'm going to read allegations that are contained
17 in these documents, which are referred to as indictments.
18 These indictments are not proof of anything. They don't
19 establish anything. They are simply the charging paper.
20 It's like an arrest warrant, and the indictment sets forth
21 what charges the State has brought against a defendant.
22 And, of course, the indictments serve to put a defendant on
23 notice as to what crimes the State claims they have
24 committed so that they will be able to prepare for the trial
25 in the case.

1 Now, in this particular case, as I told you, the
2 State has accused Mr. Bonner of having committed six
3 separate and distinct offenses, and they are set forth in
4 six separate indictments.

5 One indictment charges the defendant with burglary
6 in the first degree. And the State alleges by way of that
7 indictment that Mr. Bonner did, here in Cherokee County, on
8 or about April the 2nd of 2008, did willfully and
9 intentionally enter a dwelling that belonged to Dipali
10 Darji, located on Providence Road here in Gaffney, that he
11 entered that dwelling without consent of the owner and with
12 the intent to commit a crime therein; and further that he
13 did either when in effecting entry, or while in the
14 dwelling, or in immediate flight therefrom, he, or some
15 other participant in the criminal enterprise, was armed with
16 a deadly weapon, or did cause physical injury to some person
17 who was not a criminal participant in the crime; or, did
18 use, or threaten the use, of a dangerous instrument; or
19 displayed what appeared to be a knife, pistol, or other
20 deadly weapon; or the burglary was committed by a person
21 with a prior record of two, or more, convictions for
22 burglary or housebreaking; or the burglary occurred in the
23 nighttime.

24 The State also alleges in a separate indictment
25 that Mr. Bonner did commit the crime of kidnapping. They

1 allege that on April the 2nd of 2008, Mr. Bonner did
2 willfully and unlawfully and with a criminal intent seize,
3 confine, kidnap, or abduct, or carry away one Dipali Darji
4 without authority of law.

5 The State further alleges that Mr. Bonner did
6 commit the crime of armed robbery. They allege that on
7 April the 2nd of 2008, Mr. Bonner did, while armed with a
8 pistol or other deadly weapon; or while alleging either by
9 actions or words that he was armed; while using a
10 representation of a deadly weapon, or some object which a
11 person present during the commission of the robbery
12 reasonably believed to be a deadly weapon; and they allege
13 that he did take, steal, and carry away in the person or the
14 presence of Dipali Darji by the use of force or violence or
15 intimidation certain goods or monies that belonged to Dipali
16 Darji, and that he took those items with the intention to
17 depriving the owner of possession and use of the property
18 permanently; that is, an intent to convert the property to
19 his own use with an intent to steal.

20 The State also alleges that the defendant did
21 commit the crime of assault and battery of a high and
22 aggravated nature. The State alleges that on April the 2nd
23 of 2008, the defendant did commit an assault and battery
24 upon Dipali Darji, constituting an unlawful act of violent
25 infliction to Dipali Darji, accompanied by some

1 circumstances of aggravation.

2 The State also alleges that Mr. Bonner did, on
3 April the 2nd of 2008, willfully and unlawfully enter a
4 building, which was the Corner Stop #2, without consent of
5 the owner and with the intent to commit a crime therein, and
6 that when in effecting entry or while in the building he or
7 another participant was armed with a deadly weapon; or, a
8 burglary was committed by a person with a prior record of
9 two, or more, convictions for burglary or housebreaking; or,
10 the defendant did enter or commit the burglary in the
11 nighttime.

12 And the remaining indictment charges the
13 defendant, Mr. Bonner, with the crime of grand larceny.
14 Again, the State alleging on April the 2nd of 2008, that Mr.
15 Bonner did, with an intent to deprive the owner of the use
16 and possession of property, take, steal, and carry away cash
17 in an amount more than \$5,000 that belonged to the Corner
18 Stop #2.

19 Now, as to those allegations and as to each of
20 charges that are set forth in each of these separate
21 indictments, the defendant, Mr. Bonner, has entered a plea
22 of not guilty. Where a defendant enters a plea of not
23 guilty, the burden is on the State to establish the
24 defendant's guilt beyond a reasonable doubt. In other
25 words, the State has been the burden of proving the

1 allegations that they have set forth in each of the
2 indictments.

3 The State has the burden of proving each of the
4 essential elements of the crimes which are alleged against
5 the defendant. And, therefore, the State has the burden of
6 proving the defendant's guilt to the satisfaction of twelve
7 jurors beyond a reasonable doubt before any verdict of
8 guilty could be returned as it relates to any of the several
9 indictments.

10 And, therefore, we are going to be selecting
11 thirteen of you. There will be twelve primary jurors and
12 one additional juror to serve as an alternate. And by way
13 of your participation, you are simply going to be called
14 upon to listen to testimony that will come from witnesses
15 testifying from the witness stand and to consider any other
16 evidence that might be introduced during the trial of the
17 case. At the trial's conclusion, the jury will be asked to
18 deliberate. In other words, you will be called upon to
19 carefully evaluate a witness' testimony; to determine what
20 you believe to be the true facts as they relate to these
21 allegations; apply the law that I will have provided you
22 before you go back to deliberate; and the jury will
23 determine whether or not the defendant's guilt has been
24 proven beyond a reasonable doubt as to any of the charges.
25 And if it has, then the verdict would be guilty as to that

1 charge. And if it has not, then the verdict would be not
2 guilty as to that particular charge.

3 Now, before we begin with jury selection I have
4 got a few questions to ask you as a group. The purpose of
5 these questions is to determine whether or not there is a
6 reason why any one of you jurors should not be selected to
7 participate in the trial of this particular case. In other
8 words, I need to know if you have some reason why you could
9 not be fair and impartial as a juror if you were called upon
10 to serve in this particular case. So as these questions are
11 asked, in the event that you need to respond to them, I'll
12 ask that you please stand and I'll address those matters
13 with you individually.

14 First of all I'm going to be introducing some
15 people to you, and those are going to include the defendant
16 and the person alleged to be the victim of these events or
17 these crimes, the potential witnesses be called during the
18 trial of the case, as well as the lawyers that are involved
19 in the trial. The reason I'm introducing these people to
20 you is because I need to find out if any member of the jury
21 panel is connected by blood or by marriage, or whether you
22 have any close personal, social, professional, business, or
23 other relationship with any of these individuals. I simply
24 need to know if you know any of these people, if you have
25 any connection or relationship with them whatsoever. So as

1 they are introduced, if you have a connection, I'm going to
2 ask that you please stand so that we can determine what that
3 connection is and whether or not it would have any effect
4 upon your ability to be fair and impartial.

5 Now, first of all, as I told you, the defendant,
6 the person who's accused of having committed these offenses,
7 is John Bendarian Bonner.

8 Mr. Bonner, if you will stand and face the jury
9 panel. I just want Mr. Bonner to stand right now.

10 All right. Thank you. Be seated.

11 At the defense table with Mr. Bonner is Josh
12 Schultz. Mr. Schultz is his lawyer. He will be assisting
13 him in the trial of the case.

14 The person who is alleged to be the victim of
15 these incidents is Dipali Darji.

16 MR. BARNETTE: Your Honor, she's outside. We are
17 going to bring her in.

18 THE COURT: Let's have her sit down and sit behind
19 the prosecution table so the jury can see her.

20 Can we put that under the table or something so we
21 don't have to keep rattling that stuff so the jury can hear
22 while I'm asking questions?

23 MR. BARNETTE: Yes, sir.

24 Thank you, Your Honor.

25 THE COURT: All right. And presenting the case on

1 behalf of the State is Barry Barnette, principle deputy
2 solicitor for the Seventh Judicial Circuit.

3 JUROR NUMBER 95: Juror 95, John Vassy, Your
4 Honor.

5 THE COURT: You are responding to knowing someone?

6 JUROR NUMBER 95: Yes, sir, I was formally an
7 employee of the solicitor's office for years in the Pretrial
8 Intervention Program.

9 THE COURT: Let me just -- let me just run through
10 the list of all of the people first and then I'll ask you to
11 stand.

12 JUROR NUMBER 95: Okay.

13 THE COURT: All right. So in addition to the
14 defendant, Mr. Bonner, and Ms. Darji and Mr. Schultz and Mr.
15 Barnette, the following persons who potential witnesses
16 which might be called. Again, the reason I'm reciting these
17 is to find out if any juror knows any of these persons.

18 Ron Ramsey, Gaffney Police Department.

19 Michael Segina, Gaffney Police Department.

20 J.L. Sizemore, Gaffney Police Department.

21 Chris Skinner, Gaffney Police Department.

22 Billy Odom.

23 Terry Littlejohn.

24 Some of these people may not be present, but if
25 you know somebody that has the same name, if you will let me

1 know that fact and we will try to narrow down the
2 identification for the benefit of determining if you know
3 these people.

4 Billy Rodgers.

5 Kendrick Tate.

6 Robert Wilson, Jr..

7 Kwame Douglas.

8 Milseli Patel.

9 Mike Jones from the detention center.

10 Greg Phillips with the solicitor's office.

11 Matt Fitts, F-I-T-T-S.

12 All right. If any juror knows anybody who has
13 been introduced or identified, please stand.

14 All right. I'll start here on the front row and
15 I'll work my way across and back.

16 If you will give me your name and your juror
17 number, please. Then tell me how that question relates to
18 you.

19 JUROR NUMBER 73: Joel Porter, juror number 73.

20 I know Mike Segina. I went to school with him.
21 Greg Phillips, I go to church with him.

22 THE COURT: And would either of those connections
23 have any bearing upon your decision in this case?

24 JUROR NUMBER 73: No, sir.

25 THE COURT: Thank you. Be seated.

1 Yes, sir.

2 JUROR NUMBER 95: Yes, sir, Mark Vassy, juror
3 number 95.

4 An employee with the State Probation and Parole
5 Department. Three years with the solicitor's office. I
6 know the solicitor Mr. Barnette. Greg Phillips from
7 childhood. Ronnie Ramsey, Mike Segina, as well as Mr.
8 Skinner, all on the State's side.

9 THE COURT: All right. And is there anything
10 about those connections that would have any bearing upon
11 your decision in this case?

12 JUROR NUMBER 95: Yes, sir.

13 THE COURT: We will excuse you from service in the
14 trial. That's juror 95, but don't leave yet.

15 All right. Next row.

16 JUROR NUMBER 52: Juror number 52.

17 I know Greg Phillips, played some ball with him.

18 THE COURT: Anyone else?

19 JUROR NUMBER 52: No.

20 THE COURT: Is there anything about that
21 connection that would affect your ability to be fair in this
22 case?

23 JUROR NUMBER 52: No, sir.

24 THE COURT: Thank you. Be seated.

25 Yes, sir.

1 JUROR NUMBER 75: Juror number 75, Jeffrey
2 Richardson.

3 I know Greg Phillips, Chris Skinner. His son
4 played with my son's soccer.

5 THE COURT: And is there anything about either of
6 those connections that would impair your ability to be fair
7 and impartial?

8 JUROR NUMBER 75: No.

9 THE COURT: Thank you. Be seated.

10 Yes, sir.

11 JUROR NUMBER 31: Don Fritzsche, number 31.

12 I know Mr. Skinner. He used to be a neighbor of
13 mine several years ago.

14 THE COURT: Would that have any bearing upon your
15 decision in this case?

16 JUROR NUMBER 31: No, sir.

17 THE COURT: Thank you. Be seated.

18 Yes, ma'am.

19 JUROR NUMBER 80: Linda Sentell, juror number 80.

20 I know Mike Segina since he was in high school.
21 He was a friend of my sons.

22 THE COURT: And is there anything about that
23 connection that would have any bearing upon your decision in
24 the case?

25 JUROR NUMBER 80: No, sir.

1 THE COURT: You could be fair and impartial to
2 both sides?

3 JUROR NUMBER 80: Yes, sir.

4 THE COURT: All right. Thank you be seated.
5 Anyone else?

6 (No response).

7 THE COURT: Your Honor, Ms. Taylor is also going
8 to be presenting the case.

9 THE COURT: Okay. I'm sorry. This is also an
10 assistant solicitor with the Seventh Judicial Circuit.

11 MR. BARNETTE: Ms. Prina Taylor, Your Honor.

12 THE COURT: Prina Taylor. She works in the
13 solicitor's office.

14 Anyone know Ms. Taylor?

15 Okay. Thank you. Be seated.

16 Your Honor, I'm sorry to interrupt. My defense
17 witnesses there?

18 THE COURT: I didn't have that list.

19 (Off the record)

20 (Back on the record)

21 THE COURT: All right. These are other potential
22 witnesses:

23 Joshua Manning.

24 Labrontae Agnew.

25 Eva Bonner.

1 Kelvin Bonner.

2 If any of those witnesses are present in the
3 courtroom, I would ask that you please stand so the jury can
4 see who you are also.

5 All right. Any other witnesses on behalf of the
6 State?

7 MR. BARNETTE: Nothing, Your Honor.

8 THE COURT: You may be seated.

9 The defendant?

10 MR. SCHULTZ: None from the defense, Your Honor.

11 THE COURT: All right. Does any juror know any of
12 those additional witnesses that have been identified?

13 Yes, ma'am.

14 JUROR NUMBER 6: Juror number 6, Rebecca Austin.

15 I'm relation to Joshua Manning.

16 THE COURT: You are what?

17 JUROR NUMBER 6: Related to Joshua Manning.

18 THE COURT: And what's your number again, please?

19 JUROR NUMBER 6: 6.

20 THE COURT: And how are you connected with Joshua
21 Manning?

22 JUROR NUMBER 6: He's my first cousin.

23 THE COURT: First cousin.

24 And would that have any bearing upon your decision
25 in this case if you were selected as a juror?

1 JUROR NUMBER 6: No, sir.

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

3 All right. As I told you, in this case the
4 defendant has been accused of the crimes of burglary, armed
5 robbery, aggravated assault and battery, kidnapping and
6 grand larceny charges, which he denies.

7 I need to find out if any member of the jury panel
8 or any members of your immediate family, and I'm going to
9 define immediate family member as a parent, a spouse, a
10 child, or sibling. A parent, spouse, child, or sibling. I
11 need to know if you or any members of your immediate family
12 as I just defined it have ever been the victim of or have
13 ever been accused of having committed any type of an offense
14 which is similar to those that I have described for you by
15 reading these indictments? In other words, you or a family
16 member ever been the victim of, any type of violent criminal
17 offense of any nature, or have you been or family member
18 been accused of having committed any similar type of an
19 offense? If so, please stand.

20 All right. I have got jurors standing. I'll
21 start on the front row, or that is the front row, and I'll
22 ask you your name and number and then I need for you to tell
23 me how the question relates to you. And if for some reason
24 you do need to answer the question, but you don't want to
25 answer the question where you are, in other words, you don't

1 want to answer it front of an audience, you can come down
2 here and I'll discuss it with you privately, but you have to
3 respond to the question, but you can do it from where you
4 are or step down here. I'll leave that to you.

5 So if you will please give me your name and
6 number, please, ma'am.

7 JUROR NUMBER 69: 69, Diane Parker.

8 I was attacked in my driveway by a man one time.

9 THE COURT: And was someone charged with that
10 crime?

11 JUROR NUMBER 69: Yes, sir. He is serving 28
12 years right now.

13 THE COURT: Well, just please answer my questions
14 as I ask them.

15 JUROR NUMBER 69: Okay.

16 THE COURT: And that case has been disposed of?

17 JUROR NUMBER 69: Yes, sir.

18 THE COURT: Is there anything about that
19 experience that you have had that would in any way impair
20 your ability to be fair and impartial in this case?

21 JUROR NUMBER 69: Yes, sir, it would.

22 THE COURT: All right. We will excuse juror 69
23 from service, but don't leave yet.

24 Yes, ma'am.

25 JUROR NUMBER 63: I am Reyna Moore, juror number

1 63.

2 THE COURT: 63?

3 JUROR NUMBER 63: Yes, sir, and my fiance was
4 murdered.

5 THE COURT: All right. And was someone charged
6 with that crime?

7 JUROR NUMBER 63: Yes, sir.

8 THE COURT: Has that case been resolved or
9 disposed of?

10 JUROR NUMBER 63: Yes, sir.

11 THE COURT: Is there anything about that
12 experience that would impair your ability to be fair and
13 impartial in this case?

14 JUROR NUMBER 63: Yes, sir.

15 THE COURT: All right. We will excuse juror
16 number 63 from service in this case.

17 Yes, ma'am.

18 JUROR NUMBER 102: My sister --

19 THE COURT: Please give me your name and your
20 juror number.

21 JUROR NUMBER 102: 102, Debbie White.

22 THE COURT: All right.

23 JUROR NUMBER 102: My sister was broke in on and
24 was shot. It's been several years ago.

25 THE COURT: And was someone charged with that

1 crime?

2 JUROR NUMBER 102: No, she shot and killed the
3 intruder.

4 THE COURT: Okay. And is there anything about
5 that experience that would in any way impair your ability to
6 be fair and impartial?

7 JUROR NUMBER 102: Yes, sir, I think it would.

8 THE COURT: Okay. We will excuse juror number 102
9 from service in the case.

10 Now, I will go to the next row.

11 JUROR NUMBER 52: Ryan Kirby, juror 52.

12 No violence, just the victim of a robbery.

13 THE COURT: That you were?

14 JUROR NUMBER 52: Ryan Kirby.

15 THE COURT: You said you were the victim?

16 JUROR NUMBER 52: Yes, just -- I was not at home.

17 THE COURT: Okay. And was someone charged with
18 that?

19 JUROR NUMBER 52: They were.

20 THE COURT: They were?

21 JUROR NUMBER 52: Yes.

22 THE COURT: And has that case been disposed of?
23 It's been resolved or not?

24 JUROR NUMBER 52: Yes, sir.

25 THE COURT: And is there anything about that

1 experience that would have any bearing upon your decision in
2 this case?

3 JUROR NUMBER 52: No, sir.

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

6 Yes, ma'am.

7 JUROR NUMBER 6: Juror number 6, Rebecca Austin.

8 I had a brother who was accused -- well, he's
9 making time for beating someone.

10 THE COURT: For what?

11 JUROR NUMBER 6: Beating on this lady.

12 THE COURT: Okay.

13 JUROR NUMBER 6: His girlfriend.

14 THE COURT: And is there anything about that
15 experience or connection that you have that would have any
16 bearing upon your decision in this case?

17 JUROR NUMBER 6: No, sir.

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

20 Yes, sir.

21 JUROR NUMBER 75: Juror 75, Jeffrey Richardson.

22 Through employment, robbery. I work at a bank.

23 THE COURT: And is there anything about any
24 experience that you have had that would have any bearing
25 upon your decision in this case?

1 JUROR NUMBER 75: Probably not.

2 THE COURT: Well, we have to do better than
3 probably not. Do you think there is any reasonable
4 probability that any personal experience that you have had
5 is going to affect your judgment?

6 JUROR NUMBER 75: No.

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

9 Yes, ma'am.

10 JUROR NUMBER 81: Juror 81, Debra Shippy.

11 I have had a sibling, a brother, that committed a
12 crime.

13 THE COURT: And is there anything about that fact
14 that would have any bearing upon your decision in this case?

15 JUROR NUMBER 81: No.

16 THE COURT: Thank you. Be seated.

17 Yes, sir.

18 JUROR NUMBER 105: Jeffrey Wilson, 105.

19 Can I come up there?

20 THE COURT: You may. Before you do that, do you
21 need to come up here?

22 JUROR NUMBER 35: No.

23 THE COURT: You can come on up.

24 JUROR NUMBER 35: I'm juror number 35, Barry
25 Green.

1 THE COURT: Right.

2 JUROR NUMBER 35: My sister was robbed two
3 separate occasions by gunpoint.

4 THE COURT: And was someone charged with those
5 crimes?

6 JUROR NUMBER 35: Not to my knowledge, no.

7 THE COURT: Is there anything about that
8 experience that would affect your judgment in this case?

9 JUROR NUMBER 35: No, sir.

10 THE COURT: Thank you. Be seated.

11 All right. And you are juror?

12 JUROR NUMBER 105: Jeffrey Wilson.

13 THE COURT: 105.

14 JUROR NUMBER 105: 105.

15 (Off the record)

16 (Back on the record)

17 THE COURT: Juror 105 is excused.

18 Is there any other juror need to respond to that
19 question? If so, please stand.

20 (No response)

21 THE COURT: Is any member of the jury panel
22 related by blood or marriage to any law enforcement officer
23 of any kind; in other words, whether it be a sheriff's
24 deputy, or a city, town or municipal law enforcement
25 officer, a detention officer, Department of Corrections

1 employee, military police, State Law Enforcement Division,
2 probation officer, parole officer? Any person who is
3 employed as a law enforcement officer, I need to know if you
4 have any connection with such a person.

5 JUROR NUMBER 69: Juror 69, Diane Parker.

6 My son is Joshua Parker, deputy coroner.

7 THE COURT: All right. Thank you. You have
8 already been excused.

9 And Mr. Vassy has already been excused.

10 All right, next row.

11 JUROR NUMBER 31: Don Fritzsche, number 31.

12 My brother-in-law is a retired state highway
13 patrolman.

14 THE COURT: Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NUMBER 38: Juror 38, Elaine Guest.

17 My daughter is a probation officer in the
18 Department of Juvenile Justice in Spartanburg.

19 THE COURT: Thank you. Be seated.

20 Yes, sir.

21 JUROR NUMBER 35: My uncle is the crime scene
22 investigator Jimmy Henson.

23 THE COURT: And you are juror 35?

24 JUROR NUMBER 35: Yes, sir.

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

1 Yes, ma'am.

2 JUROR NUMBER 56: I am not a law enforcement. I
3 work at 911 in Spartanburg County. I'm juror 56, Laura
4 McAbee.

5 THE COURT: All right. Thank you, ma'am. You may
6 be seated.

7 Does any member of the jury panel belong to or
8 contribute time or money to any type of organization that
9 might be characterized as law enforcement support
10 organizations or victims advocacy organizations or groups?
11 I need to know if you belong to any or you contribute time
12 or money to any? And examples of those organizations might
13 include Mothers Against Drunk Drivers, Citizens Against
14 Violent Crime, the Honorary Sheriff's Association, The
15 Troopers Association, the Neighborhood Watch Program, the
16 Child Advocacy Center, or any similar type of organization.
17 If you belong to them or contribute time or money to them,
18 if so, please stand.

19 JUROR NUMBER 65: I don't know if this qualifies,
20 but my husband -- I'm juror 65, and my husband serves on the
21 House of Representatives.

22 THE COURT: Okay.

23 JUROR NUMBER 65: Of South Carolina.

24 THE COURT: All right. Thank you, ma'am. Be
25 seated.

1 Yes, ma'am.

2 JUROR NUMBER 5: Juror number 5.

3 I usually contribute to the Fraternal Order of
4 Police.

5 THE COURT: Thank you. Be seated.

6 Yes, sir.

7 JUROR NUMBER 95: Law enforcement, Your Honor.

8 THE COURT: Thank you. That's 95. Be seated.

9 JUROR NUMBER 102: Juror 102.

10 I contribute to Mother's Against Drunk Drivers and
11 the state troopers.

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

13 Yes, sir.

14 JUROR NUMBER 33: Juror 33.

15 I contribute to the Sheriff's Association and
16 Trooper Association.

17 THE COURT: Thank you, sir. You may be seated.

18 As I have told you, based upon my reading the
19 allegations in the indictments, this is an event that
20 occurred back on April the 2nd of 2008. It occurred at the
21 Corner Stop #2, and the residence of Dipali Darji on
22 Providence Road here in Gaffney. I need to know if any
23 member of the jury panel has heard, seen, or read anything
24 about the facts or circumstances that might relate to this
25 particular case? In other words, have you been exposed to

1 any information about this case from any source, whether it
2 be media, or whether it be individuals talking about the
3 case, or just any source whatsoever, I need to know if any
4 juror thinks that you already know something about this
5 case. If so, please stand.

6 All right. Ms. Austin, you believe that you know
7 something about the case?

8 JUROR NUMBER 6: Well, I --

9 THE COURT: Just yes or no right now, please.

10 JUROR NUMBER 6: Yes, only what I have seen in the
11 media.

12 THE COURT: All right. You seen something in the
13 media?

14 JUROR NUMBER 6: Yeah, when --

15 THE COURT: Just -- is that yes or no?

16 JUROR NUMBER 6: Yes.

17 THE COURT: And what type of media was it?
18 Television, radio?

19 JUROR NUMBER 6: Newspaper.

20 THE COURT: All right. And about how long ago was
21 it that you were exposed to that?

22 JUROR NUMBER 6: It's been a while.

23 THE COURT: Is there anything about that exposure
24 that you recall or remember; yes or no?

25 JUROR NUMBER 6: Yes.

1 THE COURT: Yes.

2 Is there anything about what you remember that
3 would have any bearing upon your decision or affect your
4 judgment in this case?

5 JUROR NUMBER 6: No, sir.

6 THE COURT: No. Okay. Thank you. You may be
7 seated.

8 Has anyone else been exposed to any type of
9 information that might relate to the case? If so, please
10 stand.

11 (No response).

12 THE COURT: Has any member of the jury panel
13 already formed an opinion or made up your mind as to how you
14 think the case ought to be decided, based upon what you have
15 heard up to this point, or based upon any other
16 consideration? I just need to know if any other juror has
17 already made up your mind or formed an opinion as to the
18 outcome? If so, please stand.

19 (No response).

20 THE COURT: Does any member of the jury panel know
21 of any reason whatsoever why you think you could not be fair
22 and impartial if you were called upon to serve as a juror in
23 the case? If so, please stand.

24 (No response).

25 THE COURT: Any other questions requested by the

1 State?

2 MR. BARNETTE: None from the State, Your Honor.

3 THE COURT: By the defendant?

4 MR. SCHULTZ: None from the defense.

5 THE COURT: All right. Draw us a jury, please,
6 ma'am.

7 As your names are called, you are going to be
8 asked to come forward. You will see there is a gate over
9 there to my left, your right. There is also the center
10 aisle you can come down. I need -- when your name is
11 called, please just come down and stand directly in front of
12 the Clerk of Court and turn and look back towards where your
13 fellow jurors are.

14 Each side has an opportunity to have you excused
15 from service in the case or to have you seated for service
16 in the case.

17 If either asks that you be excused, you can simply
18 go back and have a seat where you are now.

19 If both agree to have you seated for service in
20 the case, you will be having a seat in the jury box to my
21 left and to your right.

22 So please come forward as your name is called and
23 you will be instructed if you are to be excused from serving
24 in the case or seated for service in the case.

25 THE CLERK: Number 28, Takia Epps.

1 What says the State?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. SCHULTZ: Please present the juror.
5 THE CLERK: Please take a seat in the jury box.
6 Juror 82, James Simpson.
7 What says the State?
8 MR. BARNETTE: Please present the juror.
9 THE CLERK: What says the defense?
10 MR. SCHULTZ: Please seat the juror.
11 THE CLERK: Please take a seat in the jury box.
12 Juror 75, Jeffrey Richardson.
13 What says the State?
14 MR. BARNETTE: Please present the juror.
15 THE CLERK: What says the defense?
16 MR. SCHULTZ: Please excuse the juror in this
17 case.
18 THE CLERK: You have been excused.
19 Juror 73, Joel Porter.
20 What says the State?
21 MR. BARNETTE: Please present the juror.
22 THE CLERK: What says the defense?
23 MR. SCHULTZ: Please excuse the juror in this
24 case.
25 THE CLERK: You have been excused.

1 Juror 25, Callie Deborde.

2 What says the State?

3 MR. BARNETTE: Please present the juror.

4 THE CLERK: What says the defense?

5 MR. SCHULTZ: Please present the juror in this

6 case.

7 THE CLERK: Please take a seat in the jury box.

8 Juror 62, Kelvin Moore.

9 What says the State?

10 MR. BARNETTE: Please excuse this juror from

11 service.

12 THE COURT: You have been excused.

13 Juror 52, Ryan Kirby.

14 What says the State?

15 MR. BARNETTE: Please present the juror.

16 THE CLERK: What says the defense?

17 MR. SCHULTZ: Please excuse this juror in this

18 case.

19 THE CLERK: You have been excused.

20 Juror 46, Christy Holmes.

21 What says the State?

22 MR. BARNETTE: Please excuse this juror from this

23 case.

24 THE CLERK: You have been excused.

25 Juror 33, Allen Galloway.

1 What says the State?

2 MR. BARNETTE: Please present the juror.

3 THE CLERK: What says the defense?

4 MR. SCHULTZ: Please excuse the juror in this

5 case.

6 THE CLERK: You have been excused.

7 Juror 99, Frank Watkins.

8 What says the State?

9 MR. BARNETTE: Please excuse this juror from

10 service.

11 THE CLERK: You have been excused.

12 Juror 38, Elaine Guest.

13 MR. SCHULTZ: 38?

14 THE CLERK: Yes.

15 What says the State?

16 MR. BARNETTE: Please present the juror.

17 THE CLERK: What says the defense?

18 MR. SCHULTZ: Please excuse the juror in this

19 case.

20 THE CLERK: You have been excused.

21 Juror 81, Debra Shippy.

22 What says the State?

23 MR. BARNETTE: Please excuse the juror from

24 service.

25 THE CLERK: You have been excused.

1 Juror 35, Barry Green.
2 What says the State?
3 MR. BARNETTE: Please present the juror.
4 THE CLERK: What says the defense?
5 MR. SCHULTZ: Please present this juror.
6 THE CLERK: Please take a seat in the jury box.
7 Juror 23, Kevin Davis.
8 What says the State?
9 MR. BARNETTE: Please present the juror.
10 THE CLERK: What says the defense?
11 MR. SCHULTZ: Please seat the juror.
12 THE CLERK: Please take a seat in the jury box.
13 Juror 20, Robert Cobb.
14 What says the State?
15 MR. BARNETTE: Please present the juror.
16 THE CLERK: What says the defense?
17 MR. SCHULTZ: Please seat the juror in this case.
18 THE CLERK: Please take a seat in the jury box.
19 Juror 31, Donald Fritzsche.
20 What says the State?
21 MR. BARNETTE: Please present the juror.
22 THE CLERK: What says the defense?
23 MR. SCHULTZ: Please seat the juror in this case.
24 THE CLERK: Please take a seat in the jury box.
25 Juror 27, Marc Eggers.

1 What says the State?
2 MR. BARNETTE: Please present the juror.
3 THE CLERK: What says the defense?
4 MR. SCHULTZ: Please seat the juror in this case.
5 THE CLERK: Please take a seat in the jury box.
6 Juror 80, Linda Sentell.
7 What says the State?
8 MR. BARNETTE: Please present the juror.
9 THE CLERK: What says the defense?
10 MR. SCHULTZ: Please excuse the juror in this
11 case.
12 THE CLERK: You have been excused.
13 MR. SCHULTZ: That should be my last, correct?
14 THE COURT: You get ten.
15 THE CLERK: Juror 6, Rebecca Austin.
16 What says the state?
17 MR. BARNETTE: Please excuse this juror from
18 service.
19 THE CLERK: You have been excused.
20 Juror 65, Cheryl Moss.
21 What says the State?
22 MR. BARNETTE: Please present the juror.
23 THE CLERK: What says the defense?
24 MR. SCHULTZ: Please excuse this juror.
25 THE CLERK: You have been excused.

1 Juror 5, Oveda Atkinson.
2 What says the State?
3 MR. BARNETTE: Please present the juror.
4 THE CLERK: What says the defense?
5 MR. SCHULTZ: What number was that?
6 THE CLERK: 5.
7 MR. SCHULTZ: Thank you.
8 Please seat the juror in this case.
9 THE CLERK: Please take a seat in the jury box.
10 Juror 8, Andrew Bailey.
11 What says the State?
12 MR. BARNETTE: Please present the juror.
13 THE CLERK: What says the defense?
14 MR. SCHULTZ: Please seat the juror in this case.
15 THE CLERK: Please take a seat in the jury box.
16 Juror 45, Barbara Hirschy.
17 What says the State?
18 MR. BARNETTE: Please present the juror.
19 THE CLERK: What says the defense?
20 MR. SCHULTZ: Please excuse the juror in this
21 case.
22 THE CLERK: You have been excused.
23 Juror 87, Ralph Spencer.
24 What says the State?
25 MR. BARNETTE: Please present the juror.

1 THE CLERK: What says the defense?

2 MR. SCHULTZ: Please present the juror in this
3 case.

4 THE CLERK: Please take a seat in the jury box.

5 Juror 98, Phillip Waters.

6 What says the State?

7 MR. BARNETTE: Please present the juror.

8 THE CLERK: What says the defense?

9 MR. SCHULTZ: Please seat the juror.

10 THE CLERK: Please take a seat in the jury box.

11 Juror 66, Katherine Nix.

12 What says the State?

13 THE COURT: This is for the alternate.

14 MR. BARNETTE: What was that number again?

15 THE COURT: 66.

16 MR. BARNETTE: Thank you, ma'am. Please present
17 the juror.

18 THE CLERK: What says the defense?

19 MR. SCHULTZ: Please seat the juror in this case.

20 THE CLERK: Please take a seat in the jury box.

21 Those jurors who have been selected, I'll ask you
22 to please go with the bailiff to the jury room and I'll
23 bring you back. It will be a few minutes, but I'll bring
24 you back to begin with the trial shortly.

25 (The following takes place outside the presence of

1 the jury panel)

2 THE COURT: Are there any matters that need to be
3 addressed regarding jury selection, by the State?

4 MR. BARNETTE: None from the State, Your Honor.

5 THE COURT: By the defendant?

6 MR. SCHULTZ: Your Honor, there are four problems
7 that we have here. I would like to make a Batson motion.

8 THE COURT: Well, let me see y'all up here a
9 minute, please.

10 (Whereupon, the lawyers approached the bench for
11 an off-the-record discussion).

12 THE COURT: All right. Those jurors who were not
13 selected in the case, you are going to be excused for at
14 least the balance of today. I would ask that you please
15 call back to the number that you have on your juror
16 information card in order to receive reporting information.
17 Please call that number after six o'clock this evening.
18 After six o'clock this evening you will receive a message
19 either to report back at a certain time or to call back
20 perhaps at some other time in order to receive that
21 information. Just be sure that you call that number after
22 six o'clock this evening and follow the instructions on the
23 message. Okay.

24 Thank you for your participation. Have a good
25 afternoon.

1 (Whereupon, the jury venire panel left the
2 courtroom)

3 THE COURT: All right, Mr. Schultz, you wanted to
4 challenge the State's exercise of four peremptory strikes
5 wherein they struck juror number 46, juror number 99, juror
6 number 81, and juror number 6?

7 MR. BARNETTE: I did, Your Honor.

8 THE COURT: All right.

9 MR. SCHULTZ: Juror number 46 was struck. It was
10 black female.

11 Juror number 99 was struck by the State, a black
12 male.

13 81, a black female.

14 Number 6 was a black female.

15 I would like to make a motion under Batson. If
16 the State could not produce a race neutral answer or some
17 other factor that allow them to strike, then I would
18 challenge the legitimacy of the jury under Batson. Thank
19 you.

20 THE COURT: All right, Mr. Barnette.

21 MR. BARNETTE: Thank you, Your Honor.

22 Number 46 and 99, Your Honor, they both lived in
23 the neighborhood where the defendant and co-defendants are
24 located. The co-defendants will be testifying in this case.
25 There is co-defendants on both sides, on both witnesses

1 list. Also the defendant lives in the neighborhood near
2 them also, Your Honor.

3 Number 81, the response to the court's questions,
4 the brother had committed a crime. In that case we feel
5 like that's a reason that she could be struck for it.

6 Number 6 says she know Joshua Manning, was first
7 cousins with Joshua Manning, and also lives in that
8 neighborhood also and as the co-defendants and the defendant
9 would be in that neighborhood there, Your Honor.

10 Also number 46, Your Honor, was unemployed. I
11 did -- there was one person that was seated unemployed on
12 the jury, but I ran all the strikes by them, would have
13 probably used one, but did not have one available to use at
14 that time.

15 THE COURT: All right, Mr. Schultz, those appear
16 to be sufficiently race neutral to withstand the
17 Constitutional challenge. You contend that they were simply
18 giving those excuses as a pretext to otherwise strike jurors
19 for no proper purpose or motive?

20 MR. SCHULTZ: I do, Your Honor.

21 THE COURT: All right. What reason do you have?

22 MR. SCHULTZ: Well, just because someone lives in
23 the same neighborhood -- I mean, Gaffney is a small town and
24 I think that just looking at the size of the community, I
25 mean, anybody may know somebody in this community that may

1 be affected by this. So just because somebody lives -- for
2 instance, 46 and 99, just because they live in this same
3 neighborhood around the co-defendants or the defendant
4 themselves, there is no reason to excuse anybody.

5 THE COURT: Well, it might not be a reason for
6 you. It was a reason Mr. Barnette. The question is whether
7 or not it's a race neutral reason or whether it's a pretext,
8 and I do find that's sufficiently race neutral and it's not
9 a pretext, and, therefore, I'm going to deny your motion to
10 quash the panel.

11 MR. SCHULTZ: Thank you, Your Honor.

12 THE COURT: All right.

13 MR. BARNETTE: Your Honor, if we could, could we
14 take a ten minute break?

15 THE COURT: Yeah, we are going to take fifteen
16 right now. We will be at ease for fifteen minutes.

17 (Whereupon, proceedings were recessed)

18 (Whereupon, proceedings were reconvened)

19 (Picture of Dipali Darji's face in the hospital
20 marked as State's Exhibit No. 1 for identification)

21 (Picture of the left side of Dipali Darji's face
22 marked as State's Exhibit No. 2 for identification)

23 (Picture of the left eye of Dipali Darji marked as
24 State's Exhibit No. 3 for identification)

25 (Picture of the chin area of Dipali Darji, marked

1 as State's Exhibit No. 4 for identification)

2 (Picture of the neck of Dipali Darji marked as
3 State's Exhibit No. 5 for identification)

4 (Picture of the bruises and marks on the back of
5 Dipali Darji marked as State's Exhibit No. 6 for
6 identification)

7 (Picture of bruise on the right side of Dipali
8 Darji's back marked as State's Exhibit No. 7 for
9 identification)

10 (Picture of bruise on the elbow of Dipali Darji
11 marked as State's Exhibit No. 8 for identification)

12 (Picture of marks on the left knee of Dipali Darji
13 marked as State's Exhibit No. 9 for identification)

14 (Picture of marks on the right side and right ear
15 of Dipali Darji marked as State's Exhibit No. 10 for
16 identification).

17 (Picture of marks on lips of Dipali Darji marked
18 as State's Exhibit No. 11 for identification)

19 (Picture of Dipali Darji's home at [REDACTED]
20 [REDACTED] marked as State's Exhibit No. 12 for identification)

21 (Picture from the front of Dipali Darji's home
22 toward Corner Store at [REDACTED] marked as State's
23 Exhibit No. 13 for identification)

24 (Picture of front of [REDACTED] - Corner
25 Store marked as State's Exhibit No. 14 for identification)

1 (Picture from the front corner Corner Store
2 towards back of Dipali Darji's home marked as State's
3 Exhibit No. 15 for identification)

4 (Picture from the front of Corner Store toward
5 stair to back of house marked as State's Exhibit No. 16 for
6 identification).

7 (Picture of the back of [REDACTED] -
8 porch area marked as State's Exhibit No. 17 for
9 identification)

10 (Picture of the back door and window at [REDACTED]
11 [REDACTED] house marked as State's Exhibit No. 18 for
12 identification)

13 (Picture of the side of the house away from store
14 of side windows marked as State's Exhibit No. 19 for
15 identification)

16 (Picture of window inside where enter the house
17 marked as State's Exhibit No. 20 marked identification)

18 (Picture of the kitchen floor showing items thrown
19 on the floor marked as State's Exhibit No. 21 for
20 identification)

21 (Picture of Dipali Darji's purse on the floor of
22 the kitchen with other items marked as State's Exhibit No.
23 22 for identification)

24 (Picture of kitchen behind the stove area showing
25 the purse and other items marked as State's Exhibit No. 23

1 for identification)

2 (Picture showing kitchen area near the back door
3 and the stick on the floor marked as State's Exhibit No. 24
4 for identification)

5 (Picture of blood on floor near the stick and the
6 victim's tennis shoe marked as State's Exhibit No. 25 for
7 identification)

8 (Picture of blood on the floor near the back door
9 marked as State's Exhibit No. 26 for identification)

10 (Picture of another area of blood on the kitchen
11 floor near the door marked as State's Exhibit No. 27 for
12 identification)

13 (Picture of the living room where furniture had
14 been overturned marked as State's Exhibit No. 28 for
15 identification)

16 (Picture of family center been overturned in the
17 living room marked as State's Exhibit No. 29 marked
18 identification)

19 (Picture of TV being tossed on the chair in the
20 living room marked as State's Exhibit No. 30 for
21 identification)

22 (Picture of sofa being overturned in the living
23 room marked as State's Exhibit No. 31 for identification)

24 (Picture of items and furniture being overturned
25 and pulled out in one of the bedrooms marked as State's

1 Exhibit No. 32 for identification)

2 (Picture of drawers being pulled out of the
3 dresser in a bedroom marked as State's Exhibit No. 33 for
4 identification)

5 (Picture of items being pulled out and looked
6 through in the house marked as State's Exhibit No. 34 for
7 identification)

8 (Picture of items being tossed out on the floor in
9 a bedroom marked as State's Exhibit No. 35 for
10 identification)

11 (Picture of drawers being pulled out in a bedroom
12 out of a dresser marked as State's Exhibit No. 36 for
13 identification)

14 (Picture of the doorjamb of the victim's bedroom
15 being broken into marked as State's Exhibit No. 37 for
16 identification)

17 (Picture of the doorjamb being busted out to the
18 victim's bedroom marked as State's Exhibit No. 38 for
19 identification)

20 (Picture of the door lock hinge being on the floor
21 from the bedroom door marked as State's Exhibit No. 39 for
22 identification)

23 (Picture of door lock hinge on the floor in the
24 bedroom marked as State's Exhibit No. 40 for identification)

25 (Picture of the victim's bed in her bedroom marked

1 as State's Exhibit No. 41 for identification)

2 (Picture of the bullet hole in the wall of the
3 victim's bedroom marked as State's Exhibit No. 42 for
4 identification)

5 (Video from the Corner Store at [REDACTED]
6 [REDACTED] at 4/2/08 marked as State's Exhibit No. 43 for
7 identification)

8 (Picture of John Bonner outside the Corner Store
9 at 2:48 a.m. on 4/2/08 marked as State's Exhibit No. 44 for
10 identification)

11 (Picture of John Bonner and Labrontae Agnew going
12 into the Corner Store marked as State's Exhibit No. 45 for
13 identification)

14 (Picture of John Bonner and Labrontae Agnew going
15 through the doors marked as State's Exhibit No. 46 for
16 identification)

17 (Picture of John Bonner in front of Labrontae
18 Agnew in the store marked as State's Exhibit No. 47 for
19 identification)

20 (Picture of John Bonner and Labrontae Agnew going
21 towards the counter marked as State's Exhibit No. 48 for
22 identification)

23 (Picture of John Bonner and Labrontae Agnew going
24 behind the counter in the store marked as State's Exhibit
25 No. 49 for identification)

1 (Picture of John Bonner and Labrontae Agnew going
2 into the cash register marked as State's Exhibit No. 50 for
3 identification)

4 (Picture of John Bonner and Labrontae Agnew in the
5 cash register marked as State Exhibit No. 51 for
6 identification)

7 (Picture of John Bonner and Labrontae Agnew going
8 through the counter items marked as State Exhibit No. 52 for
9 identification)

10 (Picture of John Bonner and Labrontae Agnew
11 looking at items in the counter marked as State's Exhibit
12 No. 53 for identification)

13 (Picture of the cash register tray in the floor
14 behind the counter in the store marked as State's Exhibit
15 No. 54 for identification)

16 (Picture of drawers in the store opened marked as
17 State's Exhibit No. 55 for identification)

18 (Picture of another drawer in the store opened
19 marked as State's Exhibit No. 56 for identification)

20 (Fingerprints marked as State's Exhibit No. 57 for
21 identification).

22 (Picture of Victim's Credit Card found at Exit
23 marked as State's Exhibit No. 58 for identification).

24 (Picture where Credit Card was found marked as
25 State's Exhibit No. 59 for identification).

1 (Picture of Credit Card marked as State's Exhibit
2 No. 60 for identification).

3 (Aerial View of Crime Scene marked as State's
4 Exhibit No. 61 for identification)

5 (Whereupon, proceedings were recessed)

6 (Whereupon, proceedings were reconvened)

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

9 MR. SCHULTZ: Your Honor, I have three, possibly
10 four pretrial motions here.

11 Number one is a motion for sequestration. I know
12 that is not granted as a matter of right for any defense or
13 State motions, but especially in this case we have --

14 THE COURT: Well, aren't y'all in agreement on
15 that?

16 MR. BARNETTE: Yes, sir, we are. The only thing I
17 ask is that Investigator Greg Phillips, as well as the Ron
18 Ramsey, the case agent. Of course, the victims have a
19 right, just having those folks in.

20 THE COURT: What's your -- any objection to that?

21 MR. SCHULTZ: No, Your Honor.

22 THE COURT: Okay. Sequestration is ordered with
23 the exception of those that the solicitor has requested to
24 be exempt, and all that applies to both State's and defense
25 witnesses.

1 MR. SCHULTZ: All right. I believe the -- Mr.
2 Bonner's mother is here and his brother, so --

3 THE COURT: Are they going to be witnesses?

4 MR. SCHULTZ: Right now they are going to be
5 witnesses.

6 THE COURT: Then they got to be sequestered.

7 MR. SCHULTZ: All right. Thank you, Your Honor.
8 Could I talk to them?

9 THE COURT: Sure.

10 MR. SCHULTZ: Thank you.

11 (Off the record)

12 (Back on the record)

13 MR. SCHULTZ: Number two is a motion to reveal the
14 deal that the State has offered for -- intending to offer or
15 proffer to any of the cooperating co-defendants in this
16 case.

17 My understanding is there are going to be five
18 co-defendants in this case of Mr. Bonner that plan to
19 testify against him. The State obviously has talked to them
20 before that, and I would like the State to reveal what any
21 offers or any kind of plea deals that they made prior to
22 them testifying here today.

23 THE COURT: And they have not told you what that
24 arrangement is?

25 MR. SCHULTZ: Has the State told me what the --

1 THE COURT: Yes, sir.

2 MR. SCHULTZ: They told me back in chambers, yes,
3 but I would like it on the record.

4 THE COURT: All right. Mr. Barnette?

5 MR. BARNETTE: Your Honor, all five co-defendants
6 have pled to burglary first; burglary second, violent; armed
7 robbery; grand larceny more than \$5,000; kidnapping; and
8 ABHAN. That's straight up. The armed robbery, Your Honor,
9 was reduced to common law robbery was the only concession
10 that was made by the State. They are still facing a
11 possible life sentence. There is no recommendations in the
12 case. We will be telling the court that they cooperated
13 after they testify.

14 THE COURT: The only concession made by the State
15 was a reduction of the armed robbery charge to the common
16 law robbery; the defendants pled guilty to all of the other
17 charges?

18 MR. BARNETTE: Yes, sir, they have all five have
19 already pled guilty to those charges.

20 THE COURT: And there has been no agreement,
21 recommendation, or negotiations as it relates to any
22 sentence that the court might impose to those co-defendants?

23 MR. BARNETTE: That's correct, Your Honor.

24 THE COURT: It would be strictly in the discretion
25 of the court?

1 MR. BARNETTE: Yes, sir.

2 THE COURT: Okay.

3 MR. SCHULTZ: So to just summarize, Your Honor,
4 the State has not the made any offers, as far as plea deals
5 or anything, but the five co-defendants have already entered
6 pleas for a burglary first, burglary second, and ABHAN, and
7 an armed robbery for everyone was reduced down to common law
8 robbery? That's the way I understand it.

9 MR. BARNETTE: Your Honor, I don't know why we
10 keep repeating it. I have told him this several times
11 already.

12 THE COURT: Well, they have entered pleas. That's
13 not -- that's not a deal. I mean, there was an offer, but
14 that's -- that's of record.

15 MR. BARNETTE: Yes, sir. I mean, I don't mind
16 putting it on the record, keep it on the record. The only
17 concessions made by the State was going from armed robbery
18 to common law robbery.

19 THE COURT: I understand. That's what I just
20 stated.

21 MR. SCHULTZ: That's fine. I'm just trying to
22 clarify it.

23 THE COURT: Okay.

24 MR. SCHULTZ: And being my last motion is a motion
25 to reveal any of the State's cooperating witnesses if they

1 have any records.

2 THE COURT: Those have been provided?

3 MR. BARNETTE: Your Honor, I'm going to provide.
4 None of the co-defendants have prior records. Of course,
5 the other ones are police officers and other witnesses. I
6 have given him three of the rap sheets and we will give him
7 the other two after lunch. I will give them to him prior to
8 them testifying.

9 THE COURT: Okay.

10 Anything else?

11 MR. SCHULTZ: And, Your Honor, at this time I have
12 nothing further, but the only thing is that maybe at a later
13 time we may have to do a Jackson-Denno hearing, if the State
14 does plan to present my client's statement, if he does plan
15 to testify, but I think we will save that at a later time.

16 THE COURT: If the State intends to offer any
17 statement made by the defendant, he's entitled to a hearing
18 to determine its voluntariness. Okay.

19 MR. SCHULTZ: Thank you, Your Honor.

20 THE COURT: All right. Bring the jury in. Ask
21 Mr. Fritzsche to take the foreperson's seat. Mr. Fritzsche.

22 (The following takes place in the presence of the
23 jury panel)

24 THE COURT: Thank you. Please be seated.

25 Ladies and gentlemen, we are ready to begin with

1 the trial of the case for which you each have been selected.

2 And, Mr. Fritzsche, I'm going to ask you to serve
3 as the foreperson of the jury. As the foreperson, you will
4 have three specific duties that none of the other jurors
5 will have.

6 Number one, you are going to be asked to serve as
7 the spokesperson for the jury. And so if during the trial
8 something arises that needs to be brought to my attention,
9 that is, you or a fellow juror has some difficulty or
10 problem or a question, if you will let the bailiff know, he
11 will let me know and I'll address that problem or answer
12 that question.

13 Secondly, you will be called upon to preside over
14 the jury deliberations when that time comes. And that, of
15 course, won't be until the end of the trial after all the
16 evidence has been received and I have instructed you on the
17 law that's applicable in the case. But when the time does
18 come for jury deliberations, you are called upon to preside
19 over that process in the jury room simply to ensure that
20 those deliberations are carried out in some orderly fashion.

21 And, thirdly, you will be asked to actually write
22 the verdict or the decision of the jury. You will do that
23 on verdict forms that I will provide you at the trial's
24 conclusion on which you will indicate the jury's unanimous
25 decision as it relates to that particular charge.

1 Now, the foreperson has those specific duties that
2 I have just indicated. That does not, however, mean that
3 he's any more important than any of you other jurors,
4 because the decision of the jury is the unanimous consensus
5 opinion of all twelve jurors. And, therefore, all of you
6 will have an equal say and an equal vote in what the
7 ultimate decision would be in the case. Someone simply has
8 to be delegated those responsibilities that I have just
9 indicated, and I have delegated those to Mr. Fritzsche in
10 appointing him as the foreperson, but all of you jurors are
11 equally important, so far as the ultimate decisions in this
12 case are concerned, because, as I have stated, the decisions
13 have to be unanimous. All of you must be in agreement.

14 Now, Ms. Nix, you have been selected as an
15 alternate juror. And the function of the alternate juror is
16 to take the place of one of the original twelve jurors in
17 the event one of those original twelve cannot continue to
18 serve for some reason during the trial of the case. And if
19 a juror is called away because of an illness or an emergency
20 and cannot continue, then you would be called upon to take
21 that person's place. In that event you would become the
22 twelfth juror. If, when the time comes for jury
23 deliberations, all the original twelve are able to
24 participate, your service would end. You would not
25 participate any further, because the decision of the jury is

1 that of twelve. No more than twelve are permitted to engage
2 in that deliberation process, but it is important that you
3 pay just as careful attention as we ask of all the jurors in
4 the case, because it does occur from time to time for one
5 reason or another one of these original twelve may be unable
6 to continue. In that event you become the twelfth. So we
7 do appreciate your participation as an alternate juror, just
8 as we appreciate the participation of each of you jurors who
9 have been selected for the purpose of deciding the verdicts
10 in this particular case.

11 You may swear the panel.

12 THE CLERK: Mr. Foreman, ladies and gentlemen of
13 the jury, please stand and raise your right hand.

14 Do you solemnly swear that you will truly try the
15 issues joined in this case and a true verdict rendered
16 according to the law and evidence, so help you God?

17 JURY PANEL: (Collectively said I do)

18 THE CLERK: You may be seated.

19 THE COURT: Now, ladies and gentlemen, as you well
20 know, you have been selected to decide the verdicts in the
21 case of the State versus John Bendarian Bonner.

22 Mr. Bonner has been accused by the State, as you
23 have been told, of having committed six separate and
24 distinct offenses, although they are alleged to have arisen
25 out of one particular event or course of events which the

1 State's alleges occurred back on April the 2nd of 2008.

2 And by way of six separate indictments the
3 defendant has been accused by the State with having
4 committed the crimes of burglary in the first degree,
5 kidnapping, armed robbery, burglary in the second degree,
6 aggravated assault and battery, and armed robbery.

7 As to the allegations contained in each of those
8 indictments and as to the charges that have been brought
9 against the defendant, as I told you, he's entered a plea of
10 not guilty. And the plea of not guilty, therefore, always
11 places upon the State, because they brought the charges
12 against the defendant, to establish his guilt to the
13 satisfaction of you twelve jurors beyond a reasonable doubt
14 before any verdict of guilty could be returned as to any
15 indictment that has been brought against him.

16 There are six separate charges. You will be
17 considering those six separate charges individually, and you
18 will determine your verdict as to that particular charge by
19 your consideration of the evidence that relates to those
20 allegations and then your application of the law as I will
21 have provided it to you. And in this case you are going to
22 be called upon to render six separate and distinct
23 decisions, because there are six separate and distinct
24 charges. And your verdicts in this case may be the same as
25 it relates to all of the indictments, or those verdicts may

1 be different. That, of course, will be dependent upon your
2 determination of fact and then your application of the law
3 to the facts as you determine them to be.

4 Anytime that a person is accused of a crime, a
5 person accused of a crime is always under the law presumed
6 to be innocent, and that presumption of innocence remains
7 with any defendant, as it does with this defendant, from the
8 time that he is placed under arrest and throughout the
9 course of the criminal process, and even throughout the
10 course of the actual trial in the case. And that
11 presumption of innocence will be with Mr. Bonner even as you
12 are asked to go back and to begin with your deliberations at
13 this trial's conclusion. And that presumption of innocence
14 will be with him in that jury room, and it will be with him
15 forever, unless you twelve jurors determine that he is no
16 longer entitled to the presumption of innocence. In other
17 words, after you have carefully considered all of the
18 evidence in the case and after considering that evidence you
19 have decided the facts as it relates to a charge, and upon
20 deciding those facts you apply the law that I will have
21 provided you; if you twelve jurors unanimously determine
22 that his guilt has been proven beyond a reasonable doubt as
23 it relates to a particular charge, then under those
24 circumstances he would no longer be entitled to that
25 presumption of innocence. But it's only if, unless, and

1 until you are satisfied of his guilt beyond a reasonable
2 doubt that the presumption of innocence would no longer be
3 applicable.

4 And as I have told you, the indictments are the
5 charging papers. They are not proof of anything. They are
6 not evidence of anything. They do not establish anything.
7 They will be going back into the jury room at the trial's
8 conclusion, because it is on the back of each of those
9 indictments, Mr. Foreman, that you are going to be asked to
10 indicate the jury's unanimous decision as it relates to a
11 particular charge, but the indictments will only be serving
12 as the verdict form. And so while they are in the jury
13 room, they are not evidence of anything. They don't mean
14 anything, so far as you are concerned. They simply will be
15 there to serve as the verdict form and upon which you will
16 indicate the jury's unanimous decision.

17 Now, the way trial will proceed is that in a
18 moment the lawyers are going to address you in what are
19 called opening statements. There are two occasions in the
20 trial of any case where lawyers are permitted to address the
21 jury personally, and that is at the beginning of the trial
22 before any evidence has been introduced, then again at the
23 conclusion of the trial after all of the evidence has been
24 received. Please keep in mind, however, that the statements
25 of the lawyers is not evidence. You will not base your

1 decision upon any statements made by the lawyers in this
2 case. They are not going to be telling you anything about
3 this case they know of their own personal knowledge or
4 perception like witnesses will be, and the lawyers aren't
5 going to take the witness stand. They are not going to
6 testify under oath. They are not going to be subjected to
7 direct and cross-examination, as each of the witnesses will
8 be. And that's what the lawyers tell you in their
9 statements is not to be considered by you as any evidence
10 upon which you will base your decision. But it is important
11 that you listen to what the lawyers tell you in those
12 statements, because those statements do serve a purpose.
13 And the opening statements will serve to provide you with
14 the basic understanding as to what this case is about from
15 both the perspective of the State and the defendant, so that
16 you will have some context in which to place the evidence
17 that we will be receiving shortly thereafter.

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

1 And it's in between the opening and the closing
2 statements accomplished by the lawyers that we will actually
3 receive the evidence upon which you will make your decision.

4 The State, as you know, has the burden of proof,
5 so the State will go forward first in its presentation of
6 evidence.

7 After the State has concluded in its presentation
8 of evidence, a defendant has the same opportunity to testify
9 or to call witnesses or to produce evidence. But understand
10 that while the State does have the burden of proving a
11 defendant's guilt beyond a reasonable doubt, a defendant in
12 a criminal trial has no burden of proof. A defendant never
13 has to produce evidence. A defendant never has to prove
14 that he or she is not guilty or that he or she is innocent,
15 because in some cases that might not even be possible. The
16 burden is always upon the State, because they have brought
17 these charges to prove a defendant's guilt beyond a
18 reasonable doubt.

19 And so in the trial of a criminal case a defendant
20 may not testify. A defendant may not call any witnesses. A
21 defendant may not produce any evidence. And if he or she
22 does not, that is not something that the jury may consider
23 in any way whatsoever in your deliberations or in your
24 determination as to whether or not the evidence in the case
25 proves him to be guilty beyond a reasonable doubt. You

1 can't draw any conclusion nor draw any inference from the
2 fact that a defendant does not testify or does not call
3 witnesses in the trial of the case, but a defendant is
4 afforded an opportunity to present evidence and to testify,
5 if a defendant chooses to do so.

6 After all the evidence has been received and after
7 you hear the final summations of the lawyers, I will then
8 instruct you fully on the law as it relates to the criminal
9 law, in general, and as it relates to these particular
10 crimes, specifically, after which you will be asked to go
11 back and begin with your deliberations in the case. And
12 through that process you will examine the evidence, decide
13 the facts, apply the law, and arrive at a fair and just
14 decision, whatever that decision might be.

15 Now, it's important that you give every witness
16 the same degree of attention as the witness testifies,
17 because one of your prerogatives as a juror is to evaluate
18 and to assess and determine the credibility of each witness
19 that testifies. And, therefore, you may choose to believe
20 everything that a witness testifies to. You may choose to
21 believe none of it. You may believe one portion of a
22 witness' testimony and reject some other portion of that
23 same witness' testimony. And in a given case you can
24 believe one witness as opposed to several, or several as
25 opposed to one. But whatever your good judgment and common

(1 sense tells you is most believable and credible testimony is
2 the testimony that you should accept, and you should reject
3 any testimony or other evidence that you find not to be
4 credible or believable. And that's why it's important that
5 you give every witness the same degree of attention as they
6 testify, so that you will be in a proper position at this
7 trial's conclusion to fairly assess that witness'
8 credibility in light of not just that witness' testimony,
9 but in light of all of the testimony and all of the evidence
10 received during the trial. And, of course, it's important
11 that you keep an open mind throughout the course of the
12 trial. And that just means that you are not to begin making
13 up your minds or formulating your opinions as to what you
14 think the ultimate decisions in this case ought to be until
15 all of the evidence has been received, until I have
16 instructed you on the law that's applicable in the case and
17 until you have been asked to begin with your deliberations
18 at the trial's conclusion. That is the process that is
19 designed for you twelve jurors to arrive at a fair and just
20 decision in the case.

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

(25 MR. BARNETTE: May it please the court, Your

1 Honor?

2 THE COURT: Yes, sir.

3 MR. BARNETTE: This is Dipali Darji, Your Honor --
4 I mean, ladies and gentlemen. Back on April 1st, 2008, she
5 was working as a clerk at the Corner Store up on Providence
6 Road. You know where Daddy Joe's is? You go there, you
7 take a right there and go out there. Providence Road is on
8 the left. You go up a block. The store she works there,
9 and she lives in the house right beside it at [REDACTED]
10 [REDACTED]. She had worked that day. She finished her shift at
11 midnight. It started April 1st -- it had gone from April
12 1st to April 2nd.

13 Another man, Mr. Patel, closed the store. He
14 walked with her over to her house. She went in her house.
15 She got her something to eat, watched a little bit of TV,
16 went to bed. She locked her bedroom door.

17 In the middle of the night the door gets busted
18 open. A gunshot rings out right above her head. Four men
19 go inside of her house. Two of them rush in at that time.
20 They grab her. They beat her. They choke her. They said
21 "where is the money? Where is the money?" She tried to
22 tell them "what money", or whatever. They go through her
23 purse. They go through the whole house. They choked her.
24 They start taking her clothes off - take her pants off, her
25 underwear. They keep saying "where is the money?" She

1 tries to give them the keys to the store. Two of them run
2 in. They are all wearing gloves, masks over their face.

3 Two of them go in the store, and you will see on
4 the videotape from the store and the pictures that you will
5 see when they go in. They are wearing socks over their
6 hands, masks. Two of them still there in the house with
7 her. Others went through the house. Two of them -- there
8 is eight altogether, ladies and gentlemen, involved in this.

9 They drove two cars. They parked at the
10 Huntington Wood Apartments above there. Two of them stay at
11 the cars. Two of them stayed outside as a lookout. Four of
12 them went inside the house.

13 As they go into the store, one thing they didn't
14 know was they had the alarm system. Meanwhile, while she's
15 still being beat back at her house. As they are going
16 through the till and they rob it, they got \$14,000,
17 approximately, maybe more, from the store. When the door is
18 open, if you don't hit the button, the alarm will
19 automatically go off. That alarm went off. When that alarm
20 went off, everybody ran, leaving her beaten, bruised.

21 She called for help, people next door, from one of
22 her friends. The police were called.

23 The police gets involved in the investigation.
24 They start looking for suspects. As the police work on
25 this, they find the eight individuals involved in this. And

1 all of them had nicknames. You will hear different
2 nicknames.

3 They met at Mr. Bonner's house. He's the one that
4 led to the idea. The plan, as you will hear it, was in the
5 past him and others had seen her carry monies from the store
6 to the house. That night she didn't have any money with her
7 when she took it -- when she left the store. They were
8 watching. The six of them was watching from the bushes
9 watching her. And you will hear testimony about this. They
10 watched Mr. Patel walk her over and they didn't bring it so
11 they couldn't take it with them. They went back and they
12 decided at the cars that they would go in the window.

13 "Yankee", which is Joshua Manning. He goes
14 through side window in the house. He goes and unlocks the
15 door and he comes back out and they decide to wait until she
16 goes to sleep.

17 "Ro-Ro", which is John Bonner. Joshua Manning,
18 which is "Yankee". Labrontae Agnew, who they called
19 "Brontae". Kwame Douglas, who they call "Lil Fred" goes
20 into the house. They start looking for the money. They
21 can't find it. Finally they decided. They drove over to
22 "Yankee's", John Bonner's and Joshua Manning's, they are
23 going to go find it in her bedroom. They are the ones that
24 had the gun and fired the shot and who started beating on
25 her first. They heard the gunshot. You will hear the

1 witnesses from outside. They will testify about it. The
2 two were staying at the car was "R.J." Wilson. They called
3 him "R.J.", and Terry Littlejohn was at the car.

4 Outside the house, Kendrick Tate and Billy Rodgers
5 was out there. They will testify what they saw going on
6 inside the house. They went in and helped and couldn't find
7 it.

8 When she finally give up the key, once they took
9 her clothes, the only thing she had on was her nightclothes
10 and she was in her nightshirt. And she said "well, I'll
11 show you where the key is to let you in and so you can get
12 your money. I want to put my pants on first."

13 The key is given to "Ro-Ro" and "Yankee" and the
14 other two go in the store. "Ro-Ro" and "Brontae" go in the
15 store. And you will see it on the videotape as they go to
16 the door, they go in the store and they ruffle through the
17 till and they get all the money and carry it with them, in
18 their pockets and arms and everything.

19 They all went back. They get in the cars and they
20 go down the road to a trailer park in a complex and they
21 split the money up. You will hear how much money for each
22 co-defendant got and everything.

23 Later on "R.J." Wilson drives, because they --
24 "Ro-Ro" and two other co-defendants went to the hotel, a
25 Motel 6. They had took Dipali Darji's credit card. She had

1 money in her purse they took. And they decided they would
2 just through that in some bushes. "R.J. Wilson, who came
3 clean to the police, took them and showed them where the
4 credit card was thrown. The Gaffney police department went
5 and got that credit card.

6 You will see pictures of what was done in this
7 case. You will have the house. They will have it in the
8 store. You will see what happened to this lady right here.

9 You will hear from the co-defendants. You will
10 hear from "R.J." Wilson. He will talk about what happened
11 that day and what happened that night.

12 You will hear from Kendrick Tate. You will hear
13 what his involvement was.

14 You will hear from Kwame Douglas, what his
15 involvement was.

16 You will hear from Mr. Rodgers, what his
17 involvement was.

18 All of them have pled. They pled to burglary
19 first, burglary second violent, grand larceny, assault and
20 battery of a high and aggravated nature, kidnapping, and
21 common law robbery. They are facing a life sentence. There
22 is no offers on the table. We will be telling the judge
23 they cooperated. They are going to tell you what their
24 involvement was and what that man's involvement was right
25 over there, the man that called and talked to them and told

1 them that "we need to get together on this," meeting over at
2 his house and going over and doing what they did.

3 Now, the judge will give you the law. He will
4 tell you what each element is of the offense. But, ladies
5 and gentlemen, there is no doubt what this was. This was
6 everything I have just told you it was, and you are going to
7 hear that today, and the man that was involved with all of
8 it. The other co-defendants have pled. He's the one that
9 started it off and he's involved with it up to his neck.

10 What I would ask you to do is just listen to the
11 evidence as you hear it. I will be coming back to you, like
12 the judge said, coming back to you to go over that evidence
13 with you, but listen to it and look at it.

14 This man -- I'll be coming back and asking you to
15 give justice for what he did to this lady right here. Thank
16 you all very much.

17 Thank you, Your Honor.

18 MR. SCHULTZ: If it please the court?

19 THE COURT: Mr. Schultz.

20 MR. SCHULTZ: Good morning, ladies and gentlemen.

21 My name is Attorney Joshua Schultz. I represent John
22 Bonner. He is charged, charged, with very serious crimes.

23 When I was over there just now looking at some of
24 the looks on y'all's faces there, I saw some of the looks
25 and I know that you think this is a serious crime.

1 Everybody knows this is a serious crime. It is a crime, but
2 one in which Mr. Bonner, my client, had nothing to do with.
3 He stands before you, members of the jury, as an innocent
4 man. He will remain innocent, because there is no doubt in
5 my mind after hearing the witnesses today and tomorrow, this
6 week, that you will vote to acquit him. This will be your
7 verdict and that will be the truth.

8 The purpose of an opening statement, one that the
9 solicitor gave you and the one that I'm giving you right
10 now, gives you a preview of what is to come. Opening
11 statements are usually short, to the point, so I will not
12 give you a lot of detail on the case. What will happen is
13 you will hear the details when the witnesses testify.

14 I just want to give you a couple of key words to
15 remember when you hear testimony this week.

16 The first key word or key words are reasonable
17 doubt. Now, I know you have all heard that phrase in movies
18 and TV. We have all heard that before, Law and Order, if
19 some of you watch Law and Order on TV, or movies. In order
20 to convict a person of a crime in this country, you should
21 have no reasonable doubt that he or she did a crime.

22 Reasonable doubt means any kind of doubt that will cause a
23 reasonable person some hesitation to act. And when you hear
24 all of the testimony today and for the next couple of days,
25 you should know that if you have any reasonable doubt

1 whatsoever as to the reliability of any of these witnesses
2 that you are going to hear, then you must not convict, and I
3 know you will not convict. What I'm saying is that you have
4 to be sure of this.

5 The other words that I want to go over is burden
6 of proof. Now, what this means is the State must prove
7 beyond a reasonable doubt that this crime happened. Because
8 the State has this burden, they are allowed to go first.
9 Now, you are going to hear from their several witnesses and
10 then you are going to hear from my witnesses.

11 Now, the defense does not have the burden of
12 proof. They have to convince you, the members of the jury,
13 beyond a reasonable doubt that this happened the way they
14 said it did. It's not my burden. It's not Mr. Bonner's
15 burden. It's not the judge's. It's not your burden. It's
16 their burden. They have to prove this. And if they don't,
17 you must convict (sic), and they can't and they won't.

18 Now, when the witnesses testify, they are
19 testifying to their own personal recollections of what
20 happened. Just think about this. If you don't know a
21 person real well, and I know you don't know these people.
22 That's why we all qualify y'all, okay? When you don't know
23 a person real well and that person comes up to you and
24 says -- you know, tells you a story, think of things in your
25 own personal experiences how can you tell whether that

1 person is telling you the truth or not, whether he's lying
2 or telling the truth? Think about what you would do if some
3 person that you didn't know came up to you and told you a
4 story. Well, if it was me, I would look at their
5 background, where and when you know those persons, okay?
6 Have they told lies in the past? And most of the people
7 that you are going to hear, especially these cooperating
8 witnesses, they told lies and you are going to hear that.
9 They told lies to the police. They -- in the beginning they
10 covered up their involvement in the crime. They said "we
11 had nothing to do with this." And the only way that you can
12 convict is if you believe those people, and they are all
13 liars. And you should remember this, because the only thing
14 linking my client to this crime are these five people that
15 have entered plea deals with the State that has everything
16 to gain and nothing to lose by testifying here today, and I
17 want you to remember that. I'm going to bring that out
18 during my cross-examination.

19 Now, ladies and gentlemen, y'all know this. Y'all
20 have common sense. The truth is always the easiest thing to
21 tell, because there is no need to embellish it because you
22 have lived it. There is no need to fill in the blanks,
23 because, again, you have lived it. You know what happened.

24 Now, I happen to know, or I can reasonably assume,
25 that each of you have been lied to in the past. Think about

1 that time that you were lied to. Remember that person and
2 think about what motivates someone to lie. And I can tell
3 you one big reason why someone would lie is to avoid any
4 more jail time. That is a big reason to lie. And these
5 people that you are going to hear from, they all have
6 something hanging over their head and they all don't want to
7 go to jail. And that I present to you is a reason, the
8 biggest reason, to lie. Now, as you know, there are a lot
9 of different reasons. They lie because sometimes the truth
10 hurts them. They lie because somebody made them, but mostly
11 they do it to protect themselves so they stay out of
12 trouble.

13 Now, you heard the solicitor when he went over his
14 opening statement there, you know that he had contempt for
15 these people that did this, but he's going to put these
16 people up on the stand and they are going to testify in the
17 State's behalf, people that will be convicted of a crime.

18 Now, I'll offer up a cross. I'm going to make
19 objections asked by the solicitor. He will make objections
20 to some of the stuff that I say, and the judge, Judge Cole,
21 will make a ruling. That is one of his jobs as the finder
22 of the law. You, however, are the finder of fact. You
23 assess whether witnesses are reliable or not. Use your
24 common sense. And as I told you before, you determine what
25 happened that night.

1 Now, let's talk a little bit about power and what
2 that means. Everywhere in this courtroom you see power.
3 The judge has power to make rulings on the law. The police
4 are here today. They have power to arrest people. The
5 solicitor has power to present a case and accuse somebody,
6 indict somebody of a crime. But, ladies and gentlemen, the
7 main power in this courtroom belongs to you. You have the
8 power to determine the truth.

9 The life of somebody, Mr. Bonner, my client, is in
10 your hands. And at the end of this week you will deliver a
11 verdict, and that's exactly what a verdict means. You will
12 tell the truth, as I said in the beginning. You will tell
13 the truth in your verdict after determining these witnesses
14 for the State are liars and you will acquit Mr. Bonner of
15 all of his charges.

16 I look forward to this case today. I hope you do
17 too. We appreciate your service in advance and thank you.

18 THE COURT: Have you got a short witness, Mr.
19 Barnette.

20 MR. BARNETTE: Your Honor, I would like to call
21 Officer Sizemore to the stand, please.

22 OFFICER J.R. SIZEMORE, having been first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. BARNETTE:

25 Q. Please, sir, state your full name for the record,

1 please.

2 A. Jeff Sizemore.

3 Q. And where do you work at, sir?

4 A. Gaffney Police Department.

5 Q. And what is your position there, sir?

6 A. I'm a patrol officer.

7 Q. And how long have you been there, sir?

8 A. Two and a half years.

9 Q. Back on April 2nd, 2008, did you work that day, sir?

10 A. Yes, sir, I was working that night.

11 Q. Were you working the night shift that night?

12 A. Yes, sir.

13 Q. Did you receive a call at [REDACTED]?

14 A. Yes, sir.

15 Q. And, if you would, tell the jury what you found once
16 you arrived there.

17 A. That night I responded to a call, I pulled up to the
18 address of [REDACTED]. I saw a young lady -- two
19 young ladies standing out front of the store. One of the
20 ladies was bleeding from the face area. I was asking her
21 what had happened. She told me that she had been beaten.
22 Her house has been ransacked and the store had been broken
23 into.

24 Q. Is this store and the house, the one at [REDACTED]
25 [REDACTED] and one at [REDACTED], is that in the City of

1 Gaffney?

2 A. Yes, sir.

3 Q. And is that in Cherokee County also?

4 A. Yes, sir.

5 Q. And let me show you what's been marked as State Exhibit
6 61. Is that an aerial map of the area that we are talking
7 about?

8 A. Yes, sir.

9 MR. BARNETTE: Your Honor, I would like to enter
10 this into evidence at this time.

11 MR. SCHULTZ: No objection to State's Exhibit 61.

12 THE COURT: It's admitted.

13 MR. BARNETTE: Permission to publish it to the
14 jury, Your Honor?

15 THE COURT: You may.

16 BY MR. BARNETTE:

17 Q. Officer, if you would just step down for one second.

18 (Witness off the witness stand)

19 BY MR. BARNETTE:

20 Q. Can you tell us what this is right here, sir?

21 A. That's the Corner Stop on Providence Road, [REDACTED]

22 [REDACTED]

23 Q. And is this the store that we are talking about?

24 A. Yes, sir.

25 Q. Okay. And is the house in this area, approximately?

1 A. Yes, sir.

2 Q. And like Daddy Joe's is on Floyd Baker, in this
3 direction behind you kind of?

4 A. Yes, sir, Beltline Road. Floyd Baker Boulevard and
5 Daddy Joe's is down Beltline.

6 Q. You go down that road and take a left?

7 A. Yes, sir. Start from Daddy Joe's and go down Beltline.
8 Beltline, hang a left and then the store is right there on
9 the left.

10 Q. Okay. If you would please have a seat, sir.

11 (Witness back on the witness stand)

12 BY MR. BARNETTE:

13 Q. The lady that you saw the face, bleeding from the face,
14 was she the young lady we saw earlier in the courtroom
15 today?

16 A. Yes, sir.

17 Q. And once you received that information, were other
18 officers called out at that time?

19 A. Yes, sir.

20 Q. And did you go to the hospital with her?

21 A. Yes, sir, I did.

22 Q. And at the hospital was she treated for her injuries?

23 A. Yes, sir.

24 Q. And was she kept overnight?

25 A. Yes, sir, she was.

1 Q. Did you also -- before you went, did you go look at the
2 house and the house area?

3 A. Yes, sir, I did.

4 Q. And did you also go in the store?

5 A. Yes, sir, I did.

6 Q. Let me show you what's been marked as State Exhibits, I
7 think so it's going to be 12 through 37 -- or 36. 12
8 through 36. If you would look at those pictures there. See
9 if those pictures fairly represent what you saw that day.

10 A. Yes, sir, they do.

11 MR. BARNETTE: Your Honor, I would like to move
12 these into evidence at this time.

13 MR. SCHULTZ: No objection, Your Honor.

14 MR. BARNETTE: Permission to publish some of the
15 pictures to the jury, Your Honor?

16 THE COURT: You may. What are their numbers?

17 MR. BARNETTE: 12 through 36, Your Honor.

18 THE COURT: Thank you.

19 BY MR. BARNETTE:

20 Q. I'm showing you picture No. 12. I'll show that to the
21 jury.

22 You can step down, officer, if you would like to, sir.

23 (Witness off the witness stand)

24 BY MR. BARNETTE:

25 Q. Is this a picture in the front of her house there?

1 A. Yes, sir, it is.

2 Q. That's [REDACTED]?

3 A. Yes, sir.

4 Q. I'm showing you State's Exhibit No. 14. Is that the
5 picture of the front of the store?

6 A. Yes, sir, it is.

7 Q. Is that commonly called the C-Mart as well as the
8 Corner Shop?

9 A. Yes, sir.

10 Q. I'm showing you State's Exhibit No. 18. I'm not going
11 to show every picture here. A lot of them come from the
12 same area.

13 Is this a picture of the back door of the house?

14 A. Yes, sir, it is.

15 Q. Okay. I'm showing you State's Exhibit No. 19. Is this
16 a picture of the side window of the house?

17 A. Yes, sir.

18 Q. And is this away from the store?

19 A. Yes, sir, it is.

20 Q. I'm going to show you State's Exhibit No. 21. What is
21 that a picture of, sir?

22 A. That was a picture of the inside of the house, kitchen
23 area.

24 Q. And had it been gone through?

25 A. Yes, sir.

1 Q. I'm showing you State's Exhibit No. 22. Was this her
2 purse?

3 A. Yes, sir.

4 Q. And were these several of the items that came out of
5 her purse?

6 A. Yes, sir.

7 Q. I'm showing you State's Exhibit No. 25. Was this the
8 kitchen, another part of the kitchen floor area?

9 A. Yes, sir.

10 Q. And what does this appear to be to you?

11 A. Appeared to be blood.

12 Q. Let me show you State's Exhibit 28. What does this
13 appear to be, sir?

14 A. That's the living room area. The couch has been
15 flipped over. The entertainment center had been flipped
16 over.

17 Q. Does this house appear to be ransacked?

18 A. Yes, sir.

19 Q. I'm showing you State's Exhibit 30. Was this a TV set
20 turned over?

21 A. Yes, sir.

22 Q. Entertainment center?

23 A. Yes, sir.

24 Q. I'm showing you State's Exhibit 31. Was this the couch
25 that was turned over?

1 A. Yes, sir.

2 Q. State exhibit 32. Is this one of the bedroom areas?

3 A. Yes, sir.

4 Q. I'm showing you State's Exhibit 33. This is another
5 bedroom area that had been ransacked?

6 A. Yes, sir.

7 Q. I'm showing you State's Exhibit 36. Was this another
8 part of the house that had been ransacked too?

9 A. Yes, sir.

10 Q. Okay. If you would, stand there for a second.

11 If you would look at State Exhibit 54, 55 and 56. Are
12 these fair representations of what you saw in the store that
13 night too?

14 A. Yes, sir, it is.

15 MR. BARNETTE: Your Honor, I would like to move
16 these into evidence at this time.

17 MR. SCHULTZ: No objection, Your Honor.

18 THE COURT: They are admitted.

19 MR. BARNETTE: Permission to publish these, Your
20 Honor?

21 THE COURT: You may.

22 BY MR. BARNETTE:

23 Q. I'm showing you State's Exhibit 54. Is this a picture
24 of the money that was taken out of the drawer?

25 A. Yes, sir, it was.

1 Q. I'm showing you State's Exhibit 55. Is this another
2 area of the store, the drawers that went through?

3 A. Yes, sir.

4 Q. State's Exhibit 56, is that another drawer, the items
5 that were taken out of it?

6 A. Yes, sir.

7 Q. And later on did the manager come out to the store?

8 A. Yes, sir, he did.

9 Q. And did he give the video information to the detective?

10 A. Yes, sir.

11 Q. And approximately -- do you know approximately how much
12 was taken from the store?

13 A. Approximately \$13,000 and cash.

14 Q. And that was just an estimate?

15 A. Yes, that's approximately \$13,000 in cash from the
16 store; \$5,000 in cash from the house; and \$5,000 in jewelry
17 was -- at that time was approximate.

18 Q. And was there also a credit card taken from her also?

19 A. Yes, sir.

20 Q. If you would, sir, please have a seat.

21 (Witness back on the witness stand)

22 BY MR. BARNETTE:

23 Q. How emotional was she that night?

24 A. I'm sorry?

25 Q. How emotional was she that night?

1 A. Very.

2 Q. And basically your first -- obviously you looked the
3 scene over and secured it and so forth. Did you feel like
4 you needed to stay with her at the hospital?

5 A. Yes, sir.

6 Q. And that's where you went with her?

7 A. Yes, sir, I did.

8 Q. Please answer any questions that Mr. Schultz may have
9 for you, sir. Thank you.

10 MR. SCHULTZ: Thank you, Your Honor.

11 CROSS EXAMINATION BY MR. SCHULTZ:

12 Q. Officer Sizemore, how long have you been on the force?

13 A. Two and a half years.

14 Q. Two and a half years?

15 A. Yes, sir.

16 Q. Okay. Did you work anywhere else prior to working in
17 Gaffney?

18 A. I have in Gaffney, yes, sir.

19 Q. Okay. So a combined total, how long have you been a --

20 A. Been in law enforcement two and a half years.

21 Q. Two and a half years?

22 A. Yes, sir.

23 Q. And you responded to this incident location, correct?

24 A. Yes, sir, I did.

25 Q. Okay. And we saw the pictures up there, right?

1 A. Yes, sir.

2 Q. All right. And those are now in State's evidence,
3 correct?

4 A. Yes, sir.

5 Q. And we also saw some what appeared to be blood on the
6 floor?

7 A. Yes, sir.

8 Q. Did you collect some of that blood?

9 A. I did not.

10 Q. Okay. Do you know if that blood was ever collected?

11 A. I don't know, sir.

12 Q. Okay. Do you know -- you obviously don't know whether
13 it was tested for any kind of DNA or anything, right?

14 A. No, sir, I have no idea.

15 Q. Now, you were the first officer to arrive on the scene,
16 correct?

17 A. Yes, sir.

18 Q. Okay. Now, as you know, most crimes are solved within
19 24 hours of their occurrence, correct?

20 MR. BARNETTE: Your Honor, I'm going to object.
21 That's speculation.

22 THE COURT: Sustained.

23 BY MR. SCHULTZ:

24 Q. It's very important -- the first officer on the scene
25 is one of the most important officers there for the

1 investigation of the crimes, correct?

2 A. Yes.

3 Q. Okay. And were you charged that day or tasked that day
4 with collecting any fingerprints or anything like that?

5 A. No, sir, I was not.

6 Q. Okay. So your job was just to arrive at the scene,
7 make sure everything was okay and not collect any evidence
8 whatsoever?

9 A. Secured the scene. I secured the scene and called
10 detectives.

11 Q. Okay. Now, you also talked to this victim in this
12 case, right?

13 A. Yes, sir, I did.

14 Q. And you said during your direct testimony that she was
15 very emotional?

16 A. Yes, sir.

17 Q. Did she identify anybody to you?

18 A. She told me at the time when I asked her what had
19 happened, she said approximately five black males wearing
20 dark clothes had attacked her.

21 Q. And she said all those men had masks or rags to cover
22 their heads, right?

23 A. Yes, sir.

24 Q. So at that very moment she could not identify anybody
25 or give you a good description of who assaulted her,

1 correct?

2 A. At that time, no, sir.

3 Q. Okay.

4 MR. SCHULTZ: That's all I have, Your Honor.

5 Thank you.

6 MR. BARNETTE: No further questions.

7 THE COURT: You may step down.

8 MR. BARNETTE: We ask the witness to be excused,
9 Your Honor.

10 THE COURT: He may be.

11 All right, ladies and gentlemen, we are going to
12 recess for lunch.

13 Let me caution you at any time we take a break,
14 you never are permitted to discuss the case even among
15 yourselves. You can't talk about the case with family
16 members or friends, and you can't discuss it with your
17 fellow jurors until you are actually involved in the jury
18 deliberations at the trial's conclusion. So from now on
19 until that time have no discussions of any kind whatsoever
20 with any persons whatsoever.

21 Also don't permit yourselves to be exposed to any
22 type of media coverage that might relate to the trial,
23 whether it be television, radio, or newspaper. You have got
24 to base your decision upon what you see and hear in the
25 courtroom and not what you might be influenced by outside of

1 the courtroom, so avoid any type of extraneous or outside
2 information. Your verdict has to be based upon the evidence
3 presented during the trial and not somebody else's
4 recollection or opinion or version of what the evidence
5 might be.

6 Also you are never to conduct any research or do
7 your own investigation into any issue that might arise
8 during the trial. As I say, you got to base your decision
9 upon the evidence presented. You can't supplement that
10 knowledge by consulting outside resources or doing your own
11 investigation or research.

12 With those cautions in mind, do have a good lunch
13 and please report to your jury room this afternoon at 2:30.
14 At 2:30 this afternoon report back to your jury room. And
15 when you come back to the courthouse, you will be reporting
16 to the side door that's across the street from the back of
17 the church, as opposed to the back door or the side door
18 that's on the opposite side the courthouse. So you park in
19 the parking lot, go to your right to the side entrance
20 across the street from the back of the church. Come up
21 those back steps and that will take you directly to your
22 jury room. The bailiff will give you those instructions.

23 Have a good lunch and please report back at 2:30.

24 (The following takes place outside the presence of
25 the jury panel)

1 THE COURT: Okay. Y'all stick around a minute. I
2 have got talk to a juror.

3 (Off the record)

4 (Back on the record)

5 THE COURT: All right. Any matters we need to
6 address before we recess for lunch?

7 MR. BARNETTE: None from the State, Your Honor.

8 MR. SCHULTZ: None from the defense, Your Honor.

9 THE COURT: Court is in recess until 2:30.

10 (Whereupon, proceedings were recessed)

11 (Whereupon, proceedings were reconvened)

12 THE COURT: All right. Are we ready for the jury?

13 MR. BARNETTE: The State is ready, Your Honor.

14 MR. SCHULTZ: The defense is ready.

15 THE COURT: Bring them in, please.

16 (The following takes place in the presence of the
17 jury panel)

18 THE COURT: Okay. Good afternoon, ladies and
19 gentlemen.

20 As you know, when we recessed for lunch the State
21 had begun with their presentation of evidence, so we will
22 continue with that presentation this afternoon.

23 Ms. Tailor.

24 MS. TAILOR: The State would call Mr. Patel.

25 MILSELI PATEL, having been first duly sworn,

1 testified as follows:

2 DIRECT EXAMINATION BY MS. TAILOR:

3 Q. Mr. Patel, please introduce yourself to the jury.

4 A. My name is Milseli Patel.

5 Q. And where do you work?

6 A. I work at Corner Stop #2.

7 Q. And is that here in Gaffney?

8 A. Yes, ma'am.

9 Q. Is that located here in Cherokee County?

10 A. Yes, ma'am.

11 Q. How long have you worked there?

12 A. Yes, ma'am.

13 Q. How long have you worked at the Corner Stop?

14 A. About fifteen, sixteen years.

15 Q. And what is your position there?

16 A. President.

17 Q. And at the present are you in charge of the store?

18 A. Yes, ma'am.

19 Q. On the night of April 2nd, 2008, were you working at
20 the Corner Stop?

21 A. Yes, ma'am.

22 Q. And what happened that night?

23 A. That night they broke in the house.

24 Q. Okay. Did you -- what time did you close the store
25 that night?

- 1 A. At twelve.
- 2 Q. And who was working at the store at that time?
- 3 A. Dipali Darji.
- 4 Q. And you were there with her?
- 5 A. I was.
- 6 Q. Was there anyone else at the store at the time?
- 7 A. No, ma'am.
- 8 Q. And when you closed the store, where did you go?
- 9 A. Directly -- I go to the -- very first we go to -- my
- 10 car was parked at the outside, so we go to -- go to that --
- 11 gather over there.
- 12 Q. So you left the store and went to the house?
- 13 A. Yes, ma'am.
- 14 Q. Did you walk with Ms. Darji?
- 15 A. Yes, ma'am.
- 16 Q. And did you -- when you left the house, did you leave?
- 17 A. Yes, after that.
- 18 Q. And how did you leave your house?
- 19 A. By the car.
- 20 Q. And was this your car?
- 21 A. Yes, ma'am.
- 22 Q. Where was it parked?
- 23 A. Next to her house.
- 24 Q. I'm going to show you what's been marked as State's
- 25 Exhibit No. 43. Do you recognize this?

1 A. Yes.

2 Q. Okay. What is it?

3 A. That's a video CD.

4 Q. Okay. And as president of the store, are you the one
5 that runs the video machine that you have?

6 A. Yes, ma'am.

7 Q. The surveillance-type program?

8 A. Yes, ma'am.

9 MS. TAILOR: At this time we would like to offer
10 No. 43 into State's evidence.

11 MR. SCHULTZ: No objection, Your Honor.

12 THE COURT: It's admitted.

13 BY MS. TAILOR:

14 Q. I'm also going to show you what's been marked as
15 Exhibits 44 through 51. Do you recognize these pictures?

16 A. Yes, ma'am.

17 Q. What are they?

18 A. They are from my store.

19 Q. And they are pictures from your surveillance?

20 A. Yes, at the time it was from seeing it too.

21 Q. Okay.

22 MS. TAILOR: At this time, Your Honor, we would
23 like to move to have Exhibits 44 through 51 into State's
24 evidence.

25 MR. SCHULTZ: No objection, Your Honor.

1 Could we approach briefly?

2 THE COURT: Yes.

3 (Whereupon, the lawyers approached the bench for
4 an off-the-record discussion)

5 MS. TAILOR: Your Honor, briefly these are
6 actually Exhibits 44 through 53.

7 MR. SCHULTZ: No objection, Your Honor.

8 THE COURT: They are admitted.

9 MS. TAILOR: Your Honor, may I publish these
10 pictures to the jury?

11 THE COURT: You may.

12 BY MS. TAILOR:

13 Q. This is No. 44. Is this a picture of the outside of
14 your store?

15 A. Yes, ma'am.

16 Q. Next is Exhibit No. 45.

17 Could you please read the time and date at the top of
18 it? And you can actually step down to see the pictures.

19 (Witness off the witness stand)

20 BY MS. TAILOR:

21 Q. Is that the time of the date from the video?

22 A. Yes, ma'am.

23 Q. That's inside the store?

24 A. Yes.

25 Q. 45. Is this also a picture of inside the store?

1 A. Yes, ma'am.

2 Q. Number 47. Is this also from the video that you
3 retrieved?

4 A. Yes, ma'am.

5 Q. Number 48. Is this also from the store?

6 A. Yes, ma'am.

7 Q. Number 49. What area is this inside the store?

8 A. This is from behind the registers.

9 Q. From behind the registers?

10 A. Not really. It's the side.

11 Q. Number 50.

12 A. That's behind the register.

13 Q. Number 51?

14 A. Behind the register there also.

15 Q. Number 52.

16 A. Also behind the register.

17 Q. And number 53?

18 A. Also behind the register.

19 Q. Thank you.

20 (Witness back on the witness stand)

21 BY MS. TAILOR:

22 Q. Approximately how much money was taken from the store?

23 A. From the store, about \$14,000.

24 Q. And do you know how much was taken from the home as
25 well?

1 A. Altogether it was supposed to be about 25,000. That's
2 everything.

3 Q. That's -- the 25,000 is including what was taken from
4 the store as well as the home?

5 A. Right.

6 Q. Okay. And who owns that home?

7 A. I do.

8 MR. TAILOR: Your Honor, if I may.

9 (Off the record).

10 (Back on the record)

11 BY MS. TAILOR:

12 Q. We have no further questions. Please answer anything
13 that Mr. Schultz may ask you.

14 MR. SCHULTZ: Thank you, Your Honor.

15 CROSS EXAMINATION BY MR. SCHULTZ:

16 Q. Now, Mr. Patel, you own the store, correct?

17 A. Yes, sir.

18 Q. And you also own a house there, right?

19 A. Yes, sir.

20 Q. Now, Mr. Patel, looking at State's Exhibit 47 here,
21 now, you can't see whoever those are faces, right?

22 A. I cannot figure out because they had masks on.

23 Q. Okay. But you can't see their faces, right?

24 A. No.

25 Q. And also in this, Mr. Patel, State's Exhibit 44, you

1 can't make out the face of that, whoever that is?

2 A. No.

3 Q. Okay. So it would be fair to say that almost all these
4 pictures here, you can't make out who was in it, because
5 whoever they were, their faces were obscured, right?

6 A. (No response)

7 Q. Is that a yes?

8 A. Say that again.

9 Q. It would be fair to say that all those pictures that
10 the State just got into evidence you could not see --

11 A. I cannot see.

12 Q. You cannot see their faces, correct?

13 A. Because they have on masks on.

14 Q. All right.

15 MR. SCHULTZ: That's all I have, Your Honor.

16 Thank you.

17 MS. TAILOR: Just one question, Your Honor.

18 REDIRECT EXAMINATION BY MS. TAILOR:

19 Q. In each of these pictures, you can, however -- No. 44,
20 do you see anything on their hands?

21 A. He had a chain, a key chain with the key.

22 Q. Does it appear that there are any socks or gloves or
23 something covering his hands?

24 A. Yes.

25 Q. Thank you. Number 47, in each of these pictures you

1 can tell that the hands are covered?

2 A. Covered, yes.

3 Q. That's all.

4 MS. TAILOR: Your Honor, may the witness be
5 excused?

6 THE COURT: You may be. You may step down.

7 THE WITNESS: Thank you.

8 MR. BARNETTE: Your Honor, the State would like to
9 call Mr. Wilson to the stand.

10 ROBERT WILSON, JR., having been first duly sworn,
11 testified as follows:

12 DIRECT EXAMINATION BY MR. BARNETTE:

13 Q. If you would, sir, state your full name for the record,
14 please.

15 A. Robert Landrum Wilson, Jr..

16 Q. And what's your nickname, sir?

17 A. "R.J.."

18 Q. Sir, where do you live at?

19 A. [REDACTED]

20 Q. And who do you live with there, sir?

21 A. My grandparents.

22 Q. And who is your grandparents, sir?

23 A. Mrs. Linstine Wilson and Mr. Red Wilson.

24 Q. And how old are you, sir?

25 A. I'm twenty.

1 Q. Back on April 2nd, 2008, how old was you then, sir?

2 A. Nineteen.

3 Q. And did you go to high school, sir?

4 A. Yes, sir.

5 Q. Where did you go to high school at?

6 A. At Gaffney High.

7 Q. And did you graduate from there, sir?

8 A. Yes, sir.

9 Q. And did you play football there?

10 A. Yes, sir.

11 Q. And what years did you play football?

12 A. 2006.

13 Q. And what position did you play there, sir?

14 A. Wide receiver.

15 Q. And after you graduated from school, did you go
16 anywhere else after that?

17 A. I went to work.

18 Q. And where did you go to work at, sir?

19 A. I worked at Domino's.

20 Q. Back on April 1st, 2008, did you meet the defendant
21 late that night?

22 A. Yes, sir.

23 Q. Do you see him in the courtroom here today?

24 A. Yes, sir.

25 Q. What do you know him as?

1 A. "Ro-Ro". That's his nickname.

2 Q. And did you go over to his house?

3 A. Yes, sir.

4 Q. And who did y'all meet at his house?

5 A. Everybody was there.

6 Q. Okay.

7 A. "Brontae", Labrontae, "Trash Man", me, "Ro-Ro", "Fred",
8 Billy Rodgers and Terry Littlejohn.

9 Q. If you would, I want you to step down so we can follow
10 through. I want you to write down everybody's name and
11 their nicknames, so we can help follow it.

12 (Witness off the witness stand)

13 A. Robert. "R.J.". BY

14 MR. BARNETTE:

15 Q. You are Robert Wilson?

16 A. Yes, sir.

17 Q. If you would write the first and last name, please.

18 A. Billy Rodgers. They call him Bill.

19 Q. Was Mr. Douglas one of them?

20 A. Yeah.

21 Q. So that was everybody's name and their nickname, is
22 that right?

23 A. Yes, sir.

24 (Witness back on the witness stand)

25 BY MR. BARNETTE:

1 Q. Okay, Mr. Wilson, who did you go over to Mr. Bonner's
2 house, "Ro-Ro's" house, who did you go with?

3 A. I came from work. I went by myself.

4 Q. So you came from work. Did somebody call you or
5 anything?

6 A. Yes.

7 Q. Who called you?

8 A. "Ro-Ro".

9 Q. When he called you, what did he tell you?

10 A. He told me to come back to his house as soon as I got
11 out of work.

12 Q. What time did you get off work, sir?

13 A. Ten.

14 Q. You drove over to -- did you drive your car?

15 A. Yes, sir.

16 Q. What kind of car is it, sir?

17 A. 2001 Mitsubishi.

18 Q. When you got over there, who was there?

19 A. Everybody.

20 Q. Where does John Bonner, the defendant, live at?

21 A. He used to live on Frederick Street.

22 Q. Okay. Is that commonly known as the west end?

23 A. Yeah.

24 Q. When you got there, what were they talking about?

25 A. Grabbing the money bag and like running back to the car

1 and -- that was the plan.

2 Q. Whose idea was that?

3 A. I believe it was Josh.

4 Q. Josh, which is "Yankee", Josh Manning?

5 A. Yes, sir.

6 Q. So they were talking about getting the bag and running

7 with it?

8 A. Yes, sir.

9 Q. Who had seen -- did you know what store they were

10 talking about?

11 A. Yes, sir.

12 Q. Which store were they talking about?

13 A. The Redwood store.

14 Q. And who had seen her walk with the money between the

15 store and the house?

16 A. "Ro-Ro".

17 Q. And he's the one who told you all about it?

18 A. Yes, sir.

19 Q. So what did y'all decide to do?

20 A. We got on the plan, wait for her to come out of the

21 store and grab the bag and run back to the car.

22 Q. So did y'all go over there?

23 A. Yes, sir.

24 Q. Who drove?

25 A. I drove my car and Kendrick Tate drove his.

1 Q. What kind of car did Kendrick have?

2 A. He had a Cadillac.

3 Q. Who got in the car with you?

4 A. It would be "Yankee", "Ro-Ro", "Fred" and "Brontae".

5 Q. And who got in the other car?

6 A. "Bugga", Kendrick and Billy.

7 Q. Where did y'all drive to?

8 A. We drove to Huntington Square.

9 Q. Let me show you what's been entered into evidence as
10 State's Exhibit 61.

11 If you would, sir, just step down for a second, Mr.
12 Wilson.

13 (Witness off the witness stand)

14 BY MR. BARNETTE:

15 Q. Right here.

16 This being the store, are these the apartments up here
17 that you parked at?

18 A. Yes, sir.

19 Q. Okay. So y'all parked up in here in the parking lot?

20 A. Yes, sir.

21 Q. And when y'all got there --

22 If you would, go have a seat there, sir.

23 (Witness back on the witness stand)

24 BY MR. BARNETTE:

25 Q. When you got there, what happened then?

1 A. Everybody got out of the car, except me and Terry
2 Littlejohn, and they walked up there and they were waiting
3 on them to walk out of the store with the money.
4 Q. So the other six went up there?
5 A. Yes, sir.
6 Q. And who stayed back at the cars?
7 A. Me and Terry Littlejohn.
8 Q. Y'all stayed there for awhile. Did they come back?
9 A. Yeah, we stayed there about thirty minutes or so and --
10 then they came back to the car and said she didn't have the
11 money or something.
12 Q. So when they said they didn't have the money, what did
13 they decide to do then?
14 A. They decided to go in the house and find it.
15 Q. How was they going to go in the house?
16 A. They said she left a back window open, that they were
17 going to climb through and unlock the door.
18 Q. Did they go back?
19 A. Yes, sir.
20 Q. When they went back, did they take on -- did they take
21 gloves, or socks, or something for their hands?
22 A. Yeah, they had socks over their hands.
23 Q. Did they wear masks?
24 A. Some of them put shirts on their face.
25 Q. So when they went back, who stayed back at the cars?

- 1 A. Me and Terry Littlejohn.
- 2 Q. And how long were they gone?
- 3 A. About another thirty minutes.
- 4 Q. What was the next thing that you knew happened?
- 5 A. I was sitting there and I heard an alarm go off and
- 6 then I seen them run back to the car.
- 7 Q. When you are talking about the alarm, was that the
- 8 alarm from the store?
- 9 A. Yes, sir.
- 10 Q. So what happened after that alarm went off?
- 11 A. Sir?
- 12 Q. What happened -- once the alarm went off, what happened
- 13 next?
- 14 A. I seen them running back to the car a minute later.
- 15 Q. Did they have anything with them when they came back?
- 16 A. Money.
- 17 Q. Who had the money with them?
- 18 A. "Ro-Ro", "Brontae", "Lil Fred" and "Yankee".
- 19 Q. And who got in the car with you?
- 20 A. It was me, Labrontae, "Yankee" and "Ro-Ro".
- 21 Q. And did -- once they got in your car -- how was the
- 22 money packaged or how was it?
- 23 A. It had like little red bands on it that would tell how
- 24 much was on it.
- 25 Q. So where did y'all go after that?

1 A. Going to the Ryans Apartments and everybody just gave
2 each other money.

3 Q. How much money did you get?

4 A. I would say about \$300.

5 Q. After y'all split the money up, what happened then?

6 A. Me and -- me, "Ro-Ro", "Brontae" and "Yankee", we went
7 to Spartanburg.

8 Q. And where did you go to Spartanburg?

9 A. They was going to a -- I guess they were going to --
10 they wanted to meet some girls. I guess they went to the
11 hotel. I'm not sure, but I had went to the store.

12 Q. So is that what they call Chesnee Highway, Exit 78?

13 A. Yes, sir.

14 Q. And when you got there, what happened?

15 A. I had let them out and they went over there, or
16 whatever, and then I looked in my car to make sure there
17 wasn't nothing there. I had a card and threw the card in
18 the bushes.

19 Q. What kind of card was it?

20 A. I believe it was her bank card.

21 Q. So they took her bank card?

22 A. Yes, sir.

23 Q. Let me show you State Exhibit 57, and I apologize it's
24 got fingerprint dust on it. Was that the bank card that you
25 found in your car?

1 A. Yes, sir.

2 Q. And what did you do with that bank card?

3 A. I took it out of my car and I threw it in the bushes.

4 MR. BARNETTE: Your Honor, I would like to enter
5 State's Exhibit 57 into evidence at this time.

6 MR. SCHULTZ: No objection.

7 THE COURT: It's admitted.

8 MR. BARNETTE: May I publish it to the jury, Your
9 Honor?

10 THE COURT: You may.

11 BY MR. BARNETTE:

12 Q. Is this the bank card that you found in your car, sir?

13 A. Yes, sir.

14 Q. And that's the one that you threw in the bushes?

15 A. Yes, sir.

16 Q. Let me show you what's been marked as State's Exhibit
17 58, 59 and 60. Are these pictures where the card was
18 located, where you took the police to later?

19 A. Yes, sir.

20 Q. Do those pictures fairly represent what you saw and
21 what they saw?

22 A. Yes, sir.

23 MR. BARNETTE: Your Honor, I would like to enter
24 these into evidence at this time.

25 MR. SCHULTZ: No objection.

1 THE COURT: It's admitted.
2 BY MR. BARNETTE:
3 Q. After you dropped them off and everything, where did
4 you go, sir?
5 A. I went back home.
6 Q. And later on did the police contact you?
7 A. Yes, sir.
8 Q. The first time that they talked to you, did you tell
9 them the truth?
10 A. No, sir.
11 Q. Why didn't you tell them the truth?
12 A. I was scared.
13 Q. Okay. Did you later tell them the truth?
14 A. Yes, sir.
15 Q. And did you take them and show them where the credit
16 card was?
17 A. Yes, sir.
18 Q. And publishing State's Exhibit 58.
19 Are these the bushes near -- I believe there is a
20 Burger King there off Exit 78?
21 A. Yes, sir.
22 Q. Are these the bushes where you threw the card at?
23 A. Yes, sir.
24 Q. I'm showing you State's Exhibit No. 59.
25 Is that the back of the credit card from the bushes?

1 A. Yes, sir.

2 Q. State's Exhibit 60, which is that picture of the card
3 that you threw out?

4 A. Yes, sir.

5 Q. Now, you touched this card, is that right?

6 A. Yes, sir.

7 Q. Sir, the man that whose house that you went over to, do
8 you see him now?

9 A. I really don't know, sir.

10 Q. I mean the man that the house that you went over to
11 before you went over to the store.

12 A. Oh, yes, sir.

13 Q. Do you see him in the courtroom here today?

14 A. Yes, sir.

15 Q. Can you identify him and tell me what he's wearing and
16 where he's located?

17 A. He's right there and wearing a collared shirt.

18 Q. He's sitting by his attorney?

19 A. Yes, sir.

20 Q. How is his hair?

21 A. Dreads.

22 MR. BARNETTE: Your Honor, I would like the record
23 to reflect he's identified the defendant.

24 THE COURT: It shall.

25 BY MR. BARNETTE:

- 1 Q. Is there any question in your mind that he wasn't
2 there?
- 3 A. No.
- 4 Q. Was he definitely there?
- 5 A. Definitely.
- 6 Q. And you pled to burglary first?
- 7 A. Yes.
- 8 Q. Burglary second, kidnapping, grand larceny, assault and
9 battery of a high and aggravated nature, and armed robbery,
10 haven't you, sir?
- 11 A. Yes, sir.
- 12 Q. Or actually common law robbery?
- 13 A. Common law.
- 14 Q. You never went into the house?
- 15 A. No, sir.
- 16 Q. You never went into the store?
- 17 A. No, sir.
- 18 Q. But you drove over there?
- 19 A. Yes, sir.
- 20 Q. And you knew what they were going to do?
- 21 A. Yes, sir.
- 22 Q. And you drove away from there?
- 23 A. Yes, sir.
- 24 Q. You realize you are facing a possible life sentence?
- 25 A. Yes, sir.

1 Q. And the only thing that you have been given is --
2 obviously you pled to common law robbery instead of armed
3 robbery, and then the court being told that you cooperated.
4 Is that the only thing that you have been promised?

5 A. Yes, sir.

6 Q. Have you been promised a sentence of any type?

7 A. No, sir.

8 Q. Who is going to be setting your sentence later?

9 A. Judge Hayes.

10 Q. So the judge would be sentencing you, is that right?

11 A. Yes, sir.

12 Q. And it will be up to the judge what your sentence is?

13 A. Yes, sir.

14 Q. Are you telling the truth here today?

15 A. Yes, sir.

16 Q. Is this what happened?

17 A. Yes, sir.

18 Q. And John Bonner, "Ro-Ro", was he the man that knew
19 about her walking from the store over to her house?

20 A. Yes, sir.

21 MR. BARNETTE: One moment, Your Honor, please.

22 (Off the record)

23 (Back on the record)

24 BY MR. BARNETTE:

25 Q. Let me show you what's been marked as State's Exhibit

1 27. If you would step down for a second, Mr. Wilson.

2 (Witness off the witness stand)

3 BY MR. BARNETTE:

4 Q. Who is this right here?

5 MR. SCHULTZ: Objection, Your Honor. He wasn't in
6 the store. I believe that's been verified.

7 MR. BARNETTE: Let me rephrase the question then.

8 BY MR. BARNETTE:

9 Q. Who is wearing those clothes?

10 A. The one on the left is Labrontae and the one on the
11 right is "Ro-Ro".

12 Q. So "Ro-Ro" is the one wearing the clothes on the right?

13 A. Yeah, with the furry hood.

14 Q. That's what he was wearing that night?

15 A. Yeah.

16 Q. Let me show you State's Exhibit 44.

17 Who was wearing those clothes that night?

18 A. "Ro-Ro".

19 Q. Thank you, sir. Please have a seat.

20 (Witness back on the witness stand)

21 BY MR. BARNETTE:

22 Q. What were you wearing that night, sir?

23 A. I had on a red shirt and khakis. I had just a Domino
24 shirt on.

25 Q. And you just sat in the car the whole time?

1 A. Yes, sir.

2 Q. Please answer any questions that Mr. Schultz would have
3 for you. Thank you.

4 CROSS EXAMINATION BY MR. SCHULTZ:

5 Q. You go by "R.J."

6 A. Yeah.

7 Q. "R.J." Wilson?

8 A. Yes, sir.

9 Q. Mr. Wilson, how old are you?

10 A. Twenty.

11 Q. Twenty.

12 Do you know the difference between the truth and a lie?

13 A. Yeah.

14 Q. You do?

15 A. Yes, sir.

16 Q. Okay. A lie is -- well, what is a lie?

17 A. Not the truth.

18 Q. Okay. Did you ever tell the police a lie?

19 A. Yes, I did.

20 Q. When did you tell the police a lie?

21 A. The first time I went in the interrogation room.

22 Q. And your exact words were "I didn't have anything to do
23 with it," correct?

24 A. Correct.

25 Q. And you said that a couple of times, didn't you?

1 A. Yeah.

2 Q. And you actually signed a statement saying this is the
3 truth, the whole truth, and nothing but the truth, didn't
4 you?

5 A. Yes.

6 Q. So you lied?

7 A. Yes.

8 Q. Okay. Then the police came back and interviewed you
9 again, right?

10 A. Yes, sir.

11 Q. What did you tell them?

12 A. Sort of the truth.

13 Q. Sort of the truth.

14 What did you tell them that time?

15 A. I just told them I didn't know nothing about it, the
16 plan, or whatever. I told them that I dropped them off and
17 picked them up.

18 Q. Right. What you said was that they called you and you
19 came and picked these people up, right?

20 A. Yeah.

21 Q. So now you have told two lies, right?

22 A. Yeah.

23 Q. Now, in your third interview you stated what you have
24 said was the truth, right?

25 A. Yeah.

1 Q. Okay. So you were lying back then and then you were
2 telling the truth, correct?

3 A. Yeah.

4 Q. Okay. So you lied two times and then you told the
5 truth eventually?

6 A. Yeah.

7 Q. And that's your testimony here today?

8 A. Yes, sir.

9 Q. Okay. So you are a liar, right?

10 A. No.

11 Q. No. But you were a liar?

12 A. Yeah.

13 Q. Okay. So you want us to believe that at this time you
14 are not lying?

15 A. Yes.

16 Q. Even though you lied in the past?

17 A. Yes.

18 Q. Okay. Now, you said in your testimony here today that
19 you never went in the house, right?

20 A. Correct.

21 Q. And you never went in the store, right?

22 A. Correct. I never left my car.

23 Q. Okay. So really you didn't know who actually went in
24 the house or went in the store, correct?

25 A. I didn't see them go in there, but they told me

1 afterwards.

2 Q. Okay. But you never saw anybody go actually in the

3 house or in the store, right?

4 A. No, sir.

5 Q. Okay. And your testimony here today is that you drove

6 to that place and you waited there for thirty minutes?

7 A. I waited for thirty minutes.

8 Q. Okay. And what happened during that thirty minutes?

9 A. I was waiting on them to come out, and they were just

10 sitting in the bushes. I was just in my car.

11 Q. Did you know then what you were doing was wrong?

12 A. Yes, sir.

13 Q. Okay. But still you went along with it?

14 A. Yeah.

15 Q. And you had plenty of time to get out of that

16 conspiracy, correct?

17 A. Yes, sir.

18 Q. Okay. But you didn't?

19 A. No, sir.

20 Q. Okay. So not only did you lie to the police when they

21 caught you, but you could have got out of something that you

22 knew at the time was wrong and you chose not to, correct?

23 A. Yes, sir.

24 Q. Okay. Did you tell the police that you wouldn't lie to

25 the police?

1 A. Yes, sir.

2 Q. Okay. And that was in your first statement, right?

3 A. Yes, sir.

4 Q. Okay. And your exact words were "I'm telling you the
5 truth. I had nothing to do with it."

6 A. Yeah.

7 Q. And you were surprised when other people brought your
8 name up?

9 A. Yes, I was.

10 Q. Now, you said that you are twenty years old, right?

11 A. Yes, sir.

12 Q. Do you have a criminal history?

13 A. No, sir.

14 Q. All right. So this is sort of new to you, right?

15 A. Yes, sir.

16 Q. You don't really know how this whole system works, do
17 you?

18 A. No.

19 Q. Okay. And according to your direct testimony, you have
20 already pled guilty to these charges, correct?

21 A. Yes, sir.

22 Q. Okay. And you pled -- according to my notes here, you
23 pled guilty to a kidnapping?

24 A. Yes, sir.

25 Q. Do you know what kidnapping carries?

- 1 A. No, sir.
- 2 Q. All right. Kidnapping carries zero to thirty years, is
3 that correct?
- 4 A. Yeah.
- 5 Q. Okay. You also pled to a grand larceny?
- 6 A. Yes, sir.
- 7 Q. That carries zero to five years.
- 8 You also pled guilty to assault and battery of a high
9 and aggravated nature, correct?
- 10 A. Yes, sir.
- 11 Q. And that carries zero to ten years, right?
- 12 A. Yes, sir.
- 13 Q. Okay. So right now you are looking at fifty years.
14 You also pled to a burglary second?
- 15 A. Yes, sir.
- 16 Q. That carries zero to fifteen years, correct?
- 17 A. Yes, sir.
- 18 Q. In exchange for your testimony here today, the State
19 has dropped your armed robbery from an armed robbery to a
20 common law robbery?
- 21 A. Yes, sir.
- 22 Q. Correct?
- 23 A. Yes, sir.
- 24 Q. So there was a deal, wasn't there?
- 25 A. No.

1 Q. No? There wasn't?

2 A. No.

3 Q. So an armed robbery to a common law robbery, the State
4 would have said oh, fine, that's whatever you -- do whatever
5 you want to do, right?

6 A. (No response).

7 Q. So the State didn't want you to testify?

8 A. Yeah.

9 Q. Of course the State wanted you to testify, didn't they?
10 You wouldn't do it by your own, did you, would you?

11 A. Yeah.

12 Q. You would?

13 A. (Shaking head yes).

14 Q. Okay. Who told you to testify here today? Your
15 lawyer?

16 A. No. I was -- it was just what it was.

17 Q. Your lawyer advised you to testify, right?

18 A. Yeah.

19 Q. Okay. Because it's in your best interests, isn't it?

20 A. Yeah.

21 Q. Because you are trying to get your time cut, right?

22 A. Yeah.

23 Q. Right. That's what you are hoping for at least?

24 Right? Answer the question.

25 A. Yeah.

1 Q. Okay. Because you know that you are in a whole heap of
2 trouble, aren't you?

3 A. Yes, sir.

4 Q. You are looking at life in prison, correct?

5 A. Yes, sir.

6 Q. All right. Basically to summarize all your charges,
7 you are looking at approximately zero years to life in jail,
8 right?

9 A. Yes, sir.

10 Q. What are you hoping to get out of this today?

11 A. Less time.

12 Q. Right. Less time.

13 You have clear motivation to lie, don't you?

14 A. No, sir.

15 Q. You don't?

16 A. (Shaking head no).

17 Q. You don't have any bias right now to lie?

18 A. No, sir.

19 Q. Come on. Yes you do.

20 So you are testifying just out of the goodness of your
21 heart?

22 A. Yes, sir.

23 Q. Okay. Without any motivation whatsoever?

24 A. Yes, sir.

25 Q. No motivation whatsoever. You just said that you

1 wanted to get your time cut, didn't you?

2 A. No, I said that's what I was hoping for.

3 Q. That's what you are hoping for, and you are lying
4 today, aren't you?

5 A. No, sir.

6 Q. Yes you are.

7 A. No, I'm not.

8 Q. You are lying today because you want to get your time
9 cut.

10 MR. BARNETTE: Objection. Argumentative.

11 THE COURT: Sustained.

12 BY MR. SCHULTZ:

13 Q. Now, you agreed to testify for the State, didn't you?

14 A. Yes, sir.

15 Q. Could you pass a drug test today?

16 A. I didn't take a drug test.

17 MR. BARNETTE: Objection, Your Honor. What's the
18 relevance of this?

19 THE COURT: Well, I don't know.

20 MR. SCHULTZ: I'm seeing if he's in his proper
21 mind.

22 BY MR. SCHULTZ:

23 Q. You have been out on bail, right?

24 A. Yes, sir.

25 Q. Okay. Can you pass a drug test today?

1 A. Yes, sir.

2 Q. Okay. What is your family situation like? You got a
3 mom and dad?

4 A. I got a dad, my grandma and grandpa.

5 Q. Do you have any children?

6 A. I have one little girl.

7 Q. You got one little girl. How old is she?

8 A. One.

9 Q. All right. And you want to see her grow up, right?

10 A. Yes, sir.

11 Q. Okay. And you know that you don't want to spend the
12 rest of your life in jail, right?

13 A. Correct.

14 Q. Okay. So would it be fair to say that you are
15 testifying here today for your little girl, aren't you?

16 A. No.

17 Q. It wouldn't be fair for you to say that at all?

18 A. I mean I want to see her grow up and all, but that
19 ain't why I'm testifying.

20 Q. Right, but that's the main reason that you are here
21 today, right, to get your time cut, right?

22 A. No.

23 Q. No?

24 A. I'm hoping to get my time cut.

25 Q. You are hoping to get your time cut. Okay.

- 1 But, again, you want to see your kid grow up, right?
- 2 A. Yes, sir.
- 3 Q. Okay.
- 4 A. I do.
- 5 Q. And the best way to get that done is to get less time,
- 6 right?
- 7 A. Yeah, I guess.
- 8 Q. Okay. Correct? Okay.
- 9 And the best way to get less time is to cooperate with
- 10 the State, correct?
- 11 A. I really don't know.
- 12 Q. You really don't know?
- 13 Again, I'm going to ask you this. You are hoping to
- 14 get your time cut, right?
- 15 A. Yeah.
- 16 Q. Okay. And the best way of getting your time cut is to
- 17 cooperate with the State, correct?
- 18 A. Yeah.
- 19 Q. Okay. And you would say -- whatever you say here today
- 20 will determine a lot of what happens for the rest of your
- 21 life, right?
- 22 A. Yes, sir.
- 23 Q. Now, going back to the morning, the 2nd, you were in
- 24 the car by yourself for a long time, right?
- 25 A. Yeah, I was at work.

1 Are you talking waiting across the street?

2 Q. When your co-defendants were across the street, you
3 were in the car by yourself, correct?

4 A. Yes, sir.

5 Q. Do you have a cell phone?

6 A. Yes, sir.

7 Q. You could have called the police, couldn't you?

8 A. Yes, sir.

9 Q. And you did not, right?

10 A. No, sir.

11 Q. Why didn't you do that?

12 A. I didn't think it was going to be that bad.

13 Q. But you knew what they were up to. You knew that they
14 were going to commit armed robbery, right?

15 A. No, sir, I thought they were going to grab the bag and
16 run to the car.

17 Q. That's still a crime, isn't it?

18 A. (Shaking head yes).

19 Q. You know that they were going to commit crimes that
20 night, right?

21 A. Yes, sir.

22 Q. And you only came clean when you were about to get
23 charged yourself, weren't you?

24 A. Yes, sir.

25 Q. All right.

1 MR. SCHULTZ: Beg the court's patience, Your
2 Honor.

3 (Off the record)

4 (Back on the record)

5 MR. SCHULTZ: Just one more question.

6 BY MR. SCHULTZ:

7 Q. Do you have a box of .22-caliber rounds that were found
8 in your yard?

9 A. Yes, sir.

10 MR. SCHULTZ: Nothing further, Your Honor.

11 MR. BARNETTE: I just a couple on redirect, Your
12 Honor.

13 REDIRECT EXAMINATION BY MR. BARNETTE:

14 Q. Mr. Wilson, you have no prior record?

15 A. No, sir.

16 Q. Had you had any dealings with the criminal justice
17 system?

18 A. No, sir.

19 Q. And you just said you didn't think it was going to be
20 that bad?

21 A. Yes, sir.

22 Q. Did you know what that defendant was going to do and
23 some of the other co-defendants?

24 A. No, sir.

25 Q. What would you have done if you knew it was going to be

1 that bad?

2 A. I wouldn't have went.

3 Q. Would you have pled guilty to something that you didn't
4 do?

5 A. No, sir.

6 Q. Did you do this?

7 A. Yes, sir.

8 Q. Did John Bonner do this?

9 A. Yes, sir.

10 Q. And he was the one that went over to the store and
11 house, wasn't he?

12 A. Yes, sir.

13 MR. SCHULTZ: Just one question on recross.

14 THE COURT: Reply to what he said?

15 MR. SCHULTZ: Yes.

16 THE COURT: Okay.

17 RECROSS EXAMINATION BY MR. SCHULTZ:

18 Q. You were in the car and you never saw anybody go in the
19 house, correct?

20 A. Yes, sir.

21 Q. You never saw anybody go in the store, correct?

22 A. Correct.

23 MR. SCHULTZ: That's all I have. Thank you.

24 MR. BARNETTE: We ask this witness be excused,

25 Your Honor.

1 THE COURT: You may step down.

2 MR. BARNETTE: I would like to call Kendrick Tate
3 now.

4 KENDRICK TATE, having been first duly sworn,
5 testified as follows:

6 DIRECT EXAMINATION BY MR. BARNETTE:

7 Q. Mr. Tate, I'm going to need you to talk as loud as you
8 can so the jury can hear you, okay?

9 A. Yes, sir.

10 Q. Give me your full name, please.

11 A. Kendrick Shye Tate.

12 Q. And where you live at, Mr. Tate?

13 A. [REDACTED]

14 Q. And who do you live with there, sir?

15 A. My family, mother and father.

16 Q. And whose your mom and dad?

17 A. Nannie and Weeks Williams.

18 Q. Do you have any other brothers and sisters?

19 A. Yes, sir, I got two other brothers.

20 Q. And who are they are?

21 A. Steve and Antwan Tate.

22 Q. Did you go to Gaffney High School?

23 A. Yes, sir.

24 Q. How old are you now, sir?

25 A. Twenty.

1 Q. And did you graduate from Gaffney?

2 A. Yes, sir.

3 Q. And after you graduated from Gaffney, where did you go,
4 sir?

5 A. I went to college at Spartanburg Tech.

6 Q. Did you play football at Gaffney?

7 A. Yes, sir, I played all four years.

8 Q. What position did you play at Gaffney?

9 A. Cornerback.

10 Q. Did you have a future in college?

11 A. Yes, sir, accounting, major in accounting.

12 Q. You were a major in accounting, but you were going to
13 go on to play in college football?

14 A. Yes, sir.

15 Q. What school were you going to play?

16 A. South Carolina.

17 Q. Back on April 2nd, 2008, or April 1st, was you in
18 school then, sir?

19 A. Yes, sir.

20 Q. And that was at Spartanburg Tech?

21 A. Yes, sir.

22 Q. And did you just need a class to qualify for your
23 scholarship?

24 A. Yes, sir.

25 Q. That evening did you go to John Bonner's house?

1 A. Yes, sir.

2 Q. And where is his house located at?

3 A. Right at the front of west -- I ain't really -- I don't
4 know the name of the road.

5 Q. Remember, you can't -- you got to talk loud enough so
6 the jury can hear you.

7 A. Yes, sir.

8 Q. He lives on west end?

9 A. Yes, sir.

10 Q. And who did you go over to his house with?

11 A. Me, Billy and Terry Littlejohn.

12 Q. That was Billy Rodgers and Terry Littlejohn?

13 A. Yes.

14 Q. And who drove?

15 A. I did.

16 Q. And what kind of car did you drive, sir?

17 A. Blue and yellow Cadillac Villa.

18 Q. And when you got over there, who was there?

19 A. "R.J.", Robert Wilson, "Brontae", "Lil Fred", "Yankee".
20 I think that was it.

21 Q. Keep your voice up. You are soft spoken. You need to
22 keep your voice up, okay?

23 A. Okay.

24 THE COURT: You can adjust the microphone, but you
25 still need to speak up. We want everybody to hear you.

1 A. "Lil Fred", "Brontae", "Ro-Ro", and "Yankee", Billy
2 and --
3 BY MR. BARNETTE:
4 Q. What did they usually call you?
5 A. Sir?
6 Q. What did they usually call you?
7 A. Kent Tate.
8 Q. While you was there what happened?
9 A. We just sat around and then that's when we started
10 talking about what we was going to do.
11 Q. And what did y'all start talking about?
12 A. About how the woman come out, the woman who was running
13 the store at that time carry money from house -- from the
14 store to the house.
15 Q. Who was telling you all about that?
16 A. "Yankee" and John Bonner.
17 Q. Okay. And John Bonner is "Ro-Ro"?
18 A. Yeah. Yes, sir.
19 Q. And what was the plan?
20 A. When they came out, just take the bag and ran.
21 Q. And did y'all go over there?
22 A. Yes, sir.
23 Q. And who drove?
24 A. I drove and Robert drove, Robert Wilson.
25 Q. So everybody goes over there. Where did y'all park at?

- 1 A. Huntington Square, at the second entrance.
- 2 Q. Is that the subdivision above?
- 3 A. Yes, sir, the entrance farther away from the store.
- 4 Q. Which entrance did you go to?
- 5 A. The second.
- 6 Q. What happened once y'all got there?
- 7 A. Once we got there, we got out of the car, went over to
- 8 the house and sat over there in the bushes and watched them
- 9 then came in and then came back to the car.
- 10 Q. Let me ask you, who stayed at the car when y'all went
- 11 over there?
- 12 A. Robert Wilson and Terry Littlejohn.
- 13 Q. And who went over behind the bushes near the house?
- 14 A. Me and Billy and "Ro-Ro" and "Yankee".
- 15 Q. Did all six of you went over there?
- 16 A. Yes.
- 17 Q. Was John Bonner there with you too?
- 18 A. Yes, sir.
- 19 Q. Do you see him here in the courtroom?
- 20 A. Yes, sir.
- 21 Q. Can you identify what he's wearing and where he's
- 22 located?
- 23 A. Right over there. There he is.
- 24 Q. What is he wearing, sir?
- 25 A. Button up shirt, green shirt I think.

1 MR. BARNETTE: Your Honor, I would like the record
2 to reflect he's identified --

3 THE COURT: I couldn't understand what he said.

4 THE WITNESS: Gray shirt.

5 THE COURT: A gray shirt?

6 THE WITNESS: Yes, sir.

7 BY MR. BARNETTE:

8 Q. How does his hair look?

9 A. Dreaded up.

10 MR. BARNETTE: Your Honor, I would like the record
11 to reflect he's identified the defendant.

12 THE COURT: It shall.

13 BY MR. BARNETTE:

14 Q. So when y'all went over the first time, what did you
15 see when she left the store?

16 A. I don't think -- I don't think she brought no bag from
17 the store, so we went back. We ran back to the car and
18 talked about it.

19 Q. Did a man also walk out of the store too?

20 A. Yes, sir. Yes, sir, he did.

21 Q. And did he leave after that?

22 A. Yes, sir.

23 Q. So y'all went back to the car. What did y'all talk
24 about then?

25 A. How we are going to get the money in the house, going

1 to get the key to the store.

2 Q. Y'all wanted to get the keys to the store?

3 A. Yes, sir.

4 Q. What did they decide to do?

5 A. Decided to go inside the house. Open up -- sneak
6 through the window and open up the front door.

7 Q. And let me show you what's been marked as State's
8 Exhibit -- let me show you State's Exhibit No. 19.

9 If you would step down for a second, sir, if you would.

10 (Witness off the witness stand)

11 BY MR. BARNETTE:

12 Q. This window here, was that the window that they went
13 in?

14 A. Yes, sir.

15 Q. And who went in that window?

16 A. "Yankee" went in that window.

17 Q. "Yankee", Josh --

18 A. Josh Manning.

19 Q. Josh Manning went in that window?

20 A. Yes.

21 Q. Where was everybody else at that time?

22 A. In the front and me was on the side.

23 Q. Where was you at? Speak up now.

24 A. On the side. On the side of the woods right here, the
25 tree.

- 1 Q. If you would just push that and it will --
- 2 A. Right here.
- 3 Q. Who was with you?
- 4 A. Me and Billy Rodgers.
- 5 Q. Where was the other guys at?
- 6 A. Out there in the front. That's where he was.
- 7 Q. When you call the front, it's actually --
- 8 A. That's actually the back door, yes, sir.
- 9 Q. Back door?
- 10 A. Yes, sir.
- 11 Q. Is that where the cars there in the back were?
- 12 A. Yes, sir.
- 13 Q. Okay. If you would have a seat, sir.
- 14 (Witness back on the witness stand)
- 15 BY MR. BARNETTE:
- 16 Q. So "Yankee" opened the back door. Who went in?
- 17 A. John Bonner, "Yankee", "Brontae" and "Lil Fred", and
- 18 Billy went out -- Billy and I was on the other side.
- 19 Q. But you and Billy was outside?
- 20 A. Yes, sir.
- 21 Q. Was y'all watching out for them?
- 22 A. Yes, sir.
- 23 Q. So when they went in, did they have anything on their
- 24 hands or their face?
- 25 A. Socks and masks.

1 Q. They went in. Did you ever see a gun?

2 A. A palm like .22 small.

3 Q. Who had that gun?

4 A. John Bonner.

5 Q. They go into the house. What happens after they go in
6 the house?

7 A. Well, I heard the shot and heard the lady scream.

8 Q. What's going on during this time?

9 A. People rummaging for money. And then by that time I
10 guess they came outside with the keys.

11 Q. And who came outside with the keys?

12 A. "Brontae" and John Bonner.

13 Q. Let me show you State's Exhibit 47. If you would step
14 down for a second, sir?

15 (Witness off the witness stand)

16 BY MR. BARNETTE:

17 Q. Who was wearing these clothes right here, these two
18 guys.

19 A. John Bonner is the one on the right here.

20 Q. John Bonner is on the right?

21 A. Yes, that's "Brontae" there.

22 Q. And "Brontae" was wearing this?

23 A. Yeah.

24 Q. If you would have a seat.

25 (Witness back on the witness stand)

1 BY MR. BARNETTE:

2 Q. They went in the store. Who stayed inside the house?

3 A. "Yankee" and "Lil Fred" and "Brontae". I mean "Yankee"
4 and "Lil Fred".

5 Q. And during that time was the lady still screaming?

6 A. Yes, sir.

7 Q. As you are standing outside watching, looking out, what
8 happened next?

9 A. Standing inside the house with the -- "Lil Fred" had
10 put a knife up to the lady.

11 Q. So you looked inside the house?

12 A. Yes.

13 Q. And during that time did something else happen after
14 that?

15 A. Well, after we got the money, an alarm went off and ran
16 back to the cars.

17 Q. And who had the money with them?

18 A. "Brontae" and John Bonner.

19 Q. And y'all ran back to the car. After y'all got in the
20 cars, where did y'all go?

21 A. We went to Ryans Apartments. We both went to Ryans
22 Apartments.

23 Q. Did y'all split up the money?

24 A. Yes, sir.

25 Q. How much money did you get?

- (
- 1 A. Around three or four hundred dollars.
- 2 Q. And after that what happened?
- 3 A. After that we had got two rooms. We had got money to
- 4 pay and they went over to Motel 6.
- 5 Q. And who rented those rooms?
- 6 A. Well, everybody. All of us did mostly. Super 8, but
- 7 only a couple of them went to the motel.
- 8 Q. Now, Super 8, where was it located at?
- 9 A. Over there by the skating rink.
- 10 Q. Hear in town?
- 11 A. Yes, sir.
- 12 Q. Off Floyd Baker Boulevard?
- 13 A. Yes, sir.
- 14 Q. And then who went over to the Motel 6 over in
- 15 Spartanburg?
- 16 A. Just me and Billy and "R.J.".
- 17 Q. And y'all went over to the hotel there, and -- did
- 18 "R.J." drive over there?
- 19 A. Yes, sir.
- 20 Q. Do you know anything about a credit card or anything?
- 21 A. Yes, sir.
- 22 Q. How do you know about the credit card?
- 23 A. "R.J." had threw the credit card out. He had the
- 24 credit card.
- (
- 25 Q. And did -- afterwards did the police talk to you?

1 A. Yes, sir.

2 Q. Let me ask you this question. Did they approach you or
3 did you approach them?

4 A. I approached them.

5 Q. Why did you approach them?

6 A. I felt bad. My conscience ran me down.

7 Q. J.P. Manning was the officer that you went and talked
8 to, wasn't it?

9 A. Yes, sir.

10 Q. This gentleman right over here in the box?

11 A. Yes, sir.

12 Q. The police didn't approach you?

13 A. No, sir.

14 Q. You approached them?

15 A. Yes, sir.

16 Q. So you gave them a statement of what happened?

17 A. Yes, sir.

18 Q. You was the first one to talk to the police?

19 A. Yes, sir.

20 Q. You told them the truth?

21 A. Yes, sir.

22 Q. Why did you do that?

23 A. I just felt bad because -- I just felt bad for the
24 woman that had to endure all that.

25 Q. Did you know it was going to be that bad?

- 1 A. No, sir.
- 2 Q. Why did you do it in the first place? What did you
- 3 think was going to happen?
- 4 A. Made a bad mistake. Just sorry for what happened.
- 5 Q. You told the truth from the beginning when you talked
- 6 to the police?
- 7 A. Yes, sir.
- 8 Q. And you have pled guilty to what you were involved
- 9 with?
- 10 A. Yes, sir.
- 11 Q. You pled guilty to burglary first?
- 12 A. Yes, sir.
- 13 Q. Burglary second?
- 14 A. Yes, sir.
- 15 Q. Common law robbery?
- 16 A. Yes, sir.
- 17 Q. Kidnapping?
- 18 A. Yes, sir.
- 19 Q. Grand larceny?
- 20 A. Yes, sir.
- 21 Q. And assault and battery of a high and aggravated
- 22 nature?
- 23 A. Yes, sir.
- 24 Q. Had you had any prior record before this?
- 25 A. No, sir.

- 1 Q. You realize you are facing a possible life sentence?
- 2 A. Yes, sir.
- 3 Q. And you realize that the one concession the State has
- 4 really made is going to say basically that you cooperated?
- 5 A. Yes.
- 6 Q. You cooperated before without being talked about?
- 7 A. Yes, sir.
- 8 Q. Are you telling the truth today?
- 9 A. Yes, sir.
- 10 Q. Just like when you went and talked to the officer?
- 11 A. Yes, sir.
- 12 Q. The police didn't approach you?
- 13 A. No, sir.
- 14 Q. You approached the police.
- 15 Did you talk to your parents about it too?
- 16 A. Yeah, after I was in jail.
- 17 Q. You are hoping this will help you, but really are you
- 18 trying to just clear your conscience?
- 19 A. It led me to clear my conscience a whole lot, yes, sir.
- 20 Q. And you are willing to take the punishment that comes
- 21 out from it?
- 22 A. Yes, sir.
- 23 Q. Even though you don't know what that punishment is
- 24 going to be?
- 25 A. No, sir.

1 Q. And you have no problems with saying things?

2 A. No, sir.

3 Q. Except what I asked you before?

4 A. Yes, sir.

5 Q. Please answer any questions that Mr. Schultz may have
6 for you.

7 CROSS EXAMINATION BY MR. SCHULTZ:

8 Q. Mr. Tate, how old are you?

9 A. Twenty.

10 Q. Twenty?

11 A. Yes, sir.

12 Q. And, again, I asked your co-defendant this question.

13 Do you know the difference between a lie and the truth?

14 A. Yes, sir.

15 Q. Okay. Now, a lie is when, for instance, you -- you
16 would have nothing to do with this. You told the police
17 that you had nothing to do with this, right?

18 A. I lied.

19 Q. That's a lie, right?

20 A. Did I tell them that?

21 Q. Yes.

22 A. No, sir.

23 Q. You never told the police that?

24 A. No, sir.

25 Q. Okay. In your -- now, you have given a videotaped

1 statement to the police, right?

2 A. Sir?

3 Q. You gave a videotaped statement to the police?

4 A. Yes, sir.

5 Q. Okay. Do you remember when that was?

6 A. I think it was the 11th -- April 11th, probably.

7 Right, April 11th.

8 Q. Did you talk to the police officer in your car, or in
9 his car?

10 A. Yes, sir.

11 Q. But didn't you also go down to the police station, too,
12 and talk?

13 A. Yes, sir.

14 Q. Okay. And you went with somebody, didn't you?

15 A. Yeah, I went with my mother.

16 Q. And you went with your mom, right?

17 A. Yes, sir.

18 Q. And you were wearing a hat, I believe, right?

19 A. Yes, sir.

20 Q. Okay. And this was videotaped?

21 A. Yes, sir.

22 Q. And from what I saw is that you said that you had an
23 alibi that night, right?

24 A. Yeah, the first time I went.

25 Q. Okay. All right. So what you are saying right now is

1 that when you could have gone with the truth, you didn't,
2 right?

3 A. Yes, sir, at that time. Yes, sir, the first time.

4 Q. The first time?

5 A. Yes, sir.

6 Q. So that directly contradicts what you just told Mr.
7 Barnette there, right?

8 A. No, I did go down to the police and cooperate with
9 them.

10 Q. Was that before or after?

11 A. After the first interview. The second time I went down
12 there and talked to them.

13 Q. So the second time. So the first time you lied?

14 A. Yes, sir.

15 Q. Okay. So you didn't immediately come out and tell the
16 truth, right?

17 A. No, not at first.

18 Q. Not at first?

19 A. Not in the interview.

20 Q. But you just told Mr. Barnette that you did, right?

21 A. I did. On my second interview I went down there and
22 talked to officer -- I contacted J.P. Manning over there.

23 Q. Again, you just told the solicitor right there that you
24 told the truth at the beginning, correct?

25 A. Yes, sir, I guess so.

- 1 Q. Okay. But that's not true. That's a lie.
- 2 A. Okay. Well --
- 3 Q. Okay.
- 4 A. The first interview I did, but the second interview I
- 5 went down there. I contacted J.P. Manning --
- 6 Q. Okay.
- 7 A. -- and talked to Officer Manning.
- 8 Q. So what you are saying is -- just right now you lied,
- 9 right? Just right now sitting here you lied, right?
- 10 A. (No response).
- 11 Q. Yes or no? You can admit it.
- 12 A. No. Not intentionally, no.
- 13 Q. Not intentionally, but you lied?
- 14 A. I said --
- 15 Q. Just right there.
- 16 A. I got it mixed up.
- 17 Q. Oh, you got it mixed up. Okay.
- 18 A. Yeah.
- 19 Q. Okay. Now, again, in your first -- your very first
- 20 interview --
- 21 A. Very first one.
- 22 Q. -- the very first interview you said that you had a
- 23 alibi, right?
- 24 A. Yes, the first one.
- 25 Q. Okay. Who was that alibi?

- 1 A. That movie that was in Spartanburg.
- 2 Q. Okay. Does Rika and Kara ring a bell?
- 3 A. Yes, sir.
- 4 Q. Who are they?
- 5 A. Two girls that we were talking to at the time.
- 6 Q. Okay. Are those real people?
- 7 A. Yes, sir.
- 8 Q. Okay. And you were going to implicate them in your
- 9 alibi, right?
- 10 A. Yes, sir.
- 11 Q. So, again, you didn't tell the truth to begin with,
- 12 right?
- 13 A. Yeah, the first time interview, right.
- 14 Q. The first time you didn't, right?
- 15 A. Yes.
- 16 Q. And, again, you didn't tell Mr. Barnette that, right,
- 17 just now?
- 18 A. I don't understand what you are saying.
- 19 Q. Again, you just said at your direct testimony -- in
- 20 your direct testimony that you said that you were truthful
- 21 with the police at the very first time.
- 22 A. Yeah, I cooperated, but not the first time.
- 23 Q. Not the first time?
- 24 A. The second interview --
- 25 Q. Okay.

1 A. -- I did.

2 Q. But your testimony just then was that you have always
3 cooperated with the police, right?

4 A. I don't believe -- you are confusing me.

5 Q. Well, it's your story. It's the truth. You shouldn't
6 be confused by that, right?

7 A. All right.

8 Q. Okay. Because the truth is easier to tell because you
9 lived it, right?

10 MR. BARNETTE: Your Honor, I'm going to object at
11 this time. If he's going to ask questions, that's fine, but
12 if he's going to converse --

13 THE COURT: Be sure that you put it in the form of
14 a question.

15 MR. SCHULTZ: I'm sorry, Your Honor?

16 THE COURT: Be sure that you put your statement in
17 the form of a question.

18 MR. SCHULTZ: Beg the court's patience, Your
19 Honor.

20 (Off the record).

21 (Back on the record)

22 BY MR. SCHULTZ:

23 Q. All right. This is State's Exhibit 19. Now, you
24 remember that, right?

25 A. Yes, sir.

- 1 Q. Okay. Whose house is that?
- 2 A. The lady's house.
- 3 Q. Okay. And where were you that night?
- 4 A. Over here. Over here at the -- where the tree is at.
- 5 Q. Well, over there where the tree was at?
- 6 A. Yes, sir, the two trees there.
- 7 Q. Where that -- where that car is -- the car farthest to
- 8 the right?
- 9 A. Sir?
- 10 Q. The car farthest to the right, is that where you were
- 11 parked?
- 12 A. No, I was parked in Huntington Square.
- 13 Q. Okay. So you were far away away, right?
- 14 A. That's not where I parked my car at. That's where we
- 15 all walked over to the lady's residence.
- 16 Q. Okay. Did you ever go in the house?
- 17 A. No, sir.
- 18 Q. Okay. So you never went in the house.
- 19 Okay. So you hung around the outside of the house,
- 20 right?
- 21 A. Yes, sir.
- 22 Q. Okay. Who went in the house?
- 23 A. "Ro-Ro" and "Brontae" and "Lil Fred" and Billy, and we
- 24 heard a gunshot he came back out.
- 25 Q. Now, you were -- where were you around the house?

- 1 A. Over there by the tree and -- in that area right there.
- 2 Q. Where this --
- 3 A. Yes, where the two trees are at right there..
- 4 Q. Where this picture is taken, could you see people going
- 5 into the house?
- 6 A. Yes, sir.
- 7 Q. Okay. And who went into the house?
- 8 A. "Brontae", "Ro-Ro", "Lil Fred".
- 9 Q. Who went in the window there, according to your
- 10 testimony?
- 11 A. "Yankee".
- 12 Q. "Yankee."
- 13 And "Yankee" is Josh Manning, right?
- 14 A. Yes, sir.
- 15 Q. And "Yankee" has accepted responsibility for this,
- 16 hasn't he?
- 17 A. Yes, sir.
- 18 Q. And you have too, correct?
- 19 A. Yes, sir.
- 20 Q. In fact, you pled guilty in front of Judge Hayes,
- 21 right?
- 22 A. Yes, sir.
- 23 Q. Do you know how much time that you are looking at?
- 24 A. I know it's a lot.
- 25 Q. Would it surprise you that you are looking at life?

1 A. No, it wouldn't surprise me.

2 Q. Okay. The burglary first carries life in prison,
3 right?

4 A. Yes, sir.

5 Q. And you are twenty years old?

6 A. Yes, sir.

7 Q. Do you want to spend the rest of your life in jail?

8 A. No, sir.

9 Q. Right, nobody does.

10 And you had a bright future, didn't you?

11 A. Yes, sir.

12 Q. Okay. And all that is gone now, right?

13 A. Yes, sir.

14 Q. And right now you are just trying to salvage what you
15 have right now, right?

16 A. Yes, sir.

17 Q. Okay. By testifying and making up lies against my
18 client?

19 A. No, sir.

20 Q. Okay. But you are cooperating with the State, right?

21 A. Yes, sir.

22 Q. Okay. Now, burglary first carries life.

23 Burglary second carries zero to fifteen years, right?

24 A. I don't know. I don't know. I don't know how much
25 these things carry, but I know it carries a lot.

- 1 Q. Your lawyer never told you about what you faced?
- 2 A. Yeah, he told me what I was facing, but, I mean, I
- 3 don't know each -- briefly each individual charge, but I
- 4 know that burglary first carries life.
- 5 Q. Is your lawyer here today?
- 6 A. No, sir.
- 7 Q. He left?
- 8 A. No, he never showed up.
- 9 Q. He never showed up?
- 10 A. No.
- 11 Q. Did he advise you to take a guilty plea?
- 12 A. Yes, sir.
- 13 Q. So even he thought it was in your best interests,
- 14 right?
- 15 A. Yes.
- 16 Q. And you believed it was in your best interests, right?
- 17 A. Uh-huh.
- 18 Q. Okay. What are you hoping for?
- 19 A. Just hoping to get a second chance, basically.
- 20 Q. You are hoping to get no time, right?
- 21 A. If it was possible.
- 22 Q. But that's what you are trying to do today, right?
- 23 A. I'm trying to get as less time as I can.
- 24 Q. Exactly.
- 25 So you have a motivation to lie, right?

1 A. Not a motivation to lie, but a motivation to come
2 forward.

3 Q. Motivation to come forward, but also to cooperate with
4 the State in order to get your time cut, right?

5 A. Yes, sir.

6 Q. Now, I want you to listen to me very carefully. If
7 someone was looking at life in prison, wouldn't a reasonable
8 person think or suppose that they would have to do
9 everything in their power to avoid that, right?

10 A. Yes, sir.

11 Q. Okay. So a person looking at a life sentence would do
12 whatever they have to do to avoid that, right?

13 A. Yes, sir, but I wouldn't put that on nobody that didn't
14 do nothing.

15 Q. And that's what you are trying to do today. You are
16 trying to avoid that life sentence, aren't you?

17 A. Yes, sir.

18 Q. Okay. And you talked to the solicitor several times,
19 right?

20 A. Not several, no, sir.

21 Q. Pardon me?

22 A. Not several.

23 Q. How many times?

24 A. Probably twice. I think twice.

25 Q. All right. Do you remember when you pled guilty in

1 front of Judge Hayes?

2 A. Yes, sir.

3 Q. Okay. Do you remember all the things that you pled
4 guilty to?

5 A. Yes, sir.

6 Q. Okay. Did you complete your plea?

7 A. I don't understand. What?

8 Q. Did you complete your plea?

9 A. Yes, sir, I pled.

10 Q. So it's all done?

11 A. Yeah, I pleaded.

12 Q. Were you sentenced?

13 A. I wasn't sentenced, but I pleaded that day.

14 Q. Okay. So your plea is not complete, right?

15 A. I guess so.

16 MR. BARNETTE: Your Honor, I would object. It
17 seems like that's a legal conclusion from that standpoint.

18 THE COURT: Well, I think he's cleared it up. He
19 said his plea was complete, but he has not been sentenced
20 yet.

21 BY MR. SCHULTZ:

22 Q. Okay. Again, you have not been sentenced yet, correct?

23 A. No, I haven't been sentenced yet, no, sir.

24 Q. Prior to your sentencing do you know that the State
25 will say that you cooperated?

- 1 A. Yes, sir.
- 2 Q. And that's why you are doing this today, right?
- 3 A. Yes, sir.
- 4 Q. All right. Do you have any children?
- 5 A. No, sir.
- 6 Q. You have a mom and dad still around?
- 7 A. Yes, sir.
- 8 Q. Okay. And you love your mom and dad, right?
- 9 A. Yes, sir.
- 10 Q. Okay. And you want to spend time with them, right?
- 11 A. Yes, sir.
- 12 Q. And you know that if you get life in jail, that you
- 13 won't be able to spend anymore time with them, right?
- 14 A. Yes, sir.
- 15 Q. Okay. So you are doing this for your family as well,
- 16 right?
- 17 A. Yes, sir.
- 18 Q. Testifying for the State?
- 19 A. Yes, sir.
- 20 Q. Cooperating with them?
- 21 A. Yes, sir.
- 22 Q. Lying for them?
- 23 A. No, sir.
- 24 Q. But you just said that the reasonable person would lie
- 25 if they had this time hanging over their head, right?

- 1 A. No, I didn't. I said that I would -- I came forward.
- 2 Q. You can't afford it?
- 3 A. I said I came forward. That's why I came forward.
- 4 Q. Not at first?
- 5 A. Not at first.
- 6 Q. Not at first.
- 7 A. But eventually I did.
- 8 Q. Okay. During this whole time were you ever alone there
- 9 when this all happened?
- 10 A. Sir?
- 11 Q. Were you ever alone then when your co-defendants busted
- 12 in this house, or were you with somebody all during this
- 13 time?
- 14 A. Yes, I was with somebody.
- 15 Q. Okay. Did you have a cell phone during this time?
- 16 A. In the car.
- 17 Q. In the car?
- 18 A. Yes, sir.
- 19 Q. Okay. And when were you alone that night after you
- 20 dropped them off --
- 21 A. Yes, sir.
- 22 Q. -- did you call the police then?
- 23 A. No, sir.
- 24 Q. And then when you talked to the police, you told them a
- 25 lie, right?

1 A. Yes, sir, the first interview.

2 MR. SCHULTZ: Beg the court's patience again.

3 (Off the record)

4 (Back on the record)

5 MR. SCHULTZ: That's all I have, Your Honor.

6 MR. BARNETTE: Just a couple on redirect, Your
7 Honor.

8 REDIRECT EXAMINATION BY MR. BARNETTE:

9 Q. You went to talk to officer J.P.?

10 A. J.P., yes, sir.

11 Q. You had never met me?

12 A. Sir?

13 Q. You have never met a solicitor, have you?

14 A. No, sir.

15 Q. You hadn't been talking about charges or anything else?

16 A. No, sir.

17 Q. You went to him before anybody else did?

18 A. Yes, sir.

19 Q. And you told your story?

20 A. Yes, sir.

21 Q. And you told what happened that night?

22 A. Yes, sir.

23 Q. The next day afterwards did y'all go back to "Ro-Ro's"
24 house --

25 A. No, sir.

1 Q. -- at some point.

2 Did you ever talk to "Ro-Ro" about this?

3 A. No, sir, not after. After I talked to J.P., no, sir.

4 Q. And you had never been in trouble with the law before,
5 have you?

6 A. No, sir.

7 Q. But you told us today. Is that what happened today?

8 A. Yes, sir.

9 Q. As human you try to get all the help you can, but you
10 said something before Mr. Schultz cut you off, you said you
11 wouldn't get somebody else in trouble?

12 A. No, sir.

13 Q. You took your responsibility?

14 A. Yes, sir.

15 Q. You expect everybody else to take their responsibility?

16 A. Yes, sir.

17 Q. A lot of people that didn't have any responsibility?

18 A. Yes, sir.

19 MR. BARNETTE: Thank you.

20 MR. SCHULTZ: Just one question on recross.

21 THE COURT: Okay.

22 RECROSS EXAMINATION BY MR. SCHULTZ:

23 Q. Mr. Tate, when you came to the police and you told them
24 what you think is the truth, you also lied to the police
25 before that, correct?

1 A. Yes, sir, before that.

2 MR. SCHULTZ: Thank you. That's all I have.

3 MR. BARNETTE: I ask this witness be excused, Your
4 Honor.

5 THE COURT: You may step down.

6 We are going to take a short break before we have
7 go forth, so I'll ask you please go to the jury room again.
8 Do not discuss the case in any fashion. I'll bring you back
9 after that break.

10 (The following takes place outside the presence of
11 the jury panel)

12 THE COURT: Court is in recess for fifteen
13 minutes.

14 (Whereupon, proceedings were reconvened)

15 (Whereupon, proceedings were recessed)

16 THE COURT: All right. Bring the jury back,
17 please.

18 (The following takes place in the presence of the
19 jury panel)

20 THE COURT: All right. We are going to continue
21 with the State's presentation. Mr. Barnette.

22 MR. BARNETTE: Please.

23 MS. TAILOR: State calls Chris Skinner.

24 OFFICER CHRIS SKINNER, having been first duly
25 sworn, testified as follows:

1 DIRECT EXAMINATION BY MS. TAILOR:

2 Q. Please introduce yourself to the jury.

3 A. Chris Skinner. I'm a captain with the Gaffney City
4 Police Department.

5 Q. And how would --

6 THE COURT: You need to stay close to that
7 microphone.

8 THE WITNESS: Yes, sir.

9 BY MS. TAILOR:

10 Q. How long have you been worked at the police department?

11 A. Approximately twenty-two years.

12 Q. Were you involved in this case?

13 A. I was.

14 Q. Could you please tell us about your involvement?

15 A. Mr. Wilson took me, myself and Sergeant Odom to -- he
16 advised us that they had throwed a credit card out. We went
17 up 85 to Spartanburg County, got off on Exit 78. There was
18 a convenience store there and a Burger King, and showed us
19 where it was. Sergeant Odom retrieved the card.

20 Q. I'll show you what's been marked as State's Exhibit --
21 I believe it's No. 57. Do you recognize this?

22 A. Yes, ma'am.

23 Q. Is that the card that you retrieved that day?

24 A. It is.

25 Q. Could you read the name that's on that card?

1 A. Dipali Darji.

2 Q. After you retrieved the card, did you have any more
3 involvement with the case?

4 A. No.

5 MS. TAILOR: I have no further questions.

6 Please answer any questions that Mr. Schultz may
7 have for you.

8 CROSS EXAMINATION BY MR. SCHULTZ:

9 Q. Now, officer, you have been on the force for twenty-two
10 years?

11 A. Yes, sir.

12 Q. And this credit card belonged to the alleged victims in
13 this case?

14 A. That's right.

15 Q. Did you lift any fingerprints from this card?

16 A. I didn't.

17 Q. Okay.

18 MR. SCHULTZ: Nothing further, Your Honor.

19 THE COURT: Step down.

20 MR. BARNETTE: I would like to call Mike Segina to
21 the stand, Your Honor.

22 We would ask this witness be excused, Your Honor.

23 THE COURT: He may be.

24 THE WITNESS: Thank you, sir.

25 OFFICER MIKE SEGINA, having been first duly sworn,

OFFICER MIKE SEGINA - DIRECT BY MR. BARNETTE

161

1 testified as follows:

2 DIRECT EXAMINATION BY MR. BARNETTE:

3 Q. If you would, sir, please state your full name for the
4 record?

5 A. Captain Mike Segina.

6 Q. And where do you work at?

7 A. Gaffney Police Department.

8 Q. And how long have you been with the Gaffney Police
9 Department, sir?

10 A. Approximately sixteen years.

11 Q. And back on April the 2nd of 2008, what was your
12 position there, sir?

13 A. I was a sergeant in the detectives division,
14 responsible for crime scene detective.

15 Q. Okay. You handled the crime scenes at that time, sir?

16 A. I did.

17 Q. And did you handle evidence at that time, sir?

18 A. I also handed the evidence for the Gaffney Police
19 Department.

20 Q. Was you called out to the scene of a burglary, armed
21 robbery, kidnapping, assault on the early morning hours of
22 April 2nd, 2008?

23 A. Yes, I was. I believe I was notified by Detective
24 Ramsey.

25 Q. When you arrived there, what did you do, sir?

1 A. When I arrived there, I met with the detective,
2 Lieutenant Ramsey, and began an observation of the scene and
3 then began photographing the scene.

4 Q. And some of these photographs have already been into
5 evidence. I think 12 through 36, I think you have seen
6 these photographs before.

7 Let me let you look at 37 through 42. Do those
8 pictures fully represent what you saw in the photographs
9 that day, sir?

10 A. Yes, sir, they do.

11 MR. BARNETTE: Your Honor, I would like to enter
12 these into evidence at this time.

13 THE COURT: What's the numbers?

14 MR. BARNETTE: 37 through 42, Your Honor.

15 MR. SCHULTZ: No objection, Your Honor.

16 THE COURT: They are admitted.

17 MR. BARNETTE: Permission to publish these, Your
18 Honor?

19 THE COURT: You may.

20 BY MR. BARNETTE:

21 Q. If you would, sir, please step down for a second.

22 (Witness off the witness stand)

23 BY MR. BARNETTE:

24 Q. I'm going to go back, because I know the jury has seen
25 a couple of these pictures, but I just want to go back to

1 them. I believe you took all the pictures that we are
2 talking about here?

3 A. At the residence, yes.

4 Q. I'm showing you State's Exhibit No. 18. Is this a
5 photograph of the back door?

6 A. Yes, it is.

7 Q. And did you enter the residence, sir?

8 A. Yes, I did.

9 Q. I'm showing you State Exhibit No. 21. I believe the
10 jury has seen it. I'm not going to go through all these
11 pictures that show, but did you take this picture, sir?

12 A. I did.

13 Q. And what did you see here and what did you observe in
14 that kitchen area?

15 A. This is the kitchen area and it was the contents of a
16 purse and its contents were scattered on the floor.

17 Q. I'm showing you State's Exhibit No. 30. What is that a
18 photograph of, sir?

19 A. If that darker image up there is the entertainment
20 center, that would have been the living room. There was an
21 entertainment center with a television and a couch had both
22 been ransacked, turned upside down and turned over.

23 Q. Had it been basically ransacked through the whole
24 house?

25 A. Yes, the whole house was in similar manner.

1 Q. I'm not going to go through every picture. A lot of
2 these pictures the jury has already seen.

3 Did you go into the victim's bedroom?

4 A. I did.

5 Q. Let me show you State's Exhibit No. 37, a picture I
6 think the jury has not seen.

7 Can you describe what we are seeing here, sir?

8 A. That would be the door frame and then the door going
9 into the back bedroom, the victim's bedroom.

10 Q. Let me show you State's Exhibit No. 38. What's that a
11 picture of, sir?

12 A. That's picture of the door frame where the metal part
13 is missing where it had been broken off of the door frame.

14 Q. I'm showing you State Exhibit No. 39. Can you tell the
15 jury what we are observing there?

16 A. I believe they call it a strike plate, but it's the
17 metal portion that screws to the door frame that the door
18 pulls to and locks onto.

19 Q. And State Exhibit No. 40?

20 A. It's just a close-up of that strike plate.

21 Q. Okay. State Exhibit 41, what's that a picture of, sir?

22 A. It's a picture of the bed that was inside that room
23 where the door had been busted.

24 Q. Had the mattress been moved?

25 A. Yes, sir, all the bed clothes, the sheets and stuff had

1 been taken off, and you could tell the mattress had been
2 moved.

3 Q. Okay. And State Exhibit 42, what's that a picture of?

4 A. It a picture of a bullet hole that we found in the wall
5 kind of up above that bed.

6 Q. And about up in this area right in here, sir?

7 A. Yes, sir, on the paneled wall.

8 Q. And what kind of a bullet did it appear? What size
9 bullet appeared to go through the wall area?

10 A. I couldn't determine what size of bullet, but it was a
11 small caliber. It wasn't a very large hole. That's
12 actually a close-up photograph of it.

13 Q. Would a .22 bullet make that hole?

14 A. Possibly.

15 Q. Let's look at some of the other pictures.

16 Let me show you State Exhibit 20. Was this the bedroom
17 with the window on the far end where it appears somebody
18 came through the window?

19 A. Yes, it was the opposite side of the home from the
20 bedroom where the mattress was.

21 Q. The opposite bedroom in the opposite end of the house?

22 A. The bedroom where the door was broken in, the bed was
23 on this side. This room is on the opposite end of the home.

24 Q. Let me show you State Exhibit No. 25. Could you tell
25 us what this was, sir?

1 A. This is -- once you walk into the back door, into the
2 kitchen area, this is what appeared to be blood spatter and
3 a wood two-by-four. It was a little bit smaller in diameter
4 than a two-by-four.

5 Q. It appeared to be a stick?

6 A. A stick, yes.

7 Q. And did this look like being one of the victim's shoes?

8 A. Not to my knowledge, no.

9 Q. State Exhibit 26?

10 A. It's a close-up of that same photograph.

11 Q. And 27?

12 A. Again, even closer up of that same material on the
13 floor.

14 Q. And based off of what you understand from the
15 investigation, was the victim only person that bled?

16 A. To my knowledge, is what I was informed, that she had
17 been assaulted, yes.

18 Q. Did you also go over to the store area and look at that
19 scene also?

20 A. Not to my knowledge, no, I don't believe I went to the
21 store. I was at the home.

22 Q. Okay. And looking at the home and everything, did you
23 check for fingerprints, any piece of evidence that you could
24 find?

25 A. Evidence, yes.

1 Fingerprints, I was informed by Lieutenant Ramsey that
2 the suspects in this case were wearing gloves.

3 Q. And if they were wearing gloves, could they leave
4 fingerprints?

5 A. No.

6 Q. Okay. And did you see pictures later from the video
7 and so forth understanding they were wearing gloves at the
8 time, or socks, or whatever they were?

9 A. Yes, Lieutenant Ramsey showed me a video where the
10 suspects were wearing gloves.

11 Q. There was no way to leave fingerprints in that
12 situation?

13 A. It would have left -- the material of the glove would
14 have been the only thing left.

15 Q. And you had received information about orange juice?

16 A. I did.

17 Q. And did y'all collect that?

18 A. I did.

19 Q. Was that sent to SLED?

20 A. It was. It was transported to the State Law
21 Enforcement Division for analysis and it was transported by
22 myself.

23 Q. And was there any useable DNA on that orange juice
24 bottle?

25 A. No, they could not find any.

1 Q. Did you find some handkerchiefs, bandannas in the
2 trailer that you thought might be used by the defendant?
3 A. Yes, there was a -- if I may?
4 Q. Yes, sir. Yes, sir, you may.
5 A. I believe it was a green and white bandana and a black
6 scarf, dew rag type hat.
7 Q. Was there any DNA -- was that sent to SLED also?
8 A. Yes, they were sent for analysis, for DNA analysis.
9 Q. Was there any useful DNA found on that?
10 A. No.
11 Q. And let me show you what's been marked State Exhibit 57
12 into evidence. Was this also fingerprinted?
13 A. Yes, sir, it was.
14 Q. And was there any useful fingerprints found on that?
15 A. No, there was not.
16 Q. Even though we know Mr. Wilson at least touched it, or
17 one of the defendant's had touched it?
18 A. It was collected, yes.
19 Q. Let me ask you a question. Just because I touch this,
20 does that mean I will leave a fingerprint?
21 A. Not necessarily.
22 Q. Why is that?
23 A. The surface that you are touching, whether or not your
24 hands are oily or greasy. You may move your hand and smear
25 what print could be there. It's not a hundred percent what

- 1 you touch is going to leave an identifiable fingerprint.
- 2 Q. It's got to be pristine or be able to be perfectly
- 3 examined?
- 4 A. It has to -- it requires enough points to be matched to
- 5 a known fingerprint.
- 6 Q. So items that you know may even be touched, like we
- 7 know the credit card was touched, may not have any useful
- 8 prints on them?
- 9 A. That's correct.
- 10 Q. And in this case it didn't?
- 11 A. No, it did not have any identifiable prints on it.
- 12 Q. But y'all checked everything possible that you could
- 13 check to see if there was any fingerprints or DNA, didn't
- 14 you?
- 15 A. All the evidence that was collected at the scene was
- 16 sent in for additional analysis.
- 17 Q. And did anything come back from that analysis?
- 18 A. No.
- 19 Q. But it was checked?
- 20 A. Yes, it was.
- 21 Q. If you would please answer any questions that Mr.
- 22 Schultz may have for you, sir.
- 23 A. Yes.
- 24 CROSS EXAMINATION BY MR. SCHULTZ:
- 25 Q. Officer Segina?

1 A. Segina.

2 Q. Segina. I'm sorry.

3 And you have been -- you have been a cop now for how
4 many years?

5 A. I have been with the Gaffney Police Department for
6 roughly sixteen years.

7 Q. Sixteen years. Okay.

8 You have a lot of experience handling these types of
9 crimes, don't you?

10 A. Not an extensive amount, but I have handled as a part
11 of my job as a crime scene detective burglaries, armed
12 robbery, homicides, yes.

13 Q. Okay. Now, referring to these exhibits that were just
14 entered into here.

15 MR. SCHULTZ: Beg the court's patience.

16 (Off the record)

17 (Back on the record)

18 BY MR. SCHULTZ:

19 Q. Now, that's State's Exhibit 42?

20 A. Yes.

21 Q. And what does that show?

22 A. It shows a bullet hole in a wood wall.

23 Q. Okay. And you told Mr. Barnette on your direct
24 examination that that could have been from a small caliber
25 weapon?

1 A. Correct, that the angle that it went in, I was unable
2 to determine what caliber. I did not retrieve a bullet
3 fragment to determine what size caliber it was, but it
4 wasn't a large hole. It was a smaller hole, probably from a
5 smaller caliber weapon.

6 Q. Could this -- could it have been made by a
7 9-millimeter?

8 A. Possibly.

9 Q. Okay. What about a shotgun?

10 A. No.

11 Q. Of course not, right?

12 A. (Shaking head no).

13 Q. A shotgun would blow out. There would be a bunch of
14 holes, right?

15 A. Depending on the type of shotgun shell used, you would
16 have, you know, several smaller holes; or maybe one large
17 hole.

18 Q. All right. Could it have come from a .22?

19 A. Possibly.

20 Q. All right. Now, how involved in the investigation were
21 you? Did you interview any of the witnesses here?

22 A. No. At the time my job was the crime scene detective
23 to come in, photograph the scene, collect any evidence,
24 store the evidence, and transport it down to -- or do any
25 analysis or transport it to the State Law Enforcement

1 Division for analysis.

2 Q. Did you know that Robert Wilson had a .22 -- had .22
3 ammunition found in his yard?

4 A. Yes, there was some .22 ammunition that was collected
5 as evidence at -- not at this scene, but at another location
6 and turned into evidence.

7 Q. That location was at Robert Wilson's residence?

8 A. If I may, I need to look in the evidence bag for
9 another property sheet.

10 Q. That's fine. I have no objection to that.

11 (Off the record)

12 (Back on the record)

13 A. The .22 caliber long rifle ammunition that was turned
14 into evidence was found at -- was located at Brown's Butcher
15 Shop, [REDACTED].

16 BY MR. SCHULTZ:

17 Q. All right. Now, there was a -- referring to back to
18 the State's Exhibit here, there was blood spots found on the
19 floor, correct?

20 A. That is correct.

21 Q. Was this sent out to the lab?

22 A. No, it was not.

23 Q. So it could have been from anybody that day, right?

24 A. The information I received when I got on the scene from
25 Lieutenant Ramsey was that the victim had been assaulted and

1 that's where she was at in the kitchen.

2 Q. But there was also co-defendants in the case, right?

3 A. There was I believe what I was informed five males.

4 Q. Okay. So it could have been from anybody, right?

5 A. Possibly, yes.

6 Q. Okay. But that was never tested, was it?

7 A. I did not take a sample of that blood, no.

8 Q. Why did you not take a sample?

9 A. I was informed by Lieutenant Ramsey that the victim was
10 assaulted and we assumed that it was her blood.

11 Q. Isn't it true that if you would have sent that back,
12 that could have came back as one of the co-defendants to
13 crack this case?

14 A. It could have.

15 Q. Okay. But you didn't do that, right?

16 A. No, I did not take a sample of that blood.

17 Q. Okay. Now, there was some shoes found, right? Or one
18 shoe, actually, referring to State's Exhibit 25?

19 A. That's correct.

20 Q. All right. And correct me if I'm wrong, but you said
21 in your direct examination that that was not the victim's
22 shoe?

23 A. I believe it was the victim's shoe.

24 Q. Okay, it was the victim's shoe. Okay.

25 Was that tested for any kind of DNA or anything like

1 that?

2 A. No, it was not.

3 Q. Okay. Even though the allegation was there was some
4 kind of struggle, right?

5 A. That the victim was assaulted.

6 Q. Okay. And the stick there?

7 A. Yes.

8 Q. Was that ever tested for fingerprints or anything?

9 A. No, it was not.

10 Q. Okay. Could it have been tested for fingerprints?

11 A. It could have.

12 Q. Okay. What about DNA?

13 A. Yes, it could have.

14 Q. Okay. And you didn't test that, right?

15 A. No, I did not collect or test that.

16 Q. Okay. Again, why did you not?

17 A. I was informed that the victim was assaulted in the
18 kitchen area where all three of these items were found.

19 Q. But wouldn't that be reasonable to do? I mean, you
20 have been on the force for sixteen years now. Wouldn't you
21 like to eliminate possible suspects or inculcate possible
22 suspects in this, by testing that?

23 A. At the time that my information was this was used to
24 assault the victim. The blood that was found there was
25 believed to be the victim's blood.

- 1 Q. But what about the stick?
- 2 A. Blood that was by the stick or on the stick was the
- 3 victim's blood.
- 4 Q. Okay. And you could have tested that for DNA again and
- 5 you didn't, right?
- 6 A. That's correct.
- 7 Q. Okay. Now, just because -- like Mr. Barnette was
- 8 saying, do I leave any fingerprints when I go like this?
- 9 A. It could.
- 10 Q. Right. Do I leave DNA?
- 11 A. It could.
- 12 Q. Okay. Now, if I leave my DNA right there, can you
- 13 prove that I was there at approximately 4:30, November 17th,
- 14 at 2009, just by touching DNA, right? Could you prove that
- 15 I was there?
- 16 A. At that time, or just that you were proved that you
- 17 were there?
- 18 Q. At this exact time.
- 19 A. Yes.
- 20 Q. So you are saying that you could prove that I was there
- 21 at this time with DNA, right?
- 22 A. If I was able to collect DNA off of that surface and it
- 23 come back to you, yes.
- 24 Q. Okay. So you could prove that I was there at this time
- 25 by just using DNA?

1 A. This -- are you -- a time, no, but I could prove that
2 you touched that surface, but I could not give you an exact
3 time that you touched that surface.

4 Q. All right. That's what I'm saying.

5 Okay. Now, you didn't go in the store, right?

6 A. Not to my knowledge.

7 Q. Well, you either know or you didn't know, right?

8 A. I believe I did walk into the store --

9 Q. Okay. Well, you just told --

10 A. -- with Lieutenant Ramsey.

11 Q. Okay. So you just told Mr. Barnette that you didn't go
12 in the store. So now you did go in the store?

13 A. I didn't write down that I went in the store, but I did
14 write down that Detective Ramsey collected the surveillance
15 video from inside the store. I'm not sure if I was with him
16 when he did that or not.

17 Q. All right. Could there have been fingerprints there at
18 the store that you, again, failed to collect?

19 A. There could have been, but I was informed by Lieutenant
20 Ramsey, after he watched the video, that the suspects were
21 wearing gloves.

22 Q. Now, you also collected handkerchiefs, right? You also
23 collected bandanas, handkerchiefs?

24 A. Yes, there was bandanas and handkerchiefs turned into
25 evidence.

1 Q. Okay. So if I put a bandana right now on my head,
2 there is going to be DNA there, right?

3 A. There could possibly be DNA there.

4 Q. Okay. More likely than not could there have been DNA
5 there?

6 A. Hair fiber, I guess, or something similar to that.

7 Q. Right. There has to be something linking me. If I put
8 a bandana on top of my head and then I gave it to you, you
9 could conclusively prove that one out of eighty million
10 chances that I had to be wearing this bandana, right?

11 A. If there was a hair fiber or skin cell that was found
12 inside that bandana, yes.

13 Q. Okay. Well, not only skin cells. Other things can
14 leave DNA, right?

15 A. Yes.

16 Q. Okay. Sweat can leave DNA?

17 A. Yes.

18 Q. Blood can leave DNA?

19 A. Yes.

20 Q. Cells? Any type of cells, right?

21 A. Skin cells, hair fibers, yes.

22 Q. Exactly. Okay.

23 And nothing was revealed, as far as the bandana goes,
24 right?

25 A. They were tested and come back there was nothing found.

1 Q. Okay. Now, you said in your direct testimony that the
2 whole house was ransacked, right?

3 A. That's correct.

4 Q. Okay. Wouldn't you think there would be some
5 fingerprints there, right?

6 A. I was informed by Lieutenant Ramsey that the suspects
7 were wearing gloves when they entered.

8 Q. Were there any footprints found on anything?

9 A. There were some footprints that were found outside the
10 driveway. We tried to photograph them, but nothing of any
11 value that we could get off of them. It was in the dirt
12 driveway.

13 Q. Okay. That sneaker right there, were those footprints
14 made by that sneaker?

15 A. Not my knowledge, no.

16 Q. Okay. Did you compare the tracks, the treads?

17 A. The tracks that were there were not of value to
18 determine what size the shoe was or what brand of shoe it
19 was.

20 Q. Okay. So really, in conclusion, there is really no
21 forensic evidence essentially linking anybody to any
22 involvement in any kind of criminal activity?

23 A. The evidence that was sent down did not come back to a
24 single -- to a person.

25 Q. So just to be clear, there is no forensic activity

1 linking anybody to this?

2 A. The evidence that was sent down and analyzed come back
3 to no single person.

4 Q. No forensic evidence, correct? Yes or no?

5 A. Yes.

6 Q. Okay. Thank you.

7 MR. BARNETTE: Just one question, Your Honor.

8 REDIRECT EXAMINATION BY MR. BARNETTE:

9 Q. If they are wearing gloves or socks or whatever on
10 their hands, they are not going to leave any DNA evidence
11 around either, are they?

12 A. DNA or fingerprints.

13 Q. Thank you.

14 THE COURT: You may step down.

15 MR. BARNETTE: We ask this witness be excused,
16 Your Honor.

17 THE COURT: He may be.

18 THE WITNESS: Thank you, Your Honor.

19 MR. BARNETTE: I would like to call Kwame Douglas
20 to the stand.

21 KWAME DOUGLAS, having been first duly sworn,
22 testified as follows:

23 DIRECT EXAMINATION BY MR. BARNETTE:

24 Q. Mr. Douglas, I'm going to need you to speak up, okay,
25 because I want this lady back here in the back row to hear

1 you.

2 If you will give your full name, please?

3 A. Kwame Rashad Douglas.

4 Q. And Mr. Douglas, where do you live at, sir?

5 A. [REDACTED] [REDACTED].

6 Q. Who do you live with there, sir?

7 A. My mom.

8 Q. And who's your mom?

9 A. Carolyn Douglas.

10 Q. Back on April 2nd, 2008, or April 1st, 2008, what did
11 you do that evening, sir?

12 A. That evening I was at John Bonner's home that evening.

13 THE COURT: Don't eat the microphone. Just get
14 close enough so we can hear.

15 BY MR. BARNETTE:

16 Q. Back then how old was you then, sir?

17 A. I was seventeen.

18 Q. Was you in school then?

19 A. Yes, sir.

20 Q. Where was you in school at?

21 A. Gaffney High School.

22 Q. And did you play football there?

23 A. Yes, sir.

24 Q. What position did you play?

25 A. Safety.

1 Q. So that evening did you go to somebody's house that
2 evening?

3 A. Yes.

4 Q. Whose house did you go to, sir?

5 A. John Bonner.

6 Q. And what's John Bonner's nickname?

7 A. "Ro-Ro".

8 Q. Do you have a nickname?

9 A. Yes, sir.

10 Q. What's that?

11 A. "Fred".

12 Q. So you went over to his house that evening. What did
13 y'all do over at his house?

14 A. We was just chilling around until later on.

15 Q. Okay. And who else came over to the house?

16 A. Later on?

17 Q. Yes, sir.

18 A. Later on it was Billy, "R.J.", Kent Tate, and I believe
19 "Yankee" then. That's it.

20 Q. Had John Bonner talked to you before about you going
21 over by the store or anything about that?

22 A. Yes, sir.

23 Q. Can you tell the jury what y'all talked about?

24 A. Well, first of all we was talking about -- he was
25 talking about hitting a lick at a store, so everybody was

1 like down with it. And when the time came, we did it.

2 Q. When you say hitting a lick, do you mean by robbing the

3 store?

4 A. Yes, sir.

5 Q. And how was it y'all were going to rob the store?

6 A. Sir?

7 Q. How were y'all going to rob the store?

8 A. We was going to wait until they come out the store with

9 the money bag.

10 Q. And what was y'all planning to do?

11 A. We were going to take the money bag and leave.

12 Q. So did all of y'all meet at John Bonner's house?

13 A. Yes.

14 Q. And where was it at?

15 A. I don't know the exact address, but I know it's on west

16 end.

17 Q. So when you met at his house, who drove from his house

18 over to the store?

19 A. "R.J.".

20 Q. And who else?

21 A. Kent Tate.

22 Q. Y'all rode with them and where did they park at?

23 A. Huntington Square.

24 Q. Is that that apartment complex above it?

25 A. Yes, sir.

1 Q. And what happened then?

2 A. We had got out of the car and we was waiting until a
3 certain time before we go hide in a bush and wait until they
4 come out.

5 Q. Who stayed back at the cars?

6 A. "R.J." and Terry.

7 Q. And the rest of y'all go to the bushes?

8 A. Yes, sir.

9 Q. And while y'all were hiding in the bushes, what
10 happened then?

11 A. We were just waiting until a certain time when they
12 come out with the money.

13 Q. So what happened as y'all were waiting when they came
14 out?

15 A. When they came out, we were just -- we were still right
16 there, but when they came out, they didn't have no money
17 bags or nothing. It was just --

18 Q. Was there a man walking out with her too?

19 A. Yeah.

20 Q. Did he get in his car and leave?

21 A. Yes, sir.

22 Q. And did she go in her house?

23 A. Yes, sir.

24 Q. What did y'all do then?

25 A. We had -- when they had went in the house and they

1 had -- we all had got together and waited around a little
2 bit and "Yankee" was talking to her about how we were going
3 to get into the house and went from there.

4 Q. So when you recall "Yankee" talked about going in the
5 house, how did he talk about going in the house?

6 A. Like entering one of the windows.

7 Q. Do you know which window he went in?

8 A. Yes, sir.

9 Q. Let me show you State's Exhibit -- let me show you
10 State's Exhibit No. 19.

11 You can just step down for a second, sir.

12 (Witness off the witness stand)

13 BY MR. BARNETTE:

14 Q. If you would, just point with this right here. Which
15 window did he go in?

16 A. This one right here.

17 Q. Okay. And who was outside with you when he went to the
18 window?

19 A. It was me, "Brontae" and "Yankee" at the time.

20 Q. GO ahead and have a seat and let you use the microphone
21 so we can hear better.

22 (Witness back on the witness stand)

23 BY MR. BARNETTE:

24 Q. Who was it staying with you at the time?

25 A. It was me, "Yankee", and "Brontae" at the time.

- 1 Q. And was y'all wearing socks and masks at the time?
- 2 A. Yes, sir.
- 3 Q. So when he went through, did he open the door?
- 4 A. Yes, sir.
- 5 Q. And did he come back out?
- 6 A. Yes, sir.
- 7 Q. And who else was outside with y'all? I know they
- 8 weren't with you, but where else outside the house? Who
- 9 were the other two people?
- 10 A. It was "Ro-Ro" and Billy and Kent Tate. That was the
- 11 rest of them out there.
- 12 Q. When he came back out, did y'all wait a little bit
- 13 before you went back in the house, or went in the house?
- 14 A. Yeah, we waited a little bit. Then we went to the car.
- 15 Q. You have got to talk up.
- 16 THE COURT: If you will use that microphone, we
- 17 can hear, but you do need to speak up. Just speak like you
- 18 would if you weren't in the courtroom.
- 19 BY MR. BARNETTE:
- 20 Q. Okay. If you would say that again.
- 21 A. Say that again, because -- what you asked me?
- 22 Q. When he came back out and opened the door, did y'all
- 23 wait a little bit before you went in the house?
- 24 A. Yes, sir.
- 25 Q. Why did y'all wait a little bit before?

- 1 A. Because she was still up.
- 2 Q. So did y'all wait until she went to bed?
- 3 A. Yes, sir.
- 4 Q. When she went to bed, what happened then?
- 5 A. We had -- we had went to the cars and sitted for a
- 6 minute to make sure she was like really asleep. That's what
- 7 we had did.
- 8 Q. And who went back?
- 9 A. Me, Kent Tate, Billy, "Ro-Ro", "Yankee" and me.
- 10 Q. And who stayed back at the cars?
- 11 A. Terry and "R.J.".
- 12 Q. When y'all went back to the house, who went in the
- 13 house?
- 14 A. At first it was "Ro-Ro", "Brontae" and "Yankee".
- 15 Q. And did you go in shortly after that?
- 16 A. Yes, sir.
- 17 Q. When you went inside, what did you start doing?
- 18 A. Went to the back room looking for the money.
- 19 Q. You were looking for the money?
- 20 A. Yes, sir.
- 21 Q. And when you were in the back room, did you go on the
- 22 opposite side of her bedroom?
- 23 A. Yes, sir.
- 24 Q. And what were y'all doing?
- 25 A. Messing around and tearing up stuff, looking for the

- 1 cash.
- 2 Q. Did y'all find any cash?
- 3 A. A little bit in the house.
- 4 Q. So who -- so at first was y'all looking through the
- 5 house? Nobody went in her bedroom?
- 6 A. Yes, sir.
- 7 Q. Who actually went into her bedroom first?
- 8 A. It was "Yankee", "Ro-Ro", and "Brontae" at first.
- 9 Q. And how did they go in the door, or how did they get in
- 10 her bedroom?
- 11 A. Kicked the door down.
- 12 Q. After they kicked the door down, what happened next?
- 13 A. Fired a little gunshot and she started screaming and --
- 14 Q. Who had the gun?
- 15 A. "Ro-Ro" had the gun.
- 16 Q. Was it a small gun?
- 17 A. Yeah.
- 18 Q. When you heard the shot, what did you do?
- 19 A. I went in there to see what was going on.
- 20 Q. And what was going on?
- 21 A. They had her pinned up asking where the money was.
- 22 Q. Did she tell them where the money was?
- 23 A. No, sir.
- 24 Q. What were they doing to her then?
- 25 A. They were beating and just kept on asking where the

1 money is at, you know.

2 Q. What did they do next do? Did they do anything to her
3 clothes?

4 A. Yeah, they took her clothes off of her.

5 Q. When they took her clothes off of her, did they
6 continuously keep beating her?

7 A. Yes, sir.

8 Q. What was you doing in the bedroom?

9 A. At the time when they were beating on her, I had wanted
10 her to get on some clothes before they -- you know what I'm
11 saying, because I didn't want to see all that.

12 Q. Did you go through her room, too, looking for money?

13 A. Yes, sir.

14 Q. Did y'all tear stuff out?

15 A. Yes, sir.

16 Q. Did she finally tell them where the key was?

17 A. Yes, sir.

18 Q. Why did she -- well, let me rephrase that question.

19 Was it before she got her clothes on that she told
20 y'all where the key was?

21 A. Yes, sir.

22 Q. Had they started to take her out of the bedroom?

23 A. Yes, sir.

24 Q. Had they choked her?

25 A. Yeah.

1 Q. Had they put her over a chair?

2 A. Something like that.

3 Q. Were they getting ready to assault her sexually?

4 A. I guess so.

5 MR. SCHULTZ: Your Honor, I object to speculation.

6 THE COURT: You can rephrase it.

7 BY MR. BARNETTE:

8 Q. Had they placed her over one of the chairs turned over
9 or the sofa?

10 A. Yes, sir.

11 Q. Is that when she decided to tell them where the key
12 was?

13 A. No, not right then.

14 Q. So they just -- after that she did?

15 A. Yeah.

16 Q. So did she get the key chain or did she show where the
17 key -- once she got her clothes back on, did she show them
18 where the key chain was?

19 A. She told them where it was.

20 Q. Okay. And who went and got the key?

21 A. "Ro-Ro" went and got the key.

22 Q. Once "Ro-Ro" got the key, what happened then?

23 A. Well, him and "Brontae" went to the store and the rest
24 of us stayed in the house.

25 Q. Let me show you what's been entered into evidence as

1 State Exhibit 47. Can you see from where you are sitting
2 at, sir?

3 A. Yes, sir.

4 Q. The gentleman that's in the -- with the fur on the
5 jacket, who is that?

6 A. That's "Ro-Ro".

7 Q. And who is the gentleman in the multi-colored jacket?

8 A. "Brontae".

9 Q. And did they have masks covering --

10 A. Yes, sir.

11 Q. -- or things covering their face?

12 THE COURT: Use the microphone.

13 A. Yes, sir.

14 BY MR. BARNETTE:

15 Q. Did they have socks on their hands?

16 A. Yes.

17 Q. Like they all did when they went in the house?

18 A. Yes, sir.

19 Q. When they went over into the store, what happened in
20 the house?

21 A. Well, I was with her. I was -- had her, telling her
22 that everything was going to be all right, that we just
23 wanted the money, and she was still trying to get away a
24 little bit, but "Yankee" had stopped her and she had -- I
25 had to go get her again.

- 1 Q. Did you grab ahold of her?
- 2 A. Yes, sir.
- 3 Q. Did you hold her?
- 4 A. Yes, sir.
- 5 Q. Did "Yankee" hit her and hold her?
- 6 A. No, he didn't hold her, but he hit her, though.
- 7 Q. As that was going on, did y'all hear an alarm?
- 8 A. Yes, sir.
- 9 Q. When you heard the alarm, what happened then?
- 10 A. When I heard the alarm, she tried to get up and run
- 11 away again, but he had pushed her into the washer and that's
- 12 when we had -- we were getting ready to leave by that time.
- 13 Q. Did she try to grab a stick to defend herself?
- 14 A. Yes, sir.
- 15 Q. What did "Yankee" do to her when he did that?
- 16 A. And he pushed her into the washer, or whatever, beat
- 17 her into the washer.
- 18 Q. Did -- was she the only one that was hurt, that was
- 19 bleeding?
- 20 A. Yes, sir.
- 21 Q. Once the alarm went off, did y'all leave?
- 22 A. Yes, sir.
- 23 Q. And where did y'all go after that?
- 24 A. We went to the trailer park.
- 25 Q. When you got to the trailer park, what did y'all do

1 after that?

2 A. We sat there for about five minutes and then we had
3 left.

4 Q. Where did you go to after that?

5 A. We went and took Terry home, dropped him off at his
6 home, and we went to my house.

7 Q. Before that did y'all split the money up?

8 A. No, sir, we split the money up at my house.

9 Q. At your house?

10 A. Yes.

11 Q. And how much did you get?

12 A. 2,500.

13 Q. You got \$2,500?

14 A. Yes, sir.

15 Q. How much did the other guys get? Did "Ro-Ro" get the
16 most money?

17 A. I don't know exactly. I don't know like how much.

18 Q. Did they get a lot?

19 Well, when they left, who had all the money? When
20 y'all left the store and the house, who --

21 A. "Ro-Ro" had the money.

22 Q. They helped separate it out?

23 A. Yes, sir.

24 Q. After you got the your money and y'all split up, where
25 did you go, sir?

- 1 A. We went to -- they dropped me off last. And when they
2 dropped me off, they left.
- 3 Q. You have pled guilty, is that right?
- 4 A. Yes, sir.
- 5 Q. And you pled guilty to burglary first?
- 6 A. No, sir.
- 7 Q. To burglary first, have you pled guilty to that, sir?
- 8 A. Oh, yes, sir.
- 9 Q. Have you pled guilty to burglary second?
- 10 A. Yes, sir.
- 11 Q. Have you pled guilty to grand larceny?
- 12 A. Yes, sir.
- 13 Q. Have you pled guilty to common law robbery?
- 14 A. Yes, sir.
- 15 Q. Have you pled guilty to kidnapping?
- 16 A. Yes, sir.
- 17 Q. Have you pled guilty to assault and battery of a high
18 and aggravated nature?
- 19 A. Yes, sir.
- 20 Q. And you realize what you are facing here today?
- 21 A. Yes, sir.
- 22 Q. And you realize that the judge will send you away
23 today?
- 24 A. Yes.
- 25 Q. Have you been promised any kind of sentence?

1 A. No, sir.

2 Q. The only thing that you have been told is if you
3 cooperate, the judge will be told that you cooperated?

4 A. Yes, sir.

5 Q. Would you tell this story just to get "Ro-Ro" in
6 trouble?

7 A. Say what now?

8 Q. Would you tell what you are telling today, testify,
9 just to get a man in trouble, or are you testifying to the
10 truth?

11 A. I'm telling the truth.

12 Q. Is that what happened that night?

13 A. Yes, sir.

14 Q. When you originally talked to the police officers, did
15 you tell the truth at the beginning?

16 A. No, sir.

17 Q. Why didn't you tell the truth at the beginning?

18 A. Because I figured they didn't really have nothing on me
19 for me to tell the truth.

20 Q. Later on did they get some items on you?

21 A. Yes, sir.

22 Q. And did you tell what happened then?

23 A. Yes, sir.

24 Q. Was "Ro-Ro" with you that night?

25 A. Which night?

1 Q. The night that y'all did this, went into her house?

2 A. Yes, sir..

3 Q. Do you see him in the courtroom here today?

4 A. Yes, sir.

5 Q. Can you identify him for us, what he's wearing and
6 where he's sitting, sir?

7 A. Right there..

8 Q. Can you tell me what hair he's got on and what shirt
9 he's wearing?

10 A. A gray shirt and dreads.

11 MR. BARNETTE: Your Honor, I would like the record
12 to reflect he's identified the defendant.

13 THE COURT: It shall.

14 BY MR. BARNETTE:

15 Q. So you are telling the truth today, sir?

16 A. Yes, sir.

17 Q. If you would, please answer any questions that Mr.
18 Schultz would have for you, sir.

19 CROSS EXAMINATION BY MR. SCHULTZ:

20 Q. Mr. Douglas, how old are you?

21 A. Nineteen.

22 Q. Nineteen.

23 So you are young, right?

24 A. Yes, sir.

25 Q. Have you ever been in trouble before?

- 1 A. No, sir.
- 2 Q. Okay. So this is your first time going through all
3 this?
- 4 A. Yes, sir.
- 5 Q. You fell in a big hole, didn't you?
- 6 A. Fell what?
- 7 Q. You fell in a big hole, didn't you?
- 8 A. Yes, sir.
- 9 Q. Do you know what burglary first carries?
- 10 A. Yes, sir.
- 11 Q. What does it carry?
- 12 A. Thirty to life.
- 13 Q. It carries life, up to life.
- 14 A. Yes.
- 15 Q. What does burglary second carry?
- 16 A. Fifteen to life.
- 17 Q. It carries zero to fifteen.
- 18 Do you know what kidnapping carries?
- 19 A. Life.
- 20 Q. Zero to thirty.
- 21 Sir, you are looking at a life sentence, basically.
- 22 You understand that, right?
- 23 A. Yes.
- 24 Q. Okay. You know that whatever you receive is a
25 sentence, and you are going to get sentenced pretty soon.

- 1 You know that you have to do eighty-five percent of that
2 time?
- 3 A. Yes.
- 4 Q. Did your lawyer tell you about that?
- 5 A. Something like that.
- 6 Q. Is your lawyer here today?
- 7 A. Yes, sir.
- 8 Q. Okay. Did he advise you to testify here today?
- 9 A. Yes, sir.
- 10 Q. Okay. Because it's in your best interests, right?
- 11 A. Yes.
- 12 Q. Because what you are trying to do is trying to get your
13 time cut, right?
- 14 A. Yeah.
- 15 Q. Right, exactly.
- 16 So that's your motivation here to come here today,
17 right?
- 18 A. Yes, sir.
- 19 Q. You guess so, or you know?
- 20 A. I say yes, sir.
- 21 Q. Yes, sir.
- 22 So that's your motivation to come here today is to
23 testify for the State?
- 24 A. Yes, sir.
- 25 Q. Okay. In order to get your time cut, right?

1 A. Yes, sir.

2 Q. And that's your motivation to do what you are doing
3 here today, right?

4 A. Yes, sir.

5 Q. Okay. Now, you talked to the police last year in
6 April, April 14th, right?

7 A. Yes, sir.

8 Q. Do you remember that?

9 A. Yes, sir.

10 Q. Okay. How old were you then?

11 A. Seventeen.

12 Q. Seventeen years old. Okay.

13 Now, first you didn't want to talk to the police,
14 right?

15 A. Yeah.

16 Q. Why was that?

17 A. Because I didn't feel they had enough evidence to
18 convict me.

19 Q. So what made you realize -- what made you realize that
20 they did have enough evidence to convict you?

21 A. Because my momma and my aunt and -- what they were
22 saying, really, they were saying what we did was true, but
23 when I'm speaking I was saying no, it's not true. In my
24 mind is right, though, what they were saying, but when I was
25 talking to them, I was telling them "no, I didn't do it. I

1 wasn't there and I don't know nothing about what y'all are
2 talking about."

3 Q. So that was a lie, right?

4 A. Say what?

5 Q. That was a lie?

6 A. Yes, sir.

7 Q. Okay. So you told a lie to the police?

8 A. Yes, sir.

9 Q. And you swore that it was the truth, the whole truth,
10 and nothing but the truth, right?

11 A. Yes, sir.

12 Q. So help you God?

13 A. (Shaking head yes).

14 Q. Yes or no?

15 A. Yes.

16 Q. You got say yes. You can't just nod your head.

17 So you go by "Fred", is it?

18 A. Yes, sir.

19 Q. All right. Now, today you said that you went inside
20 the house, right?

21 A. Yes, sir.

22 Q. Okay. This house right here, right?

23 A. Yes, sir.

24 Q. Okay. And your testimony here today is "R.J." stayed
25 in the car and Terry Littlejohn stayed in the car, right?

1 A. Yeah.

2 Q. Okay. Now, originally when you were talking to the
3 police you said that you didn't go in the house, right?

4 A. Yeah.

5 Q. Okay. So you lied again? Right?

6 A. Yeah.

7 Q. Okay. To the police?

8 A. Yes.

9 Q. Now, you said something interesting a couple minutes
10 ago. You said that they may not have enough evidence on
11 you, right, and that's why you lied, right?

12 A. Yeah.

13 Q. So if that would have continued, you would have
14 continued to lie, right?

15 A. Yes, sir.

16 Q. All right. Well, thank you for being honest.

17 So you would have continued to lie if more evidence
18 didn't come forward, right?

19 A. Yes, sir.

20 Q. You just would have said "I had nothing to do with it,"
21 and that's it?

22 A. Yes, sir.

23 Q. Okay.

24 MR. SCHULTZ: Bailiff, could you turn on the
25 lights again?

1 Thank you.

2 BY MR. SCHULTZ:

3 Q. Now, you said in your first statement that you got some
4 money, right?

5 A. Yes, sir.

6 Q. Okay. And you said today that you got some money,
7 right?

8 A. Yes, sir.

9 Q. Okay. You said today that you got \$2,500, right?

10 A. Yes, sir.

11 Q. You said in your first statement that you got 700,
12 right?

13 A. Yes, sir.

14 Q. Okay. So was that a lie?

15 A. Yes, sir.

16 Q. Which is a lie?

17 A. What do you mean?

18 Q. What one is a lie? Did you get \$2,500 or 700?

19 A. It was 2,500.

20 Q. Okay. So, now you are going to say that you got a full
21 \$2,500, but back in April of 2008, when this happened, when
22 it was fresh in your memory, you said that you got \$700,
23 right?

24 A. Yeah.

25 Q. And you also said that you didn't even go in the house,

1 right?

2 A. You are right.

3 Q. Okay. You said today that you heard a gunshot, right?

4 A. Yes, sir.

5 Q. Okay. In your prior statement you didn't hear a
6 gunshot, right?

7 A. I heard a gunshot. Everybody heard the gunshot.

8 Q. Right, but what I'm saying is that when you initially
9 talked to the police, you said that you never heard a
10 gunshot, right?

11 A. That's when they were talking to me, when I was denying
12 everything, like saying I wasn't doing nothing.

13 Q. Right, that's what I'm saying. You denied everything?

14 A. Yeah.

15 Q. Okay. It was your belief in your first statement that
16 "Yankee" had a gun, right?

17 A. Yes, sir.

18 Q. Okay. And so in your first statement, when again it
19 was fresh in your mind, you said that "Yankee" had a gun,
20 right?

21 A. Yes, sir.

22 Q. Who is "Yankee"?

23 A. Who is "Yankee".

24 Q. Who is "Yankee"?

25 A. "Yankee".

- 1 Q. His real name?
- 2 A. Joshua Manning.
- 3 Q. Okay. And now you said, and correct me if I'm wrong,
- 4 but you said my client had a gun, right?
- 5 A. Yes, sir.
- 6 Q. Okay. So, again, when it was fresh in your mind, you
- 7 said "Yankee" had a gun. Now you are saying -- when your
- 8 butt is on the line, now you are saying that it's my client
- 9 that had a gun, right?
- 10 A. Yeah.
- 11 Q. All right. Did you plead in front of Judge Hayes
- 12 already?
- 13 A. Yes, sir.
- 14 Q. You don't have a criminal history, right?
- 15 A. No, sir.
- 16 Q. So you don't really know what's going to happen, right?
- 17 A. No, sir.
- 18 Q. Okay. And, again, you are looking at a whole bunch of
- 19 time, right?
- 20 A. Yes, sir.
- 21 Q. For a young man like you, okay.
- 22 Can you pass a drug test today?
- 23 A. No, sir.
- 24 MR. BARNETTE: Your Honor, I'm going to object to
- 25 this line of questioning. I don't think it's relevant.

1 THE COURT: Sustained.

2 BY MR. SCHULTZ:

3 Q. What are you hoping for?

4 A. What do you mean?

5 Q. What are you hoping to get out of this by lying?

6 A. I want to be free.

7 Q. You want to be free?

8 A. Yeah.

9 Q. Okay. Do you have any kids?

10 A. No, sir.

11 Q. What about your family? Is your mom and dad still
12 around?

13 A. Yes, sir.

14 Q. And you love your mom and dad, right?

15 A. Yes, sir.

16 Q. And you want to stay out, right?

17 A. Yes, sir.

18 Q. Okay. And that's why you are here today, right?

19 A. Yes, sir.

20 Q. So what you are doing right now is probably up until
21 this point the biggest decision that you have ever made in
22 your life, isn't it?

23 A. Yes, sir.

24 Q. And you got all this time hanging over your head, don't
25 you?

- 1 A. Yes, sir.
- 2 Q. And you agreed to testify for the State today, right?
- 3 A. Yes, sir.
- 4 Q. Okay. And originally you lied, right?
- 5 A. Say what?
- 6 Q. Originally you lied, right?
- 7 A. At first.
- 8 Q. At first. Okay.
- 9 Do you think a reasonable person has the motivation to
- 10 lie when they are looking at jail time?
- 11 A. It depends.
- 12 Q. Depends? What does it depend on?
- 13 A. If they -- if you know they got you, then what's the
- 14 use of lying?
- 15 Q. But they got you, right?
- 16 A. Yeah.
- 17 Q. Okay. And you know that you are going to jail, right?
- 18 A. Yeah.
- 19 Q. Okay. So the only way that you can get your time cut
- 20 is by testifying for the State and making up this story,
- 21 right?
- 22 A. I ain't making up stories. I just told the truth.
- 23 Q. Okay.
- 24 A. I really have.
- 25 Q. But you are motivated -- a reasonable person would be

1 motivated to lie in this situation, right?

2 A. I don't understand what you are asking me.

3 Q. Okay. If a person is looking at jail time, life in
4 prison, you would think that that person would do anything
5 to get out of it, right?

6 A. I guess.

7 Q. You guess? Come on, you can answer the question. Not
8 your guess. It's either yes or no.

9 You would think that a reasonable person would try and
10 get out of jail time, especially looking at life in prison,
11 right?

12 A. Yeah, if you got responsibilities.

13 Q. Right, and you have responsibilities, don't you?

14 A. Yes, sir.

15 Q. Yeah, you have a family.

16 A. Yeah.

17 Q. Okay. You probably want to have kids, don't you? You
18 want to live the rest of your life, don't you?

19 A. Yeah.

20 Q. You don't want to go to jail, right?

21 A. Yes, sir.

22 MR. SCHULTZ: Beg the court's patience again, Your
23 Honor?

24 (Off the record).

25 (Back on the record)

1 MR. SCHULTZ: That's all I have, Your Honor.

2 Thank you.

3 MR. BARNETTE: No further questions of this
4 witness, Your Honor.

5 THE COURT: You may step down.

6 MR. BARNETTE: We would ask the witness be
7 excused, Your Honor.

8 THE COURT: He may be.

9 We are going to recess for the afternoon. Let me
10 remind you of the caution I have previously given you. No
11 discussions about the case with any person whatsoever in any
12 fashion whatsoever.

13 Do not permit yourselves to be exposed to any type
14 of media coverage that might relate to the trial, whether it
15 be television, radio, or newspaper.

16 Do not conduct any research or do your own
17 investigation into anything that relates to the case.

18 Do have a good evening. Please report to your
19 jury room at 9:30 in the morning. 9:30 in the morning.

20 (The following takes place outside the presence of
21 the jury panel)

22 THE COURT: All right. Any other matters we need
23 to address?

24 MR. BARNETTE: Nothing from the State, Your Honor.

25 MR. SCHULTZ: None from the defense, Your Honor.

1 THE COURT: Court is in recess until 9:30 in the
2 morning.

3 (Whereupon, proceedings were adjourned to November
4 18, 2009)

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE) TRANSCRIPT OF RECORD
5 -vs-) 2009-GS-11-824
6 JOHN BENDARIAN BONNER,) 2009-GS-11-825
7 DEFENDANT.) 2009-GS-11-826
8) 2009-GS-11-827
9) 2009-GS-11-828
10) 2009-GS-11-829
11) NOVEMBER 18, 2009
12) GAFFNEY, SOUTH CAROLINA

13 (VOLUME II)

14 B E F O R E:

15 THE HONORABLE J. DERHAM COLE, JUDGE. ; And a Jury.

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

17 BARRY BARNETTE, PRINCIPAL DEPUTY SOLICITOR
18 PRINA TAILOR, ASSISTANT SOLICITOR
19 ATTORNEYS FOR THE STATE

20 E. JOSHUA SCHULTZ, ESQUIRE
21 ATTORNEY FOR THE DEFENDANT

22 MICHAEL R. WATTS
23 CIRCUIT COURT REPORTER
24
25

1	INDEX	
2	(NOVEMBER 17, 2009)	
3	WITNESSES	PAGE
4	JURY VOIR DIRE --	PAGE 9
5	JURY SWORN --	PAGE 59
6	OPENING STATEMENT BY MR. BARNETTE --	PAGE 67
7	OPENING STATEMENT BY MR. SCHULTZ --	PAGE 72
8	OFFICER J.R. SIZEMORE (SW)	
9	DIRECT EXAMINATION BY MR. BARNETTE	77
10	CROSS EXAMINATION BY MR. SCHULTZ	86
11	MILSELI PATEL (SW)	
12	DIRECT EXAMINATION BY MS. TAILOR	92
13	CROSS EXAMINATION BY MR. SCHULTZ	97
14	REDIRECT EXAMINATION BY MS. TAILOR	98
15	ROBERT J. WILSON, JR. (SW)	
16	DIRECT EXAMINATION BY MR. BARNETTE	99
17	CROSS EXAMINATION BY MR. SCHULTZ	114
18	REDIRECT EXAMINATION BY MR. BARNETTE	126
19	RECROSS EXAMINATION BY MR. SCHULTZ	127
20	KENDRICK TATE (SW)	
21	DIRECT EXAMINATION BY MR. BARNETTE	128
22	CROSS EXAMINATION BY MR. SCHULTZ	142
23	REDIRECT EXAMINATION BY MR. BARNETTE	156
24	RECROSS EXAMINATION BY MR. SCHULTZ	157
25		

1	INDEX	
2	(NOVEMBER 17, 2009)	
3	WITNESSES	PAGE
4	OFFICER CHRIS SKINNER (SW)	
5	DIRECT EXAMINATION BY MS. TAILOR	159
6	CROSS EXAMINATION BY MR. SCHULTZ	160
7	OFFICER MIKE SEGINA (SW)	
8	DIRECT EXAMINATION BY MR. BARNETTE	161
9	CROSS EXAMINATION BY MR. SCHULTZ	169
10	REDIRECT EXAMINATION BY MR. BARNETTE	179
11	KWAME DOUGLAS (SW)	
12	DIRECT EXAMINATION BY MR. BARNETTE	179
13	CROSS EXAMINATION BY MR. SCHULTZ	195
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	INDEX	
2	(NOVEMBER 18, 2009)	
3	WITNESSES	PAGE
4	BILLY RODGERS (SW)	
5	DIRECT EXAMINATION BY MR. BARNETTE	217
6	CROSS EXAMINATION BY MR. SCHULTZ	225
7	DIPALI DARJI (SW)	
8	DIRECT EXAMINATION BY MR. BARNETTE	237
9	(NO CROSS EXAMINATION)	
10		
11	STATE RESTS -- PAGE 245	
12		
13	JOHN BENDARIAN BONNER (DW)	
14	DIRECT EXAMINATION BY MR. SCHULTZ	251
15	CROSS EXAMINATION BY MR. BARNETTE	257
16	EVA BONNER LIPSCOMB (DW)	
17	DIRECT EXAMINATION BY MR. SCHULTZ	262
18	CROSS EXAMINATION BY MR. BARNETTE	265
19	REDIRECT EXAMINATION BY MR. SCHULTZ	271
20	KELVIN BONNER (DW)	
21	DIRECT EXAMINATION BY MR. SCHULTZ	271
22	CROSS EXAMINATION BY MR. BARNETTE	274
23		
24	DEFENSE RESTS -- PAGE 282	
25		

INDEX

(NOVEMBER 18, 2009)

WITNESSES

PAGE

CLOSING ARGUMENT BY MR. SCHULTZ -- PAGE 282

FINAL ARGUMENT BY MR. BARNETTE -- PAGE 293

COURT'S JURY INSTRUCTIONS -- PAGE 299

JURY VERDICT -- PAGE 330

SENTENCING -- PAGE 336

REPORTER'S CERTIFICATION PAGE -- PAGE 338

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-1	PHOTOGRAPH		243
4	S-2	PHOTOGRAPH		243
5	S-3	PHOTOGRAPH		243
6	S-4	PHOTOGRAPH		243
7	S-5	PHOTOGRAPH		243
8	S-6	PHOTOGRAPH		243
9	S-7	PHOTOGRAPH		243
10	S-8	PHOTOGRAPH		243
11	S-9	PHOTOGRAPH		243
12	S-10	PHOTOGRAPH		243
13	S-11	PHOTOGRAPH		243
14	S-12	PHOTOGRAPH		81
15	S-13	PHOTOGRAPH		81
16	S-13	PHOTOGRAPH		81
17	S-14	PHOTOGRAPH		81
18	S-15	PHOTOGRAPH		81
19	S-16	PHOTOGRAPH		81
20	S-17	PHOTOGRAPH		81
21	S-18	PHOTOGRAPH		81
22	S-19	PHOTOGRAPH		81
23	S-20	PHOTOGRAPH		81
24	S-21	PHOTOGRAPH		81
25	S-22	PHOTOGRAPH		81

EXHIBITS				
	NO.	DESCRIPTION	ID.	EV.
1				
2				
3	S-23	PHOTOGRAPH		81
4	S-24	PHOTOGRAPH		81
5	S-25	PHOTOGRAPH		81
6	S-26	PHOTOGRAPH		81
7	S-27	PHOTOGRAPH		81
8	S-28	PHOTOGRAPH		81
9	S-29	PHOTOGRAPH		81
10	S-30	PHOTOGRAPH		81
11	S-31	PHOTOGRAPH		81
12	S-32	PHOTOGRAPH		81
13	S-33	PHOTOGRAPH		81
14	S-34	PHOTOGRAPH		81
15	S-35	PHOTOGRAPH		81
16	S-36	PHOTOGRAPH		81
17	S-37	PHOTOGRAPH		162
18	S-38	PHOTOGRAPH		162
19	S-39	PHOTOGRAPH		162
20	S-40	PHOTOGRAPH		162
21	S-41	PHOTOGRAPH		162
22	S-42	PHOTOGRAPH		162
23	S-43	VIDEO		94
24	S-44	PHOTOGRAPH		95
25	S-45	PHOTOGRAPH		95

1		EXHIBITS		
2	NO.	DESCRIPTION	ID.	EV.
3	S-46	PHOTOGRAPH		95
4	S-47	PHOTOGRAPH		95
5	S-48	PHOTOGRAPH		95
6	S-49	PHOTOGRAPH		95
7	S-50	PHOTOGRAPH		95
8	S-51	PHOTOGRAPH		95
9	S-52	PHOTOGRAPH		95 —
10	S-53	PHOTOGRAPH		95
11	S-54	PHOTOGRAPH		84
12	S-55	PHOTOGRAPH		84
13	S-56	PHOTOGRAPH		84
14	S-57	FINGERPRINTS		108
15	S-58	CREDIT CARD		109
16	S-59	PHOTOGRAPH		109
17	S-60	PHOTOGRAPH		109
18	S-61	AERIAL VIEW OF CRIME SCENE		79
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, NOVEMBER 18, 2009)

2 THE COURT: All right. Any matters we need to
3 address before the jury is brought in?

4 MR. BARNETTE: None from the State, Your Honor.

5 MR. SCHULTZ: None from the defense, Your Honor.

6 THE COURT: All right, bring them in.

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

9 THE COURT: Good morning, ladies and gentlemen.
10 We are going to continue with the State's presentation of
11 evidence this morning.

12 Mr. Barnette.

13 MR. BARNETTE: Thank you.

14 May it please the court, I would like to call
15 Billy Rodgers to the stand.

16 BILLY RODGERS, having been first duly sworn,
17 testified as follows:

18 DIRECT EXAMINATION BY MR. BARNETTE:

19 Q. Mr. Rodgers, I think Madam Clerk told you too, but I'm
20 going to tell you again, make sure you raise your voice up
21 there so we can hear you in the back row, okay?

22 A. Okay.

23 Q. Give me your full name for the record, please?

24 A. Billy Antonio Rodgers.

25 Q. And where do you live at, sir?

- 1 A. [REDACTED].
- 2 Q. And who lives with you there, sir?
- 3 A. My mother and my father.
- 4 Q. And who are they are?
- 5 A. Cheryl Rodgers and Billy Rodgers.
- 6 Q. And how old are you, sir?
- 7 A. Twenty.
- 8 Q. Did you go to Gaffney High School?
- 9 A. Yes, sir.
- 10 Q. And did you graduate from there?
- 11 A. No, sir.
- 12 Q. Were you still in school at the time this happened?
- 13 A. No, sir.
- 14 Q. Did you play football there?
- 15 A. Yes, sir.
- 16 Q. Are you presently working on your GED?
- 17 A. Yes, sir.
- 18 Q. Back on April 1st, 2008, or April 2nd, 2008, did you go
- 19 to over to John Bonner's house?
- 20 A. Yes, sir.
- 21 Q. And who did you go with?
- 22 A. Kendrick Tate and Terry Littlejohn.
- 23 Q. And when you got over there, who else was there, sir?
- 24 A. Josh Manning, Labrontae Agnew, John Bonner, Robert
- 25 Wilson and Kwame Douglas.

1 Q. And where did John Bonner live at? Was it somewhere on
2 the west side?
3 A. Yeah. I don't know -- I don't know the address.
4 Q. Do you know where the house is?
5 A. Yes, sir.
6 Q. When y'all got there, what did y'all talk about?
7 A. Now, when me -- when me, Kendrick and Terry got there,
8 they were coming out of the house to get in the car. We
9 already talked about it. Me and Bonner had talked about it
10 a week before what we was going to do.
11 Q. So you had talked to Bonner a week before?
12 A. Yes, sir.
13 Q. And what did y'all discuss then the week before?
14 A. That we was just supposed to go to the house and wait
15 for them to come out and grab the money, the money bag, and
16 take off running.
17 Q. So when y'all go to the house, is that what y'all
18 decided to do?
19 A. When we what?
20 Q. When y'all got to the house, is that what everybody
21 decided to do?
22 A. Yes, sir.
23 Q. So did y'all go -- where did y'all go after that?
24 A. We went to Huntington Square Apartments.
25 Q. And who drove over there?

- 1 A. Robert Wilson and Kendrick Tate.
- 2 Q. When y'all got there, what happened then?
- 3 A. Everybody went -- everybody went to behind the --
- 4 everybody went to the behind the house except Terry.
- 5 Littlejohn and Robert Wilson.
- 6 Q. When y'all went behind the house, tell the jury what
- 7 you saw what happened after that?
- 8 A. They came up -- they came up with the money. I mean,
- 9 they walked up, but they didn't have no money, so we sat out
- 10 there. And then we went back to the car. And when we went
- 11 back to the car, we sat out there. That's when we took off
- 12 our shoes took -- took off our socks and shoes and put our
- 13 socks on our hands. And we back over there and we were
- 14 planning to go in the house.
- 15 Q. Now, when you said they came out there, the man come
- 16 out with her?
- 17 A. Yes, sir.
- 18 Q. And did they have -- she didn't have the money then?
- 19 A. No, sir.
- 20 Q. Y'all went back to the cars and you put socks over your
- 21 hands and your shoes?
- 22 A. Yes, sir.
- 23 Q. And who stayed back in the car the second time when
- 24 y'all went back?
- 25 A. Robert Wilson and Terry Littlejohn.

1 Q. So six of y'all went over and what happened then?
2 A. That's when Manning went through the window and
3 unlocked the door. And he came back out and we sat out
4 there like thirty more minutes.
5 Q. Why did y'all wait thirty minutes out there?
6 A. We was waiting on her to go to sleep.
7 Q. So y'all thought she went back to sleep, but who went
8 in the house first?
9 A. Manning and Bonner.
10 Q. So Manning and Bonner went in first?
11 A. Yes, sir.
12 Q. And then who went in after them?
13 A. Agnew and Douglas.
14 Q. And it was you and Tate outside?
15 A. Yes, sir.
16 Q. Did you go in afterwards?
17 A. Yes, sir.
18 Q. Why did you go in afterwards?
19 A. After I heard the gun shot, I went in.
20 Q. And when you went in the house, what did you see?
21 A. I seen -- I seen her, but they shut the door. When I
22 went in the house I started looking for money.
23 Q. Did you start pulling stuff out?
24 A. I started pulling stuff out.
25 Q. And was she screaming while you were doing that?

1 A. Yes, sir.

2 Q. After awhile as you were looking through the house and
3 everything was there some money found?

4 A. Douglas grabbed some money from her pocketbook.

5 Q. Who got the key?

6 A. Bonner. Bonner and Agnew.

7 Q. Where did they go?

8 A. To the store.

9 Q. Did you go back outside after that?

10 A. Yes, sir.

11 Q. As you was outside, what happened then?

12 A. Then the alarm went off at the store. And by that time
13 Bonner and Agnew came out and we all took off running.

14 Q. Did they have money?

15 A. Yes, sir.

16 Q. How was the money packaged or whatever? How were they
17 holding the money? I mean, were they just grabbing it,
18 or --

19 A. I don't know how -- I don't know how they had the
20 money, but we just got to the car. When we got --

21 Q. When you got to the car, what did you see?

22 A. I seen the money then.

23 Q. Who had it?

24 A. Bonner and Agnew.

25 Q. So where did y'all go after that?

1 A. We went to a trailer park and then we went to Ryan's
2 Apartments.

3 Q. Did y'all split the money up?

4 A. Yes, sir.

5 Q. How much did you get?

6 A. 500.

7 Q. After that where did you go?

8 A. I went home.

9 Q. Who took you home?

10 A. Kendrick Tate.

11 Q. Let me show you a picture real quick. Let me show you
12 State Exhibit 47. Can you see that, sir, from where you are
13 at?

14 A. Yes, sir.

15 Q. The fellow with the fur on his coat and everything, who
16 was that?

17 A. Bonner.

18 Q. And who was the fellow that had the multi-colored coat
19 on?

20 A. Agnew.

21 Q. Do you have any prior record? Did you have a record
22 before this happened, sir?

23 A. No, sir.

24 Q. When the police talked to you the first time, why
25 didn't you tell the truth?

1 A. I ain't -- I was scared. I didn't want to get in
2 trouble --

3 Q. And --

4 A. -- for what I done.

5 Q. Did they later come back to you and confront you and
6 did you tell them what happened?

7 A. Yes, sir.

8 Q. You have pled to all your charges, is that right?

9 A. Yes, sir.

10 Q. And you realize that you are facing a possible life
11 sentence?

12 A. Yes, sir.

13 Q. And the only thing that you have been told is that the
14 judge would be told that you cooperated?

15 A. Yes, sir.

16 Q. But you haven't been promised anything?

17 A. No, sir.

18 Q. You don't know what your sentence is going to be, do
19 you?

20 A. No, sir.

21 Q. Obviously you are hoping for the best?

22 A. Yes, sir.

23 Q. Is that why you are testifying here today, or are you
24 telling the truth here today?

25 A. I'm telling the truth.

1 Q. Did you own up to what you did?

2 A. Yes, sir.

3 Q. Please answer any questions this Mr. Schultz has for
4 you.

5 MR. SCHULTZ: Thank you, Your Honor. May it
6 please the court.

7 CROSS EXAMINATION BY MR. SCHULTZ:

8 Q. Your name is Billy Rodgers?

9 A. Yes, sir.

10 Q. Billy, you don't have a criminal record, right?

11 A. No, sir.

12 Q. Okay. And you know that difference between a lie and
13 truth, right?

14 A. Yes, sir.

15 Q. What is a lie?

16 A. What I told the first time.

17 Q. Okay. You told -- the first thing you told a lie to
18 the police, right?

19 A. Yes, sir.

20 Q. Okay. And, in fact, you told the police that you don't
21 know anything about this stuff?

22 A. Yes.

23 Q. Right.

24 And you told the police that you had nothing to do with
25 it, correct?

1 A. Yes, sir.

2 Q. Okay. And then again you said to the police right
3 after you left you had nothing to do with it, correct?

4 A. Yes, sir.

5 Q. All right. And then you came back to the police. Then
6 you told a different story, right?

7 A. Yes, sir.

8 Q. Okay. You said that you didn't go in the convenience
9 store, right?

10 A. Uh-huh.

11 Q. Okay. And you just saw that picture up there, right?

12 A. Uh-huh.

13 Q. So you don't really --

14 THE COURT: Excuse me just a minute.

15 You have to answer yes or no. Don't say uh-huh.

16 BY MR. SCHULTZ:

17 Q. You don't really know what went on in the convenience
18 store, right?

19 A. No, sir.

20 Q. You never saw anybody come in there, right?

21 A. I seen them go in.

22 Q. You seen them go in, but you don't know what happened?

23 A. Uh-huh. No, sir, I don't know what happened when they
24 went in.

25 Q. And Kendrick or Kent Tate was a lookout, you said?

- 1 A. Yes, sir.
- 2 Q. And how much money did you say that you got?
- 3 A. \$500.
- 4 Q. \$500, okay.
- 5 Now, in your first statement to the police, you said
- 6 that was the truth, the whole truth, and nothing but the
- 7 truth, is that correct?
- 8 A. Sir?
- 9 Q. In your first statement to the police, you said that
- 10 was the truth, the whole truth, and nothing but the truth,
- 11 correct?
- 12 A. Yes, sir.
- 13 Q. Okay. That wasn't the truth, right?
- 14 A. No, sir.
- 15 Q. Right. You were lying?
- 16 A. Yes, sir.
- 17 Q. Okay. Now, you have already pled to this charge,
- 18 right?
- 19 A. Yes.
- 20 Q. To these charges, right?
- 21 A. Yes, sir.
- 22 Q. Do you know about the burglary first carries?
- 23 A. Yes, sir.
- 24 Q. What does it carry?
- 25 A. Fifteen to life, isn't it?

- 1 Q. Right.
- 2 Do you know what burglary second carries?
- 3 A. No, sir.
- 4 Q. Zero to fifteen.
- 5 Do you know what kidnapping carries?
- 6 A. No, sir.
- 7 Q. It carries zero to thirty.
- 8 And whatever time that you get, you got to do
- 9 eighty-five percent of that time, right?
- 10 A. Yes, sir.
- 11 Q. That's a whole lot of time for a young man like
- 12 yourself, isn't it?
- 13 A. Yes, sir.
- 14 Q. And you are going to do everything possible to avoid
- 15 that, right?
- 16 A. Sir?
- 17 Q. You are going to do anything and everything possible to
- 18 avoid that, right?
- 19 A. No, sir, because actually I'm came to tell the truth.
- 20 Q. But if you could, you would, right?
- 21 A. If I could, I would.
- 22 Q. Exactly. And that's why you are doing today, you are
- 23 trying to avoid that jail time, right?
- 24 A. No, sir, I came to tell the truth today.
- 25 Q. Oh, you don't -- you don't -- so you want to go to

1 jail?

2 A. I did the crime. If I got to go, I got to go.

3 Q. That's right. Okay.

4 But you are also cooperating with the State, right?

5 A. No, sir, I'm telling the truth.

6 Q. But you are cooperating with the State, right?

7 A. What do you mean by cooperating?

8 Q. You are the State's witness, right?

9 A. Yes, sir.

10 Q. You are testifying on their side, right?

11 A. Yes, sir.

12 Q. So you are cooperating with the State, right?

13 A. Yes, sir.

14 Q. In order to get a reduced time, right?

15 A. That's what I'm hoping for.

16 Q. That's what you are hoping for, exactly. And that's
17 why you are doing this today, right?

18 A. Yes, sir.

19 Q. Okay. Now, you don't have much of a criminal history,
20 do you?

21 A. No, sir.

22 Q. Okay. In fact, you don't have anything, right?

23 A. No, sir.

24 Q. Okay. And you know what kind of time that you are
25 looking at, right?

1 A. Yes, sir.

2 Q. And this is your first time going through this, isn't
3 it?

4 A. Yes, sir.

5 Q. And you just want to get back to your family, right?

6 A. Yes, sir.

7 Q. Do you have any kids?

8 A. Yes, sir.

9 Q. How many kids do you have?

10 A. One.

11 Q. One kid?

12 A. Yes.

13 Q. How old is that kid?

14 A. He's two.

15 Q. He's two?

16 A. (Shaking head yes)

17 Q. Okay. And you want to see your child grow up, right?

18 A. Yes, sir.

19 Q. And you know that you can't be a part of that child's
20 life if you go down the road, right?

21 A. Yes, sir.

22 Q. So you have an interest in here in coming today and
23 trying to avoid that life sentence, don't you?

24 A. Yes, sir.

25 Q. Right, exactly.

1 By cooperating with the State?

2 A. Yes, sir.

3 Q. So this right here, depending upon the outcome of this,
4 this could be the most important couple minutes of your
5 life, right?

6 A. Yes, sir.

7 Q. Okay. Because what you say up here will affect if you
8 get any jail time, right?

9 A. Sir?

10 Q. What you say up here, if you cooperate with the State,
11 which you are doing, that will affect what kind of time that
12 you get, right?

13 A. No, sir.

14 Q. Oh, it won't?

15 A. No, sir, because --

16 Q. Are you sure about that?

17 A. Repeat the question to me again.

18 Q. All right. Maybe I'll rephrase it.

19 Again, what are you hoping for out of this?

20 A. I'm hoping that the judge will take my honesty into
21 consideration.

22 Q. Your honesty into consideration?

23 A. Yes, sir.

24 Q. Okay. Now, today if you woke up this morning, you had
25 the option of not testifying, right?

1 A. Yes, sir.

2 Q. Okay. And what would have happened? Do you know what
3 would have happened if you would have decided not to
4 testify?

5 A. No, sir.

6 Q. You don't know?

7 A. No, sir..

8 Q. Okay. Let's take you back.

9 Do you remember pleading in front of Judge Hayes?

10 A. Yes, sir.

11 Q. And you admitted your involvement with this, right?

12 A. Yes, sir.

13 Q. Okay. Now, the judge did not sentence you yet, right?

14 A. No, sir.

15 Q. Okay. Do you know why that sentencing was withheld?

16 A. No, sir.

17 Q. You don't know?

18 A. No, sir.

19 Q. Okay. Could it have been that they were waiting to
20 hear whether you cooperated or not?

21 A. I guess so, yes, sir.

22 Q. You don't really know, right?

23 A. (Shaking head no).

24 Q. Could it have been?

25 A. It could have been, but I came to tell the truth.

1 Q. All right. We understand that, okay, but you lied
2 before, right?

3 A. Yes, sir.

4 Q. So you are lying then or you are lying now?

5 A. No, I ain't lying now.

6 Q. Okay. But you did lie, right?

7 A. Yes, sir.

8 Q. Okay. Now, let me rephrase the question again.

9 Now, you entered a plea in front of Judge Hayes, right?

10 MR. BARNETTE: Your Honor, I'm going to object. I
11 mean, we keep repeating his answers to the same questions
12 over and over again.

13 THE COURT: Sustained.

14 BY MR. SCHULTZ:

15 Q. If you chose not to cooperate today, do you know what
16 would have happened?

17 A. No, sir.

18 Q. Do you think it would be reasonable to say that you
19 would have gotten more jail time than less jail time, if you
20 did not cooperate?

21 MR. BARNETTE: I'm going to object; speculation.

22 THE COURT: He says he does not know.

23 MR. SCHULTZ: Okay.

24 BY MR. SCHULTZ:

25 Q. All right. So after all this happened -- you had a

1 cell phone, right?

2 A. Yes, sir.

3 Q. Okay. You could have called the police that night,
4 didn't you?

5 A. Yes, sir.

6 Q. And you chose not to, right?

7 A. Yes, sir.

8 Q. Okay. And then you went to the police when your name
9 got brought up in this and then you choose to tell a lie,
10 right?

11 A. Yes, sir.

12 Q. Okay.

13 MR. SCHULTZ: Beg the court's patience, Your
14 Honor.

15 (Off the record)

16 (Back on the record)

17 MR. SCHULTZ: That's all I have, Your Honor.

18 Thank you.

19 MR. BARNETTE: No further questions, Your Honor.

20 THE COURT: You may step down.

21 MR. BARNETTE: We would ask the witness be
22 excused, Your Honor.

23 THE COURT: You may be excused.

24 MR. BARNETTE: Your Honor, the State would call
25 our next witness, Ms. Darji.

1 THE COURT: Okay. Let me ask the jury to go to
2 your jury room for just a moment and I'll bring you back. I
3 have got one matter to address and I'll bring you back in
4 just a second.

5 (The following takes place outside the presence of
6 the jury panel)

7 THE COURT: This is the interpreter? You are?

8 THE INTERPRETER: My name is Pallav Raval.

9 MR. BARNETTE: Pallav Raval, R-A-V-A-L. First
10 name is P-A-L-A-V.

11 THE COURT: Pallav Raval?

12 THE INTERPRETER: Yes, sir.

13 THE COURT: All right. And you are a certified
14 court interpreter?

15 THE INTERPRETER: Yeah, interpreter.

16 THE COURT: And Madam Clerk, do you have his
17 credentials or his information?

18 THE CLERK: From Court Administration.

19 THE COURT: All right, you can swear him.

20 THE CLERK: Please raise your right hand.

21 Do you solemnly swear or affirm that the
22 translation that you make in this proceeding will be true
23 and accurate to the best of your ability and that you will
24 omit no part of the testimony or statements nor add to any
25 testimony or statements, so help you God?

1 THE INTERPRETER: Yeah, I do.

2 THE CLERK: Okay.

3 MR. BARNETTE: Thank you, Your Honor.

4 We do have the victim present, Your Honor, ready
5 to go, if the court is ready.

6 (Off the record)

7 (Back on the record)

8 MR. BARNETTE: Thank you, Your Honor.

9 THE COURT: All right. Bring the jury in, please.

10 (The following takes place in the presence of the
11 jury panel)

12 THE COURT: Ladies and gentlemen, the next witness
13 that's going to testify is not fluent in English and so
14 there will be a translator involved. The translator will be
15 asking the questions verbatim as they are asked by the
16 lawyers, asking the witness the questions verbatim, and he
17 will be translating her responses verbatim, for your
18 benefit.

19 If at any time for any reason you can't hear or
20 understand a question or a response, be sure that you let me
21 know, so that we can try to make other arrangements, because
22 obviously it's important that you hear every witness'
23 testimony. So I'm just letting you know ahead of time
24 that's what the situation is.

25 We are going to have an interpreter. The witness

1 will be on the witness stand answering questions, but will
2 not be responding in English. The interpreter will be
3 providing responses in English, and we will see. Hopefully
4 that will work out. Okay.

5 MR. BARNETTE: Thank you, Your Honor.

6 May it please the court, I would like to call Ms.
7 Darji to the stand, please.

8 DIPALI DARJI, having been first duly sworn,
9 testified as follows:

10 THE INTERPRETER: What she's going to tell is
11 she's going to tell the truth. That's what she said.

12 THE CLERK: Okay.

13 DIRECT EXAMINATION BY MR. BARNETTE:

14 Q. Ms. Darji, just concentrate on me, okay?

15 THE INTERPRETER: You can start now.

16 BY MR. BARNETTE:

17 Q. Give me your name, ma'am?

18 A. Dipali Darji.

19 Q. And where do you work at, ma'am?

20 THE INTERPRETER: She works in the store.

21 BY MR. BARNETTE:

22 Q. Is the Corner Store on Providence Road?

23 A. Yes.

24 Q. And back on April -- back on April 2nd, 2008, did you
25 live in the house beside the store?

1 THE INTERPRETER: She said yes.

2 Q. The day before, on April 1st, 2008, did you work until
3 midnight?

4 THE INTERPRETER: Up to twelve o'clock she said.

5 BY MR. BARNETTE:

6 Q. And who else was with you that night?

7 A. Milseli Patel was there.

8 Q. When y'all closed the store, did he walk her behind
9 your house and get in his car with you?

10 A. He went in his car.

11 Q. And did you go in your house?

12 A. Yes.

13 Q. When you went inside, did you cook anything or fix any
14 food?

15 A. No.

16 Q. Did you eat anything?

17 THE INTERPRETER: Yeah, she ate.

18 BY MR. BARNETTE:

19 Q. Did you watch a little bit of TV?

20 THE INTERPRETER: Yeah, she was eating. She saw
21 the TV.

22 BY MR. BARNETTE:

23 Q. When you went to bed, did you lock your bedroom door?

24 A. Yes.

25 Q. After you went to sleep, did somebody come in your

1 door?

2 THE INTERPRETER: She said that, you know, 1:30
3 she went to bed and around two o'clock somebody came in and
4 opened the door, you know, and showed her the gun.

5 BY MR. BARNETTE:

6 Q. They shot the gun?

7 THE INTERPRETER: Yes, he fired the gun and show
8 it to her here.

9 BY MR. BARNETTE:

10 Q. What did they start doing to you then?

11 THE INTERPRETER: As soon as they came in, one guy
12 showed her the gun over here and the other guy started, you
13 know, throwing stuff here and there and breaking it up and
14 they started beating her.

15 MR. BARNETTE: What were they asking her for?

16 THE INTERPRETER: They were asking for money and
17 they told her do you have any of that stuff, passport and
18 all that stuff.

19 MR. BARNETTE: How many men did she see come in
20 her room or her house?

21 THE INTERPRETER: Can you say again?

22 MR. BARNETTE: I'm sorry. How many people did she
23 see come into her house or her room?

24 THE INTERPRETER: First two of them, they come in
25 and then another two came in. She saw totaling four people.

1 MR. BARNETTE: What else -- did they take her
2 clothes off?

3 THE INTERPRETER: Yeah, they took the night dress,
4 you know, the bottom part of it and they took it out of
5 hers, from her body.

6 MR. BARNETTE: After they did that, did she tell
7 them where the key was?

8 THE COURT: Excuse me just a minute. Now, you
9 have to direct your questions to the witness, not to the
10 interpreter.

11 MR. BARNETTE: I'm sorry. I apologize.

12 BY MR. BARNETTE:

13 Q. Did they -- after that did you tell them where the key
14 was?

15 THE INTERPRETER: The key was lying on the table,
16 so they were asking for the key and they found it. And then
17 they asked for the, you know, which of the keys. She showed
18 her which of the keys, you know. It was -- she showed them
19 a bunch of keys, the main keys.

20 MR. BARNETTE: Before she showed them the keys --

21 BY MR. BARNETTE:

22 Q. Before you showed them the keys, did you tell them that
23 you wanted to put your pants back on, or your dress back on?

24 THE INTERPRETER: Stop.

25 They were beating her and then she -- they wanted

1 to take her with them, her to the store, and she said "I
2 cannot come." So she went in the -- she said "I want to wet
3 the clothes." She went and changed her clothes she put
4 herself. You know, they are wanting to go in and show her
5 how to open the safe.

6 BY MR. BARNETTE:

7 Q. Before you put your pants on, did they take you over a
8 chair before that?

9 THE INTERPRETER: You are talking about some
10 chair?

11 BY MR. BARNETTE:

12 Q. Before all that happened, did they take you -- did they
13 take you out OF the room and put you over a chair or lean
14 you over the chair, or a couch, or sofa?

15 A. (No response).

16 MR. BARNETTE: I'll tell you what. I'll withdraw
17 the question.

18 BY MR. BARNETTE:

19 Q. After they got the keys, did two of them leave?

20 THE INTERPRETER: After she showed them the key,
21 you know, two of them, they went out, you know, out of the
22 house, and one was only heard from next, and the other one
23 was standing at her. That's what she wants to tell.

24 BY MR. BARNETTE:

25 Q. As you was in the house, did you hear the store alarm

1 go off?

2 A. Yes.

3 Q. During that time did you try to get away from them?

4 THE INTERPRETER: When -- when the alarm went off,
5 after that two more guys, they came back, and the guy who
6 was standing nearby her, one of them, he saw them and then
7 he ran, and the other guy who was holding her, he also ran
8 outside.

9 BY MR. BARNETTE:

10 Q. Did you try to pick up a stick to defend yourself?

11 THE INTERPRETER: Can you repeat?

12 BY MR. BARNETTE:

13 Q. Did you pick up a stick to try to defend yourself when
14 you got so mad?

15 THE INTERPRETER: There was holding a piece of
16 wood behind the door. She wanted to grab it and beat her,
17 but the guy came to know that she is going to do that, so he
18 started beating her over here.

19 BY MR. BARNETTE:

20 Q. After they left then what did you do?

21 THE INTERPRETER: She ran towards the store.

22 MR. BARNETTE: Then what did she do?

23 THE INTERPRETER: She was very upset and, you
24 know, she went to the neighborhood to call, you know, for
25 the help.

1 BY MR. BARNETTE:

2 Q. Were you taken to the hospital, ma'am?

3 A. Yes.

4 Q. And did you stay in the hospital overnight?

5 THE INTERPRETER: Two days she was there in the
6 hospital.

7 BY MR. BARNETTE:

8 Q. Was the men wearing masks and gloves that came in your
9 house, or something over their hands?

10 A. Yes. They were wearing a lot of stuff and they had put
11 their handkerchief over here and their hand gloves. They
12 all had jackets on also.

13 Q. In the hospital did they takes pictures of you, ma'am?

14 A. Yes.

15 Q. And do these pictures fairly represent what your
16 injuries were?

17 A. Yes.

18 Q. Let me show you what's been marked 1 through 11. Do
19 these pictures fairly represent what your injuries were,
20 ma'am?

21 A. Yes.

22 MR. BARNETTE: Your Honor, I would like to move
23 these into evidence at this time.

24 MR. SCHULTZ: No objection, Your Honor.

25 THE COURT: They are admitted.

1 MR. BARNETTE: Your Honor, may I publish these to
2 the jury.

3 Tell her she don't have to look at them. She can
4 look down, if she wants to.

5 MR. BARNETTE: State Exhibit No. 1.

6 State Exhibit No. 2.

7 State Exhibit No. 3.

8 State Exhibit No. 4.

9 State Exhibit No. 6.

10 State Exhibit No. 7.

11 State Exhibit No. 8.

12 State Exhibit No. 9.

13 State Exhibit No. 10.

14 State Exhibit No. 11.

15 BY MR. BARNETTE:

16 Q. Ma'am, if you would, please answer any questions that
17 the defense attorney may have for you.

18 THE COURT: Did you tell her? Did you tell her
19 regard what he just said?

20 THE INTERPRETER: Yes, sir.

21 What was the last sentence that you spoke.

22 THE COURT: Mr. Barnette, you need to state that
23 again.

24 BY MR. BARNETTE:

25 Q. If you would, ma'am, please answer any questions that

1 the defense attorney may have for you.

2 THE INTERPRETER: Yes, she agreed.

3 MR. SCHULTZ: Ma'am, I have no questions for you.

4 THE COURT: All right, you may step down. Thank
5 you.

6 MR. BARNETTE: The State would rest, Your Honor.

7 THE COURT: All right, ladies and gentlemen, that
8 is all the testimony or other evidence to be offered by the
9 State, at least in their case in chief. Before we go
10 further I have got some matters I'll need to address with
11 the lawyers, so I'll ask you to please go to your jury room.
12 Do not, however, yet discuss the case in any fashion. I
13 will bring you back shortly to continue.

14 (The following takes place outside the presence of
15 the jury panel)

16 THE COURT: All right. Any matters we need to
17 address before we go further?

18 MR. SCHULTZ: Your Honor, at this time I would
19 like to move for a directed verdict. We have heard
20 testimony over the last two days from approximately -- I
21 count one, two, three, four, five, six, seven, eight,
22 nine -- nine witnesses here. Nobody -- the cops cannot
23 establish any forensic evidence whatsoever, Your Honor,
24 linking my client back to this crime.

25 As for the five testifying cooperating witnesses

1 with the State, they have proven that they are indeed very
2 bias. They are trying to get the time cut. They have
3 already entered pleas in front of Judge Hayes, and what they
4 are trying to do is they are trying to get their time cut,
5 obviously, so they are very biased in this.

6 Other than that, there is nothing possibly linking
7 my client back to this, so I would move for a directed
8 verdict at this time as a matter of law.

9 Thank you.

10 THE COURT: All right. Well, credibility is a
11 matter for the jury to determine.

12 The testimony in the case does establish, if found
13 to be credible, each of the essential elements of each of
14 the crimes that have been alleged against this defendant,
15 and, therefore, your motion for a directed verdict is
16 denied.

17 MR. SCHULTZ: Thank you, Your Honor.

18 THE COURT: What else do we need to address?

19 MR. SCHULTZ: Your Honor, I would request a very
20 short recess to talk to my client back there. He has not
21 made up his mind whether he wants to testify or not. I
22 would request a recess of approximately twenty minutes.

23 THE COURT: Well, I can give you fifteen, maybe.

24 MR. SCHULTZ: Yes, sir.

25 THE COURT: I mean, he's had plenty of time to

1 think about that. He may need to discuss it with you
2 further, but, I mean, that should have been done long before
3 now and not until then.

4 Mr. Bonner, do you understand that you were the
5 one who is charged with these crimes, and because you are
6 charged in the case and the case is now being tried, you
7 have an absolute right to remain silent. And that just
8 means that nobody can make you testify. No one can require
9 that you provide any statement or answer any questions as it
10 the relates to these charges for which you are now standing
11 trial.

12 You have an absolute right to remain silent and to
13 require the State to present sufficient evidence in this
14 courtroom to satisfy this jury beyond a reasonable doubt of
15 your guilt, and you never have to assist the State in their
16 effort to prove your guilt by you taking the witness stand
17 and answering questions that might tend to prove your own
18 guilt.

19 If you elect to testify in this case, you will
20 have to answer not just your lawyer's questions, but you
21 will also have to answer any questions that are asked by the
22 prosecutor, so far as are relevant, if the responses to
23 those questions might tend to prove you guilty of one or
24 more of the crimes that they claim that you committed.

25 And if you elect not to testify in this case, I

1 will instruct the jury that they can't hold that against
2 you, they can't consider it in any fashion, nor allow that
3 fact to enter into their deliberations.

4 Have you and Mr. Schultz discussed the advantages
5 and disadvantages of testifying, as well as not testifying?

6 THE DEFENDANT: No, sir.

7 THE COURT: You haven't discussed that?

8 THE DEFENDANT: No, sir.

9 (Off the record)

10 (Back on the record)

11 THE DEFENDANT: Oh, yes, sir.

12 THE COURT: You have discussed it?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: All right. And did you appreciate
15 what the advantages and disadvantages are to taking the
16 witness stand, as well as not taking the witness stand?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you also understand that only you
19 can make the decision as to whether or not you will testify?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: You may seek and accept advice from
22 your lawyer. You may seek and accept advice from any other
23 person, family members, or whomever, but the person that has
24 to make the decision is you, because you have to live with
25 that decision. And you can't later, after making the

1 decision, if you don't like the way the verdict goes, you
2 can't blame it on somebody else, because it's your choice.
3 It's no one else's choice. You get to make that decision.
4 Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: All right. We are going to take a
7 fifteen minute recess. We will let you discuss it with your
8 lawyer further and then we will come back. You will have to
9 let me know as to whether or not that you want to testify
10 and/or call other witnesses.

11 MR. SCHULTZ: Thank you, Your Honor.

12 THE COURT: Court is recess for fifteen minutes.

13 (Whereupon, proceedings were recessed)

14 (Whereupon, proceedings were reconvened).

15 THE COURT: All right, Mr. Schultz, have you
16 talked to your client about his right to testify or not?

17 MR. SCHULTZ: I have, Your Honor.

18 THE COURT: Has he indicated to you a preference?

19 MR. SCHULTZ: Yes, he has, Your Honor.

20 THE COURT: What has he indicated to you?

21 MR. SCHULTZ: He has indicated that he wishes to
22 testify.

23 THE COURT: All right. Is that true, Mr. Bonner,
24 you wish to testify? You made that decision on your own?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay. Are you satisfied with the
2 decision that you made?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Anybody force you into it?

5 THE DEFENDANT: No, sir.

6 THE COURT: Okay. All right.

7 MR. BARNETTE: Your Honor, there is one matter
8 since he's testifying, he's been convicted of attempted
9 trafficking in cocaine in North Carolina, Your Honor. That
10 is a felony. And obviously I would like to ask him to
11 impeach him on that.

12 THE COURT: Does he admit or deny the conviction?

13 MR. SCHULTZ: He admits that conviction, Your
14 Honor.

15 THE COURT: He admits it?

16 MR. SCHULTZ: Yes, sir.

17 THE COURT: All right. Solicitor, you will be
18 able to inquire if the defendant has been convicted of a
19 crime classified as a felony for which he could have
20 received more than one year in jail.

21 MR. BARNETTE: Thank you, Your Honor.

22 THE COURT: Do you know what the -- I assume it
23 carries more than one year in jail.

24 MR. BARNETTE: They comply that as twelve years,
25 but I assume it's more than one year, since it's a felony.

1 THE COURT: What happened to the case?

2 THE DEFENDANT: Time served.

3 MR. BARNETTE: They gave him time served on it.

4 THE COURT: How much time did you serve?

5 THE DEFENDANT: Twelve, thirteen months time
6 served.

7 MR. BARNETTE: He served 397 days.

8 THE COURT: So he served more than a year?

9 MR. BARNETTE: Yes, Your Honor.

10 THE COURT: All right. Bring the jury in.

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

13 THE COURT: All right, ladies and gentlemen, as
14 you know, the State has completed their presentation of
15 evidence, at least in their case in chief, so we will now
16 proceed with any to be offered by the defense.

17 Mr. Schultz.

18 MR. SCHULTZ: Thank you, Your Honor. May it
19 please the court.

20 The defense would like to call John Bonner to the
21 stand.

22 JOHN BENDARIAN BONNER, having been first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION BY MR. SCHULTZ:

25 Q. Good morning, Mr. Bonner. How are you?

- 1 A. I'm all right. How are you?
- 2 Q. Good.
- 3 Please state your name for the record.
- 4 A. John Bendarian Bonner.
- 5 Q. And how old are you, Mr. Bonner?
- 6 A. Eighteen.
- 7 Q. All right. Where did you go to school?
- 8 A. Gaffney High.
- 9 Q. All right. Did you complete high school or --
- 10 A. No, sir, I didn't.
- 11 Q. Okay. How far did you go in school?
- 12 A. 11th grade.
- 13 Q. Do you have a GED or anything?
- 14 A. No. Currently in the process of doing that.
- 15 Q. Okay. Now, Mr. Bonner, do you remember where you were
- 16 on the night of April 1st, in the early morning hours of
- 17 April 2nd?
- 18 A. Yes, sir, I do. I was at home.
- 19 Q. Okay. And April 1st you were at home, right?
- 20 A. Yes, sir.
- 21 Q. And April 2nd you were at home, right?
- 22 A. Yes, sir.
- 23 Q. And where was home for you?
- 24 A. On [REDACTED].
- 25 Q. [REDACTED] or [REDACTED]?

1 A. [REDACTED].
2 Q. [REDACTED]. All right.
3 When did you get to bed that night?
4 A. I went to bed around 10:30, eleven o'clock.
5 Q. So April 1st you went to bed, right?
6 A. Yes, sir.
7 Q. Okay. When did you wake up the following day?
8 A. I woke up around -- I woke up around 2:00, 2:30. I had
9 a call. I woke up around 2:00, 2:30 that morning. I had a
10 call from Mr. Fred Douglas. He told me to come outside, he
11 needed to talk to me.
12 Q. Okay. And what did Mr. Douglas want to talk to you
13 about?
14 A. He wanted to talk to me about, he said "bro," he said
15 wanted to go rob somebody, go rob somebody.
16 Q. What did you say in response to that?
17 A. I said "you are going to wake me up around 2:00, 2:30
18 for this?" That's what I said.
19 Q. And what did you do after that?
20 A. Then they talked a little bit more about it. My momma
21 came to the door seeing who was outside, and I walked in the
22 house a short little shortly after that.
23 Q. All right. And you -- when you went in the house, did
24 you stay there for the entire night?
25 A. Yes, sir, I did.

1 Q. Who were these guys that were outside there?

2 A. The only person that was out there was Fred, Billy
3 Rodgers and Kendrick Tate.

4 Q. Okay. Was Joshua Manning there?

5 A. No, he wasn't there at the time.

6 Q. Okay. When did Joshua Manning show up?

7 A. He didn't show up that night.

8 Q. Okay. All right. So your testimony is that -- how
9 many people were there?

10 A. Them three.

11 Q. Three people?

12 A. They showed up around my house about 2:00, 2:30 that
13 morning.

14 Q. Okay. And then you went right back to bed, right?

15 A. Yes, sir, I did.

16 Q. Do you know what they did that night?

17 A. No, sir, I didn't. I guess they committed this crime.

18 Q. Why do you think that they would make up these lies
19 about you here today?

20 A. I mean, why wouldn't I? I guess it was part of their
21 plea deal for a time, because -- I mean, I don't know. I
22 guess they had something against me. That's all.

23 Q. What do you think they had against you?

24 A. I mean, I truly don't know. I don't know.

25 Q. Okay. But you had nothing to do with it, right?

1 A. No, sir, I didn't.

2 Q. Okay. Why do you think your name was brought up in
3 this?

4 A. I mean, I guess the screws felt like I had something to
5 do with it and they were running around hollering my name,
6 and I have guess the intent was heard. I mean, I don't
7 know.

8 Q. Now, you are not under the influence of any drugs or
9 anything, right?

10 A. No, sir, I'm not.

11 Q. Okay. And everything that you have told me today is
12 the truth, right?

13 A. Absolutely.

14 Q. And everything that your co-defendants said are lies,
15 right?

16 A. Most definitely.

17 Q. Do you have a criminal history?

18 A. No, sir, I don't, but there is one felony.

19 Q. And where was that felony?

20 A. In North Carolina.

21 Q. What was it for?

22 A. Trafficking cocaine.

23 Q. And you accepted responsibility for that, right?

24 A. Yes, sir, I did.

25 Q. Would you accept responsibility for something that you

1 didn't do?

2 A. No, sir, I wouldn't.

3 Q. Like this, right?

4 A. Yes, sir.

5 Q. When did you first hear about this after this happened?

6 A. I mean, I heard about it the next day that it was done,
7 but I didn't know who did it. I mean, then I started seeing
8 them. They were acting funny, spending a lot of money, so I
9 started putting two and two together, and then the next day
10 the detectives come questioning me about it, about the
11 crime.

12 Q. What did the detectives say to you?

13 A. They asked me where I was at that morning.

14 MR. BARNETTE: Your Honor, I'm going to object at
15 this point. It's hearsay whatever questions he was asked
16 about.

17 THE COURT: Overruled.

18 BY MR. SCHULTZ:

19 Q. You may answer the question.

20 A. Yeah, they wanted -- they asked me where I was at early
21 in that morning.

22 Q. And did you tell them the same thing that you are
23 telling me today?

24 A. Yes, sir, I told them I was at home and I didn't know
25 nothing about that crime.

1 Q. And you heard your co-defendants testify here today?

2 A. Yes, sir, I did.

3 Q. And yesterday, right?

4 A. Yes, sir, I did.

5 Q. And they kept changing their story, right?

6 A. Yes, sir, they did.

7 Q. But you never changed your story?

8 A. No, sir, I didn't.

9 Q. So is there anything else you would like the jury to
10 know?

11 A. I mean, no. I mean, I'm innocent.

12 MR. BARNETTE: I'm going to object to that
13 question.

14 THE COURT: Well, it's already been responded to.

15 MR. SCHULTZ: That's all I have, Your Honor.

16 BY MR. SCHULTZ:

17 Q. Please answer any questions that Mr. Barnette has.

18 A. Yes, sir.

19 MR. BARNETTE: May it please the court, Your
20 Honor?

21 THE COURT: Yes.

22 CROSS EXAMINATION BY MR. BARNETTE:

23 Q. Mr. Bonner, you have lived in Gaffney all your life?

24 A. Yes, sir, I did.

25 Q. You have lived all your life here, haven't you?

- 1 A. Yes, sir.
- 2 Q. Well, why did you run to North Carolina then?
- 3 A. I didn't run.
- 4 Q. Where did they have to go get you at, sir?
- 5 A. I was in North Carolina. I'm free to leave the state.
- 6 Q. You are free to leave the state, but you lived here all
- 7 your life, and how long was you up in North Carolina?
- 8 A. A week.
- 9 Q. What was you doing up there for a week?
- 10 A. Sitting around chilling.
- 11 Q. You knew they were looking for you. You was hiding
- 12 out, weren't you?
- 13 A. They wasn't looking for me when I left.
- 14 Q. You had nothing to hide, why did you go to North
- 15 Carolina? You have lived here all your life.
- 16 A. I was not hiding. I was in North Carolina with a
- 17 friend.
- 18 Q. Who is that friend?
- 19 A. A girl.
- 20 Q. Who is the friend?
- 21 A. A girl, Evelyn Nicole Gaper.
- 22 Q. You were up there for a week. Where did you stay up
- 23 there for a week?
- 24 A. With her.
- 25 Q. With her?

- 1 A. Yes, sir, I did.
- 2 Q. Where is she from?
- 3 A. Concord.
- 4 Q. You stayed up there a week with her, huh?
- 5 A. Yes, sir.
- 6 Q. You didn't tell anybody where you was at or anything,
- 7 did you?
- 8 A. Yes, sir, I did.
- 9 Q. It's true the police had to bring you back, didn't
- 10 they?
- 11 A. Yes, sir, they did.
- 12 Q. You say Fred Douglas called you on your cell phone?
- 13 A. Yes, sir, he did.
- 14 Q. You got the cellphones records with you?
- 15 A. Not with me. It was in my motion of discovery.
- 16 Q. Okay. So you don't know these guys then, any of these
- 17 guys that testified yesterday?
- 18 A. I know them.
- 19 Q. You hung with them all the time, haven't you?
- 20 A. No, not all of them.
- 21 Q. You have been in the Corner Store before?
- 22 A. Which Corner Store?
- 23 Q. Which Corner Store?
- 24 A. There's a lot of Corner Stores. Which one?
- 25 Q. The one we have been talking about.

1 A. Yes, sir, I have.

2 Q. How many times have you been in that store?

3 A. I don't know.

4 Q. You know the lady that testified?

5 A. I don't know her. I seen her.

6 Q. Yeah.

7 Your testimony is that you went to sleep at 10:30 or

8 11:00 that evening?

9 A. Yes, sir, I did.

10 Q. What else had you done that day?

11 A. I just sat around the house with my mom and my brother,

12 my oldest brother, because both of them were sick. My

13 brother had mental -- mental disabled and was diagnosed with

14 leukemia, and my momma had back problems and was out a lot

15 on the medication.

16 Q. Did you work?

17 A. No, sir, I didn't. I did around the neighborhood work.

18 Q. Oh, you worked in the neighborhood then?

19 A. Yes, sir.

20 Q. Did you earn a paycheck?

21 A. No, sir, I ain't.

22 Q. You did this work, did you earn cash?

23 A. Yes, sir, I had.

24 Q. On a cash basis, isn't it?

25 A. Yes, sir. Cutting grass, raking leaves, stuff like

1 that.

2 Q. You have been convicted, haven't you, of a felony?

3 A. Yes, sir, I had.

4 Q. Isn't it true that you had been in that store that
5 night of April 1st to April 2nd?

6 A. No, sir, I was not.

7 Q. Why would they call you?

8 A. I don't know.

9 Q. Why would they call you?

10 A. I don't know. I don't know why would they call me?
11 You ask them that.

12 Q. We did and they told us.

13 Thank you.

14 A. They told you a lie.

15 MR. BARNETTE: No further questions, Your Honor.

16 MR. SCHULTZ: No redirect, Your Honor.

17 THE COURT: You may step down.

18 MR. SCHULTZ: Beg the court's patience, Your
19 Honor.

20 (Off the record)

21 (Back on the record)

22 MR. SCHULTZ: Your Honor, could we approach.

23 THE COURT: Yes.

24 (Whereupon, the lawyers approached the bench for
25 an off-the-record discussion)

1 MR. SCHULTZ: Your Honor, for the defense, the
2 next witness, we would call Eva Bonner to the stand.

3 EVA BONNER LIPSCOMB, having been first duly sworn,
4 testified as follows:

5 DIRECT EXAMINATION BY MR. SCHULTZ:

6 Q. How are you this morning, Ms. Bonner?

7 A. Fine.

8 Q. Good. Could you please state your name for the record?

9 A. Eva Bonner Lipscomb.

10 Q. And do you know my client Mr. Bonner?

11 A. Yes.

12 Q. How do you know him?

13 A. He's my son.

14 Q. Okay. And right now where do you live?

15 A. [REDACTED] -- excuse me. Walking up them steps got me.

16 [REDACTED], Gaffney, South Carolina.

17 Q. Okay. Now, that's a different address than where you
18 lived in April of 2008, right?

19 A. Yes.

20 Q. Okay. Where did you live in April of 2008?

21 A. [REDACTED].

22 Q. And who lived in that house with you?

23 A. John Bonner, Kelvin Bonner, Tony Wilson.

24 Q. Okay. All right. So there was, I guess --

25 A. Three -- yeah.

1 Q. Four people, including yourself, right?

2 A. Yes.

3 Q. Okay. And how long have you lived there for?

4 A. Probably a year.

5 Q. Okay. Were you renting that house?

6 A. Yes.

7 Q. Okay. All right.

8 So somebody else owned that house, right?

9 A. Yes.

10 Q. Okay. All right.

11 Do you remember the night of April 1st, the morning of

12 April 2nd?

13 A. Not too much.

14 Q. Okay. And April 2nd, do you remember if John was home?

15 A. Yes.

16 Q. Okay. And was he home for the entire night?

17 A. I don't know.

18 Q. Okay. Why don't you know?

19 A. Because I was asleep.

20 Q. Okay. Were you on any medication at that time?

21 A. Yes, I was.

22 Q. Okay. Did you see John at around three o'clock, 3:30

23 in the morning?

24 A. Yes, I did.

25 Q. Okay. All right.

1 So John was there, right?

2 A. Yes.

3 Q. At your house?

4 A. At that time, yes.

5 Q. All right. Do you remember where you saw him?

6 A. If I remember correctly, I was coming down the hall
7 from the bathroom and he was going up the hall to the
8 bathroom.

9 Q. Okay. Did you see him after that?

10 A. After I got up and went to the bathroom, I took some
11 medication and then I went back to bed.

12 Q. What kind of medication did you take?

13 A. I was on drugs that -- Symbalta.

14 Q. Okay. Was that affecting your reasoning?

15 A. No, but it made me sleepy.

16 Q. It made you sleep be, right?

17 A. Yeah.

18 Q. But you could perceive things that you were going on,
19 right?

20 A. Yes.

21 Q. So are you on that medication right now?

22 A. I'm supposed to be.

23 Q. But you are not on it?

24 A. On the Darvocet I am.

25 Q. Okay. Do you believe that you are in your right mind

1 today?

2 A. Yes.

3 Q. Okay. And you were sure that you saw your son John at
4 your house that morning of April 2nd, right?

5 A. Yes.

6 Q. He was there for the entire time, right?

7 A. He was there at least I know from 3:00 to 3:30.

8 Q. Okay.

9 MR. SCHULTZ: That's all I have, Your Honor.

10 Thank you.

11 MR. BARNETTE: May it please the court, Your
12 Honor?

13 THE COURT: Yes.

14 CROSS EXAMINATION BY MR. BARNETTE:

15 Q. Ms. Bonner, you don't know where your son was that
16 night, do you? You don't know for sure, do you?

17 A. From 3:00 to 3:30 I know he was home.

18 Q. You said at 3:30 he was home?

19 A. From 3:00 to 3:30. In between 3:00 and 3:30.

20 Q. Let me ask you a question. Do you remember talking to
21 Officer Ramsey and talking to Investigator Phillips and
22 saying it was four o'clock?

23 A. I talked to -- I talked to him and I talked to
24 Jamieson.

25 Q. Okay. You never talked to the other gentleman over

1 there?

2 A. I don't remember talking to him. I talked to Jamieson..

3 Q. And you don't know about any other time, do you, or any
4 other -- you don't know where he was, do you?

5 A. At the time I said he was there, he was there.

6 Q. Oh, I understand, ma'am, but -- let me rephrase the
7 question.

8 You don't know -- other than what you saw him at that
9 time, you don't know --

10 A. No, I don't.

11 Q. You don't know where he was, do you?

12 A. No.

13 Q. What time did you go to bed that night, ma'am, do you
14 know?

15 A. I really don't remember.

16 Q. Do you know Fred Douglas?

17 A. Fred Douglas?

18 Q. Or let me -- "Lil Fred"?

19 A. Yes.

20 Q. Do you know "Yankee"?

21 A. Yes.

22 Q. Do you know "Brontae"?

23 A. Yes.

24 Q. Do you know Tate?

25 A. Yes.

- 1 Q. Do you know "Bugga"?
- 2 A. Yes.
- 3 Q. Do you know -- of course, your son's nickname is
- 4 "Ro-Ro", is that right?
- 5 A. Yes.
- 6 Q. And you know "R.J."?
- 7 A. Yes.
- 8 Q. They were all friends, weren't they?
- 9 A. Well, basically Fred and "Brontae", they were closer
- 10 friends to "Ro-Ro". And Billy, "R.J.", Kent Tate, they were
- 11 closer to my other son.
- 12 Q. Okay. But everybody knew everybody pretty much?
- 13 A. They knew, yeah.
- 14 Q. They did things together, didn't they?
- 15 A. Not to my knowledge.
- 16 Q. Not to our knowledge, but you know them all?
- 17 A. Yeah, I know them all.
- 18 Q. Okay.
- 19 A. But I'm saying when I usually see them together, that's
- 20 the order I usually see them.
- 21 Q. Okay. I understand. Yes, ma'am, I understand.
- 22 And did your son work?
- 23 A. No.
- 24 Q. And he's always lived here in Gaffney, is that right?
- 25 A. Yes.

1 Q. Did the police come and ask you where he was when they
2 want to arrest him?

3 A. Yeah, they came over to my house.

4 Q. Why did he leave?

5 A. I don't know. I thought he was with a girl.

6 Q. Who is Lyman and Charles Tate?

7 A. My cousin and his son.

8 MR. SCHULTZ: Objection, Your Honor, relevance.

9 THE COURT: Well, let me see y'all for a minute.

10 (Whereupon, the lawyers approached the bench for
11 an off-the-record discussion)

12 BY MR. BARNETTE:

13 Q. Ma'am, when you got up that night, you said that you
14 went to get some medication?

15 A. Uh-huh.

16 Q. And you was in your bedroom?

17 A. To my -- yeah.

18 Q. I didn't mean to cut you off. So what was you getting
19 ready to say?

20 A. To my recollection, yes.

21 Q. But you don't really remember a whole lot, do you?

22 A. No, I don't.

23 Q. In other words, you can't remember a whole lot about
24 that night?

25 A. Not really.

1 MR. BARNETTE: One moment, Your Honor, please.

2 (Off the record)

3 (Back on the record)

4 BY MR. BARNETTE:

5 Q. And you were taking your medications obviously that --

6 Darvocet. What else were you taking, ma'am?

7 A. Symbalta.

8 Q. And you say you saw him that day?

9 A. That night.

10 Q. That night.

11 Were the lights on? What was --

12 A. Yeah, they be on, because I was coming from the
13 bathroom.

14 Q. Okay. What was he wearing?

15 A. I don't remember.

16 Q. You don't remember what he was wearing?

17 A. No.

18 Q. What kind of coat did he wear?

19 A. I don't remember.

20 Q. You don't remember what kind of coat he would wear?

21 A. No, because they had different coats.

22 Q. Thank you, ma'am.

23 MR. SCHULTZ: Just a few questions, Your Honor.

24 REDIRECT EXAMINATION BY MR. SCHULTZ:

25 Q. Now, when you said that John wasn't working, did he do

1 any odd jobs around the neighborhood?

2 A. No.

3 Q. He didn't do any odd jobs? He didn't like rake --

4 MR. BARNETTE: Your Honor, I'm going to object to
5 leading.

6 THE COURT: Don't lead. She said no.

7 BY MR. SCHULTZ:

8 Q. As far as what your testimony is here today, do you
9 have any reason to lie?

10 A. No.

11 Q. Okay. And that's your son, right?

12 A. Yes.

13 Q. But you have no reason or motivation to lie whatsoever,
14 right?

15 A. No.

16 Q. Okay. Thank you.

17 MR. BARNETTE: No further questions, Your Honor.

18 THE COURT: You may step down.

19 MR. SCHULTZ: I ask this witness be excused.

20 THE COURT: She may be.

21 MR. SCHULTZ: Your Honor, the defense would call
22 Kelvin Bonner to the stand.

23 KELVIN/BONNER, having been first duly sworn,
24 testified as follows:
25

- 1 DIRECT EXAMINATION BY MR. SCHULTZ:
- 2 Q. Good morning, Mr. Bonner. How are you?
- 3 A. Fine. How are you?
- 4 Q. Good.
- 5 Could you please state your name for the record?
- 6 A. Kelvin Bonner.
- 7 Q. Is it Kelvin other Kevin?
- 8 A. Kelvin.
- 9 Q. Kelvin. So K-E-L-V-I-N, right?
- 10 A. Yes, sir.
- 11 Q. Okay. Now, do you know my client Mr. Bonner?
- 12 A. Yes, sir.
- 13 Q. How do you know him?
- 14 A. My brother.
- 15 Q. Okay. And how old are you?
- 16 A. Seventeen.
- 17 Q. Seventeen?
- 18 A. Yes.
- 19 Q. Okay. Now, my client John is just a couple years older
- 20 than you, right?
- 21 A. A year and some months.
- 22 Q. Okay. Now, in April of 2008, where did you live?
- 23 A. [REDACTED].
- 24 Q. And where is that?
- 25 A. On the west end.

1 Q. Where you stayed, right?

2 A. (Shaking head yes).

3 Q. How many people lived in that house that you did?

4 A. Me, my brother, and my other brother, and my mom.

5 Q. Okay. And your other brother, who is that?

6 A. Tony Wilson.

7 Q. Okay. Now, do you remember what happened there April
8 1st?

9 A. Yes, sir.

10 Q. April 2nd?

11 A. Yes.

12 Q. Okay. Now, in the morning of April 2nd, was your
13 brother at home?

14 A. Yes, sir.

15 Q. So John Bonner, your brother, was at home, right?

16 A. From the time from 12:00 to 1:00 when we were talking
17 and fell to sleep.

18 Q. Okay. What time did you fall asleep?

19 A. Between 12:00 and 1:00.

20 Q. Do you have any motivation to lie today?

21 A. No, sir.

22 Q. Okay. And when you woke up that next morning, when did
23 you wake up?

24 A. About I would say 9:00, 10:00.

25 Q. 9:00?

- 1 A. Yes.
- 2 Q. Was John there?
- 3 A. Yes, sir.
- 4 Q. Okay. So, to your information, he -- to your
- 5 understanding that he stayed in the house the entire night,
- 6 right?
- 7 A. Yes.
- 8 Q. Was that normally his practice just to hang out at all
- 9 or anything during the night?
- 10 A. When we lived there, we just hung at home.
- 11 Q. What night of the week was that?
- 12 A. Sir?
- 13 Q. I'm sorry?
- 14 A. Can you say that again?
- 15 Q. What night of the week was that?
- 16 A. What night of the week?
- 17 Q. Yes, sir.
- 18 A. I can't really remember the night.
- 19 Q. Okay. But it was April 2nd?
- 20 A. Yes, sir, I remember the day.
- 21 Q. Okay. Are you motivated to lie today for your brother?
- 22 A. No, sir.
- 23 Q. Do you have any motivation to lie whatsoever?
- 24 A. No, sir.
- 25 Q. And it's your testimony here today that your brother

1 was at his house, your house, [REDACTED], when this
2 happened?

3 A. Yes, sir.

4 MR. SCHULTZ: That's all I have, Your Honor.

5 MR. BARNETTE: May it please the court, Your
6 Honor?

7 THE COURT: Yes.

8 CROSS EXAMINATION BY MR. BARNETTE:

9 Q. Mr. Bonner, you said that you was talking to your
10 brother before y'all went to bed?

11 A. Yes, sir.

12 Q. That was around midnight to one?

13 A. Yes, sir.

14 Q. If I understood, that's correct?

15 A. Yes.

16 Q. Midnight to one?

17 A. Yes, sir.

18 Q. Where was y'all talking at?

19 A. In the room. We slept in the same room.

20 Q. You shared the same room?

21 A. Yes, sir.

22 Q. Okay. So y'all went to bed around I'm assuming one
23 o'clock then?

24 A. I don't know if he went to bed. I went to bed, but he
25 was there when I went to bed.

- 1 Q. Okay. So he was still up at one o'clock?
- 2 A. He was laying down.
- 3 Q. Okay, so he was still up?
- 4 A. He was making the motion to go to sleep.
- 5 Q. Okay. And you didn't wake up until nine o'clock?
- 6 A. Yes, sir.
- 7 Q. So you slept all the way through that?
- 8 A. (Shaking head yes).
- 9 Q. So you don't know what he did or anything like that?
- 10 A. No, sir.
- 11 Q. Speak up a little bit.
- 12 A. No, sir.
- 13 THE COURT: You can adjust that microphone, if you
- 14 need to.
- 15 BY MR. BARNETTE:
- 16 Q. And y'all sleep right beside each other?
- 17 A. I sleep on the side of the room and he slept on the
- 18 side of the room.
- 19 Q. How big is the room?
- 20 A. It's about -- I can't really say.
- 21 Q. Is it small?
- 22 A. Not small.
- 23 Q. Two beds in there, obviously, right?
- 24 A. Yes.
- 25 Q. Y'all double beds?

- 1 A. No, sir.
- 2 Q. What kind of -- what I mean --
- 3 A. Like -- are you talking about like beds that you can --
- 4 I know what you are talking about, yeah.
- 5 Q. Okay. And how far apart are y'all away from each
- 6 other?
- 7 A. I would say about six, seven yards.
- 8 Q. Six or seven yards?
- 9 A. Yes.
- 10 Q. Okay. Y'all have tables in there and things like that?
- 11 A. No, sir.
- 12 Q. What other furniture do you have -- I mean furniture
- 13 you got there?
- 14 A. Just the beds is all. Clothes in the closet.
- 15 Q. Just beds and clothes in the closet?
- 16 A. No, sir.
- 17 Q. Nothing that you can lay down or anything like that?
- 18 A. No.
- 19 Q. And do you have a phone?
- 20 A. What?
- 21 Q. Do you have a cell phone, or did you have a cell phone
- 22 back then?
- 23 A. Yes, sir.
- 24 Q. Where did you keep it at?
- 25 A. My pocket.

1 Q. Okay. When you went to bed, where did you keep it?
2 A. On my bed.
3 Q. On your bed.
4 Did your brother have a phone?
5 A. No, sir.
6 Q. He didn't have a cell phone?
7 A. Not that I can recall.
8 Q. Okay. And y'all lived there -- you lived in Gaffney
9 and your brother has lived in Gaffney all his life, right?
10 A. I lived with my daddy for a period of time.
11 Q. Okay. And you don't know what -- you didn't hear
12 anything -- when you went to sleep with, when he was in the
13 bed beside you, you didn't hear anything going on anything
14 like that?
15 A. No, sir.
16 Q. You didn't hear him get up or anything like that?
17 A. No, sir.
18 MR. BARNETTE: One moment, please.
19 (Off the record)
20 (Back on the record)
21 MR. BARNETTE: No further questions, Your Honor.
22 THE COURT: Thank you.
23 MR. SCHULTZ: Nothing further, Your Honor.
24 THE COURT: Step down.
25 MR. SCHULTZ: I ask that this witness be excused.

1 THE COURT: He may be.

2 Your Honor, could we approach?

3 THE COURT: Yes.

4 (Whereupon, the lawyers approached the bench for
5 an off-the-record discussion)

6 THE COURT: All right, ladies and gentlemen, I
7 have got one matter I need to address, so I'll ask you to
8 please go to your jury room. Do not yet discuss the case.
9 I'll bring you back as soon as I can.

10 (The following takes place outside the presence of
11 the jury panel)

12 THE COURT: We will be ease while Mr. Schultz
13 attempts to contact the additional witness.

14 MR. SCHULTZ: Thank you, Your Honor.

15 (Whereupon, proceedings were recessed)

16 (Whereupon, proceedings were reconvened)

17 THE COURT: All right. Mr. Schultz, now, you had
18 two witnesses that were transported from the Department of
19 Corrections that you had indicated that you might wish to
20 call to testify on behalf of Mr. Bonner. Have you had a
21 chance to talk to Mr. Manning and Mr. Agnew?

22 MR. SCHULTZ: I have, Your Honor.

23 THE COURT: And have you made a decision about
24 whether or not that you are going to call them as witnesses?

25 MR. SCHULTZ: I have, Your Honor.

1 THE COURT: What is it?

2 MR. SCHULTZ: We do not plan to present these
3 witnesses in our case in chief.

4 THE COURT: And you have discussed that with Mr.
5 Bonner?

6 MR. SCHULTZ: I have, Your Honor.

7 THE COURT: And he's in agreement with that
8 decision?

9 MR. SCHULTZ: He is.

10 THE COURT: Is that true, Mr. Bonner?

11 THE DEFENDANT: Sir?

12 THE COURT: Is that true?

13 THE DEFENDANT: In agreement with the decision?

14 THE COURT: Yes, sir.

15 THE DEFENDANT: No, sir.

16 THE COURT: You want to call Mr. Manning and Mr.
17 Agnew?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Okay.

20 MR. SCHULTZ: Okay. You perceive that as being a
21 good idea, Mr. Schultz, or do you need to talk to Mr. Bonner
22 about that any further?

23 MR. SCHULTZ: Your Honor, just for the record I do
24 not think that is a good idea.

25 THE COURT: Well, are they going to be able to

1 help Mr. Bonner in any way?

2 MR. SCHULTZ: No.

3 THE COURT: Mr. Bonner, do you understand Mr.
4 Schultz has talked to them and he says that they are not
5 going to be able to help you. You are trying to work
6 against your lawyer, who is trying to help you, or are you
7 trying to help your lawyer?

8 THE DEFENDANT: I ain't trying to.

9 THE COURT: Well, have you talked to Mr. Manning
10 and Mr. Agnew?

11 THE DEFENDANT: No, sir, I ain't.

12 THE COURT: Do you know what they are going to
13 say?

14 THE DEFENDANT: No, sir.

15 THE COURT: Well, did Mr. Schultz tell you what
16 they are going to say?

17 THE DEFENDANT: He didn't tell me what they were
18 going to say.

19 THE COURT: Well, maybe y'all need to discuss it.

20 MR. SCHULTZ: Thank you, Your Honor.

21 (Off the record)

22 (Back on the record)

23 MR. BARNETTE: Your Honor, may I step out for one
24 second?

25 THE COURT: Yes, sir.

1 (Off the record)

2 (Back on the record)

3 MR. SCHULTZ: Your Honor, I have discussed this
4 matter and we do not intend to call either Joshua Manning or
5 Labrontae Agnew. I have discussed that with my client. I
6 feel that he feels that it is in his best interests to not
7 call these potential witnesses.

8 THE COURT: All right. Is that true, Mr. Bonner?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay.

11 MR. SCHULTZ: Thank you, Your Honor.

12 THE COURT: Any other witnesses that you need?

13 MR. SCHULTZ: At this time the defense rests..

14 THE COURT: Okay. Do you want to renew any
15 motions?

16 MR. SCHULTZ: I do, Your Honor. I renew my motion
17 for a directed verdict.

18 THE COURT: That motion is denied.

19 Did you have any reply?

20 MR. BARNETTE: No, sir, we do not.

21 THE COURT: All right. Are there any specific
22 jury instruction requests?

23 MR. BARNETTE: None from the State, Your Honor.

24 MR. SCHULTZ: Your Honor, just the alibi defense
25 standard instruction.

1 THE COURT: Okay.

2 MR. SCHULTZ: That's all I have.

3 THE COURT: Okay. All right. Bring the jury in
4 please.

5 (The following takes place in the presence of the
6 jury panel)

7 THE COURT: Anything further on behalf of the
8 defendant?

9 MR. SCHULTZ: No, Your Honor. The defense rests
10 at this time.

11 THE COURT: All right. Any reply?

12 MR. BARNETTE: None from the State, Your Honor.
13 Thank you.

14 THE COURT: Ladies and gentlemen, that is all of
15 the testimony or evidence to be offered in the trial of the
16 case, and, therefore, what remains to be done are the
17 lawyers final summations, after which I'll instruct you on
18 the law, and then you can begin with jury deliberations in
19 the case. So please give the lawyers your attention now as
20 they give you their final summations.

21 Mr. Schultz.

22 MR. SCHULTZ: Thank you, Your Honor. May it
23 please the court?

24 Ladies and gentlemen of the jury, I want to thank
25 you first for your attention these last two day. I watched

1 every one of you very closely and I appreciate that very
2 much. You make this system work and we can't do this
3 without active members who are on jury system in this
4 country.

5 Well, it's over and I want to wrap up everything
6 for you at the end, and at the end of my closing statement
7 you will be even more convinced that my client had nothing
8 to do with this terrible crime. These five witnesses that
9 you heard have life in prison, life in prison, hanging over
10 their heads, and they lied to you yesterday, and they lied
11 to you today, just like they lied to the police before. You
12 should not trust what they said. And another thing, you
13 can't trust what they say. You cannot trust what they say.

14 Like I said before, closing argument is where I
15 tie up everything. We go over each and every part of the
16 testimony, because in a few minutes you are going to go back
17 to that room and talk this over and reach a verdict.

18 Now, in my opening I talked to you about a couple
19 of key words: Reasonable doubt and burden of proof.

20 After listening to the testimony the last couple
21 of days, you have now seen that there is more than enough
22 reasonable doubt to acquit John on all these charges. The
23 State has not carried their burden of proof, and you must
24 acquit. You have no other choice, you must acquit, and here
25 is why.

1 Let's go back and see where we got here. You
2 heard from Officer Sizemore yesterday. He was the first
3 person to testify. He was the first officer to respond to
4 the scene. He just confirmed that something happened at her
5 house. He wasn't sure how many people were there. He
6 collected no evidence and secured the crime scene.

7 Then you heard from Mr. Patel. And the still
8 shots of video, you saw them up there on that big board
9 there. Now, you looked at each one of these still shots and
10 I know that nobody in the world, especially the jury, you,
11 the jurors, can tell who these people are. The only people
12 that supposedly identified them had a motivation to lie, and
13 we will get to that a little later.

14 Whoever those people were that you saw up there on
15 those still photos, they had rags over their faces. There
16 is not a person on earth who could possibly identify these
17 people just by that photograph. Just by that photograph
18 there is not anybody in the world that can do that. That's
19 reasonable doubt right there.

20 Then you heard from the first person that was
21 there that night. He admitted to actual involvement in
22 this. His name was "R.J." Wilson. He's a kid. Most of
23 these guys are kids, all of them. He's scared. He's doing
24 whatever he has to do to avoid jail time. His attorney told
25 him to testify to avoid jail time, get his time cut, but

1 like all of these other guys, when he had the opportunity,
2 opportunity, to come clean about this, the very first time
3 he talked to the police, what did he do? By his own
4 admission, what did he do? He lied to the police the very
5 first time. He told the cops in quotes "I had nothing to do
6 with it." He doesn't talk about "Ro-Ro". He doesn't talk
7 about "Yankee". Nothing about "Brontae". Nothing about
8 "Lil Fred", all those guys up there. He just says --
9 through his own testimony yesterday, he says "oh, yeah, I
10 heard something about that." Are you going to believe a guy
11 like that that says that? You can't. He spent over an hour
12 and a half, this is "R.J." Wilson, talking to the police
13 that day. By his own admission, he said he lied to the cops
14 about his involvement in the case. You heard him in here
15 yesterday. So what happened? It's only when he is about to
16 get charged with it, only when he does get charged does he
17 come clean. Only when he's going to get charged does he
18 come clean. And that, my friends, is called dishonesty.
19 That's called deceit. And that's not the stuff that you get
20 an innocent man convicted for something that he did not do.

21 "R.J." said that he stayed in the car while the
22 other guys went in the house, into the store. Again, he's
23 trying to minimize his involvement in the crime. Before it
24 was "I had nothing to do with it." Then it was three days
25 later he went to the police. Oh, yeah, the next time he

1 talked to the police it was "yeah, they told me to come pick
2 them up." Then one day later when he talked to the police
3 again, then it was "I drove the car. Then I was a lookout.
4 Then I took a card and threw it in the bushes," again trying
5 to cover up what he did. Every day it's a different story.
6 I bet if he testifies tomorrow, it's going to be a different
7 story. What would be tomorrow? He's liable to make up a
8 whole new story just to get his time cut, and he admitted to
9 that on the stand. You all heard it.

10 There was also little differences in these stories
11 too. And because you paid such close attention, you
12 probably heard this, but I'll go over it with you again.
13 For instance, "R.J." told y'all that all the boys went home
14 after the incident was over. "R.J." said they went straight
15 home. Ken Tate, and I'll get into his testimony a little
16 later, said they went to a hotel. Well, what is it? They
17 should know it. It happened to them. It's the truth. And
18 the truth is the easiest thing to tell because you have
19 lived it. You know it. Especially when you are on the
20 stand, when you take that oath on the Bible, when you swear
21 to uphold the truth, nothing but the truth, you say so help
22 you God, and they lied. And you know what they said before?
23 They said that they were telling the truth before in their
24 first statements and they are liars.

25 Now, "R.J." knew what he was doing. All these

1 guys are looking at life imprisonment. Everybody that you
2 heard that was there is looking at life in prison. Like I
3 said in my opening yesterday, they have everything to gain
4 and their whole life to lose. I want you to remember that
5 when you go back there and deliberate. Everything to gain
6 and their whole life to lose, because when that gavel comes
7 down, when they complete their pleas, that's it for them,
8 and they are doing everything they can in the world to get
9 their time cut.

10 Now, after "R.J." you heard from Kendrick Tate or
11 Ken Tate. The guy that had a lot to live for just last year
12 on the Gaffney football team, I guess. And through his own
13 admission, through his own admission, and I asked him that
14 question, if you remember that. I asked him he's trying to
15 salvage what he's got in his life and he said yes. Now,
16 when the police first started talking to him and all his
17 other buddies, and you heard this before, and ladies and
18 gentlemen, I want to apologize, because almost every witness
19 that I had, that the State had, I had the same questions for
20 had, the same questions for them, because they all had a
21 motivation to lie.

22 When the police started talking to him, like all
23 those other buddies, he denied everything. He said he was
24 in with two girls in Spartanburg, but that was a lie too.
25 And the most interesting part of this is that you heard his

1 testimony yesterday. On his direct testimony, Mr. Barnette
2 said that "you came to the police first, didn't you? You
3 tell the truth all the time, didn't you?" And he said
4 "yeah, I did." But then he admitted when I cross-examined
5 him, he said that "oh, yeah, I remember now. I talked to
6 the police. In my first statement I said I had an alibi."
7 So he lied to you right then, right here in court. Then he
8 remembers it on cross-examination "oh, yeah, I did lie to
9 the police about saying that I had an alibi." Then he says
10 that he fessed up. So he went to go talk to the police in a
11 car and tell them what happened and the cop told him that
12 "you got nothing to worry about," but he did have something
13 to worry about. He has life in prison hanging over his
14 head, and that's something to worry about, and that's why he
15 lied today and yesterday.

16 And I asked Kendrick if a reasonable person would
17 expect to do everything and anything in his power to avoid
18 jail time, and he said yes. Do you remember that? He said
19 yes. And that's exactly what he tried to do yesterday.

20 Now, the last guy that you heard from yesterday
21 was Kwame Douglas. And just like the rest of these people,
22 he gave -- he first give a statement where he lied. He told
23 the investigators that "I didn't go in the house." He
24 originally admitted to his involvement in the crime, but
25 only told half truths. Well, I have been brought up to

1 believe that there is no such thing as a half truth. It's
2 either the truth or a lie. And, again, Douglas told you
3 what he wants you to believe as the truth, when his butt is
4 on the line, just like all these other guys.

5 Let's talk about the police in this case. Now,
6 yesterday when I cross-examined Officer Segina about this
7 case, he told me the whole house was ransacked. You saw the
8 pictures right up there. There is plenty of evidence to
9 collect. There was blood on the floor. There could have
10 been DNA all over that house. They could have closed out
11 this case. There was scarves. There were bandannas that
12 they recovered.

13 Now, I know that you have all seen CSI on TV, or
14 NCIS, or all those crime shows on CBS. How do they solve
15 crimes? Well, to get the results from the lab first and
16 then they talk to the people that they think were involved,
17 and then the people say "oh, yeah, it wasn't me." And then
18 they say "well, we have your hair strands here," or, "we got
19 your blood," or, "we got your DNA." And then they say
20 "yeah, it was me." It's all solved in under an hour. Okay.
21 This case is still not solved. All that stuff that you see
22 on CSI and NCIS, some of that stuff -- in fact, most of the
23 stuff, that's real. Every county in this country has the
24 ability to collect this evidence and get it tested; get it
25 tested for DNA, everything, okay, but they didn't do it

1 here. They thought it was an open and shut case. They
2 could have closed the deal with this case. Why didn't do
3 they do it? Reasonable doubt. They just chose not to. I
4 don't know why. Maybe they felt this was an open and shut
5 case, but, ladies and gentlemen, it was not, and you should
6 have a lot more questions than you have answers. And if you
7 remember, the last question I asked the officer was there
8 any forensic evidence linking anybody to this crime, and you
9 know what he said? Clearly he said no. And that, my
10 friends, is reasonable doubt right there.

11 You heard from the victim too. I didn't have any
12 questions for her. I felt bad for her. I wanted to tell
13 her that my guy had nothing to do with this crime. I didn't
14 have any questions for her.

15 In conclusion, ladies and gentlemen, this was a
16 regrettable incident and unfortunately we are no closer to
17 the truth than we were yesterday.

18 In fact, let's talk about Mr. Bonner getting up
19 there. Now, he's looking at a lot of time today. He told
20 you the truth today. And two people that had no motivation
21 to lie - his mother and his brother - they were there that
22 day, or that morning. They saw him there. They knew that
23 he had nothing to do with this. Again, I ask asked them, do
24 they have any motivation to lie. They said no. When they
25 were cross-examined by the solicitor, Kelvin and Eva Bonner,

1 Mr. Barnette never got it through that they had any
2 motivation to lie. They don't. They have still don't.
3 When they testified today, they told the truth.

4 The only eyewitnesses they have that they have
5 presented, all, every one of them, have a motivation to lie,
6 and there is no forensic evidence. Ladies and gentlemen,
7 that is reasonable doubt, if there ever was reasonable
8 doubt, ever in a case. The State has not met their burden
9 of proof.

10 You know, while I was preparing for this case I
11 came across an old quote, which I think is very appropriate
12 in this case, and it comes from the eighteenth century. It
13 is "nothing consecrates the mind quite like a hanging in the
14 morning." Well, what was true two hundred and fifty years
15 ago is true today in Gaffney.

16 All these five people, those five people up there
17 that testified, said that they never had any deals made, but
18 they know what happens if they didn't testify today or
19 yesterday. They know what happens. They admitted that up
20 on the stand. They all are looking to get their time cut.
21 And the best way to do that is to blame an innocent man,
22 John Bonner. The best way to do that is to blame an
23 innocent man to get their time cut. If you do, remember the
24 last guy from yesterday, Kwame Douglas, he admitted that at
25 first he didn't think there was any evidence to convict him.

1 Do you remember that? There is no evidence to convict him,
2 so he lied. And then I asked him so if it remained like
3 that, he wouldn't have come forward. And then I asked him
4 "so the evidence, if it remained like that, would you have
5 come forward," and he goes "no, I wouldn't have come
6 forward."

7 Ladies and gentlemen, in summary, you cannot
8 believe these people.

9 Another quote that I came across was an old law
10 book from law school. My first class in criminal defense.
11 That quote said "it's difficult to imagine a greater
12 motivation to lie than trying to avoid going to prison."
13 And I want you to think about that quote when you go back
14 there and deliberate, and I'll repeat it again. "It is
15 difficult to imagine a greater motivation to lie than trying
16 to avoid going to prison." When these five guys go up in
17 front of the judge again, and they will, and that gavel
18 falls down, the solicitor will say that they cooperated, and
19 you know what they will probably get? A slap on the wrist.
20 Don't let them get away with it. Send a message to all
21 these people that cut deals. Send a message to all these
22 people that cut plea deals, cut a deal in the last second,
23 that behavior should not be rewarded. All these guys lied.
24 And when they didn't think they could get caught, now not
25 only did they get caught, but they have already pled guilty

1 to these crimes. The State wants you to believe that these
2 people are telling the truth. They're about to be convicted
3 criminals, all five of them, and the State asking you to
4 convict based upon their word, and their word alone. And
5 you should not do that. Once more, you cannot do it. You
6 must vote to acquit. You must vote not guilty. Thank you.

7 THE COURT: Mr. Barnette.

8 MR. BARNETTE: If it please the court, Your Honor.

9 Ladies and gentlemen, they keep talking about
10 forensic evidence, but we all know that they were wearing
11 gloves and masks. You don't have to watch CSI. CSI
12 couldn't get DNA evidence, fingerprints from gloves or
13 stocks that they were wearing. Let's take care of that.
14 The police did everything that they could concerning that.
15 The blood on the floor was her blood.

16 He wants to talk about testimony. Let's talk
17 about Mr. Bonner's testimony. He said "well, I went to bed
18 at 10:00, 10:30 that night. I got a cell phone call around
19 2:00, 2:30 from Fred Douglas." And, by the way, he told us
20 who was with Fred. How would he have a cell phone, number
21 one? The first guy on his cell phone would get that phone
22 call. Do you remember his brother's testimony. The guy
23 that slept in the same room with him went up there and said
24 "he don't own a cell phone."

25 Then I asked him, I said, you know, I said "do you

1 work?" He says "yeah, I do few odd jobs, whatever, do it on
2 a cash basis."

3 He said -- Mr. Schultz asked his mom; "he doesn't
4 work. He don't do odd jobs."

5 Here is the man that comes in and tells you, and
6 you get to weigh the credibility of the witnesses, ladies
7 and gentlemen. He's here telling you that he had nothing to
8 do with this. He's sleeping in the bed all night and he's
9 just there. I said you can take that into consideration.
10 You look at that evidence. His mom and his brother
11 testified to that. He just flat out is not telling you the
12 truth.

13 Mr. Schultz makes a big deal out of all these
14 co-defendants. Well, they plead to what they done. And,
15 sure, it's human nature. You are going to lie to try to
16 keep out of trouble. You are not going to want to face the
17 music.

18 I'll never forget. My dad was a school principal.
19 And before I became a prosecutor, I was a school teacher. I
20 was substitute teaching one day. My dad had two couches in
21 his office. He was an elementary school principal. And
22 what happened was they didn't know was, but he already had
23 the evidence of what they done. They had stole some things
24 out of a locker. He looked at them, he confronted both of
25 them. They both lied at the beginning. He separates them.

1 He confronts them. One of them told him the truth. He had
2 a board of education paddle like that that he always kept in
3 his office. He give both of them two licks. And the other
4 kid, he keeps on walking. Then he brings in a witness that
5 saw what happened. The guy went in the room, he said you
6 are going to get five. You are going to get what he said.
7 I asked my dad why would you do that? He said son, nobody
8 wants to tell you the truth until you are faced with it. He
9 said that man -- that boy learned a lesson. And just like
10 they did, when they are confronted with the truth, they came
11 forward.

12 And you remember Kendrick Tate, his conscience got
13 him. They had no clue. The police had been talking to all
14 those kids. He came to this man right here and told him
15 what happened after he talked to his mom and his
16 grandmother. Then he came clean. That's when they all
17 started getting confronted with the truth.

18 But what did he do? He ran to North Carolina. He
19 said "well, I was up there with a girl." Here is a guy that
20 lived here all his life. Seventeen years old, living here.
21 Went to North Carolina and the police had to go get him to
22 bring him back here.

23 You heard the testimony. You heard all those
24 pieces of the puzzle from that standpoint. You got to hear.
25 These witnesses were sequestered and was not allowed in the

1 courtroom. They came to testify and told you what happened.

2 I started with "R.J." Wilson. He was just at the
3 car. He didn't even go into the house or into the store.
4 But you heard this lady right here say there was four people
5 that came in that house that she saw. He waited there. He
6 told you. He told you what he was doing.

7 Then you have got Kendrick Tate. He didn't go in
8 the house. He was a lookout. He told you what happened,
9 what his involvement was. Of course, under the law when you
10 are an accomplice, you are just as guilty as the principal
11 there. Even though they didn't go inside the house, they
12 didn't do that, they were involved with it.

13 You heard Billy Rodgers, that once he heard the
14 gunshot, he did go in. And he told you what he saw in
15 there.

16 Then you heard from Fred Douglas, "Little Fred",
17 or Kwame Douglas, tell what happened when he went in there.

18 And who had the gun, ladies and gentlemen? That
19 man right there had the gun.

20 They talk about all the lying they want to and
21 everything else, but what happened to this lady? She told
22 you what happened to her. Can you imagine being asleep in
23 your bed, the door is locked, middle of the night. A
24 gunshot rings out as soon as they knocked open your door and
25 they put a gun straight to her head, right here, and asked

1 her where the money was. They kept after her. They beat
2 her. You saw her injuries. Then they started taking her
3 clothes off. They went through her whole house. They went
4 through her purse. Can you imagine what that went through
5 for a woman to go through that? Then she said "let me get
6 my clothes on. Let me get my clothes." They give her the
7 key and you have seen the pictures.

8 This man right here dressed in his coat. And I
9 asked his mother, I said "what coat does he own, or
10 whatever?" He had several coats. Well, that's the coat he
11 used that night. Him and "Brontae" goes over to the store.
12 The thing that may have saved her life that night, they
13 didn't know the delayed alarm in that system. When you open
14 the door you have to push a button to keep the alarm from
15 going off. Of course, they are going through the till and
16 stealing all that money, what they had been looking for.
17 Then an alarm goes off, thank goodness, but she still got
18 hurt, making her go through what she went through. Then
19 they run off and split the money.

20 If you noticed what was interesting about the
21 money was their involvement and how much they got paid.
22 "R.J." I think was \$300. Mr. Wilson was \$300 and some
23 dollars. Rodgers was 500. I can't remember if Tate was
24 three or 400. Douglas got 2,500. I can't imagine how much
25 he got. He don't do any work. He does everything on a cash

1 basis.

2 All of them didn't have a record before all this
3 happened. One of them had a chance to go to USC on a
4 football scholarship. That's over. That ain't going to
5 happen.

6 But guess who had the record? He did. He had a
7 felony conviction on his record. He wants you to believe
8 that he was asleep in bed that night, and he put this woman
9 through the worst night of her life.

10 And if you remember yesterday when we started
11 this, I asked you one thing, and one thing only. I'll ask
12 you for justice here today, because the evidence is clear.
13 They can argue there was no forensic evidence and
14 everything, but they kept working this case. Kendrick Tate
15 started it. He went, after he talked to his mom and
16 grandmother, and told the truth, and then started all things
17 going. He's the only one who wouldn't come clean, ladies
18 and gentlemen, because he knows what he's facing. So the
19 one thing I ask you to do is bring him to justice today.
20 It's time for him to face his medicine, because stuff like
21 this doesn't happen in Cherokee County. Our people don't
22 deserve to go through something like this. Just please
23 bring this lady justice. Thank you all very much.

24 Thank you, Your Honor.

25 (Whereupon, at 12:50 p.m., the Court charged the

1 jury panel their jury instructions)

2 THE COURT: Mr. Foreman, ladies and gentlemen of
3 the jury, you, of course, have heard and seen all the
4 evidence in the case. You have now heard the final
5 summations of the lawyers, and, therefore, it now becomes my
6 duty and obligation to instruct you on the law that's
7 applicable in the case. Then you will be asked to go back
8 and begin with your deliberations. And through that process
9 you will examine the evidence, decide the facts, apply the
10 law and arrive at a fair and just decision in the case,
11 whatever that decision might be.

12 It is your exclusive duty to determine what the
13 facts are. And you do that through your own common sense
14 examination and evaluation of all of the testimony and other
15 evidence received during the trial of the case. You twelve
16 jurors alone will decide what weight, value and effect to
17 give any particular witness' testimony, or even portions of
18 testimony.

19 Your sole objective, again, is to simply reach the
20 truth in the matter. And by doing that you will have
21 fulfilled your obligations as jurors, and that is to simply
22 give both the State and the defendant a fair and impartial
23 trial.

24 Now, in this case, as you know, the State, through
25 the prosecutor, has accused this defendant of having

1 committed six separate and distinct criminal offenses,
2 although each of those offenses is alleged to have arisen
3 out of one particular event or course of events which the
4 State alleges occurred back on April the 2nd of 2008.

5 And by way of six separate indictments, the
6 defendant has been accused of the crimes of burglary in the
7 first degree, kidnapping, armed robbery, assault and battery
8 of a high and aggravated nature, burglary in the second
9 degree, and grand larceny. The allegations setting forth
10 those charges are contained in each of those separate
11 indictments. But as I have told you, while the indictments
12 will be in the jury room to serve as the verdict forms in
13 this case, the indictments serve no other purpose, so far as
14 jurors are concerned. The indictments don't prove anything.
15 They don't establish anything. They are simply in the jury
16 room to serve as the verdict forms.

17 But as to each of the charges contained in each of
18 those indictments, the defendant has entered a plea of not
19 guilty. And as I have told you, that plea not guilty,
20 therefore, places upon the State the burden of proving the
21 allegations that they have made against the defendant, the
22 burden of proving each of the essential elements that
23 constitutes the crimes that have been alleged against the
24 defendant. And, therefore, the burden is upon the State to
25 establish the defendant's guilt to the satisfaction of you

1 twelve jurors beyond a reasonable doubt before any verdict
2 of guilty could be returned as to any of the separate
3 indictments.

4 The burden is never upon a defendant or a person
5 accused of a crime to prove that they are not guilty or to
6 prove that they are innocent, because in some cases that
7 might not be possible. The burden is always upon the State,
8 because they have brought the charge against another to
9 establish that person's guilt beyond a reasonable doubt.

10 You are instructed that it is a vital, important,
11 and cardinal rule of law that every defendant in a criminal
12 trial, and it does not matter how serious the offense might
13 be for which that person stands charged, that person shall
14 always be presumed innocent of the charge. And that
15 presumption of innocence remains with any defendant, as it
16 does with this defendant, from the time that he is placed
17 under arrest, and throughout the course of the criminal
18 process, and even throughout the course of the actual trial
19 in the case.

20 And, as I have told you, that presumption of
21 innocence will be with Mr. Bonner even as you go back into
22 your jury room to begin the jury deliberations in this case.
23 And that presumption of innocence will be with him in that
24 jury room, and it will be with him forever, unless you
25 twelve jurors determine that he's no longer entitled to that

1 presumption of innocence as it relates to a particular
2 charge.

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

15 Now, while the State does have the burden of
16 proving a defendant's guilt beyond a reasonable doubt, that
17 doesn't mean that the State has to prove his guilt beyond
18 all doubt or beyond any possible doubt, but it does require
19 the State to prove his guilt to your satisfaction beyond a
20 reasonable doubt. And the term reasonable doubt should be
21 given its plain and ordinary meaning. A reasonable doubt is
22 the kind of doubt that would cause a reasonable person to
23 hesitate to act upon the information provided. And a
24 defendant in a crime trial is entitled to any reasonable
25 doubt that arises from the evidence, or lack of evidence in

1 the case.

2 And if, upon any factual issue essential to a
3 finding of a verdict of guilty, you have some reasonable
4 doubt as to how this issue should be resolved, it would be
5 your duty to resolve that reasonable doubt in favor of the
6 defendant. And, therefore, upon your consideration of the
7 whole case you have a reasonable doubt as to the defendant's
8 guilt as it relates to a particular charge, it would be your
9 duty to resolve that reasonable doubt in his favor and to
10 return a verdict of not guilty as it relates to that
11 particular indictment.

12 And at the same time, after you have considered
13 all the evidence in the case and decided the facts and
14 applied the law, if you have no reasonable doubt as to the
15 defendant's guilt as it relates to a particular charge, then
16 it would be your corresponding duty to convict him of any
17 offense for which you are satisfied and has been proven
18 beyond a reasonable doubt.

19 Now, the same law that provides that you are the
20 judges of the facts also provides that I am the judge of the
21 law, and that simply means that nobody is going to tell you
22 how to arrive at your determination of fact in this case.
23 You do that, as I have stated, through the exercise of good
24 judgment and common sense consciously applied to the
25 testimony and the evidence received during the trial of the

1 case. You must, however, under your oath as a juror accept
2 the law as I provide it to you as being the law that is
3 applicable in this particular case. In other words, you are
4 not to concern yourself with what you thought the law was
5 before you came to serve as a juror this week or what you
6 think the law ought to be. You must simply under your oath
7 accept the law as I provide it to you as being the law that
8 is applicable in this case. Then you take that law and you
9 apply it to the facts as you twelve jurors determine those
10 facts to be, based upon your common sense examination of the
11 testimony and evidence received during the trial.

12 Because you are the sole judges of the facts in
13 this case, you are, therefore, necessarily the sole judges
14 of the credibility or the believability of each witness that
15 has testified during the trial of this case. You twelve
16 jurors alone with decide what weight, value, and effect to
17 give to any particular witness' testimony, or even a portion
18 of that testimony.

19 And so there are several factors which you should
20 consider in arriving at your assessment as to a particular
21 witness' credibility, and I'm going to go list those factors
22 for you. You should consider the demeanor of the witness;
23 that is, what was the witness' manner and appearance as the
24 witness testified from the witness stand? Was the witness
25 straightforward in responding to questions, or was the

1 witness hesitant or evasive in responding to questions that
2 were asked of that particular witness? Simply put, did the
3 witness appear to you to be telling the truth and to have
4 knowledge of the facts to which that witness has testified?

5 You may also consider whether or not the testimony
6 of a witness is consistent or is it inconsistent with that
7 witness' own testimony or with other statements made by that
8 same witness in court or outside of court. And you may
9 consider whether or not the testimony of a witness is
10 consistent or is it inconsistent with other testimony or
11 other evidence received during the trial of the case.

12 You should also consider how the witness came to
13 know the facts to which a witness has testified. In other
14 words, what was a particular witness' opportunity and
15 ability to perceive the existence of those facts to which
16 that witness has testified by having previously used his or
17 her senses, and then what is that witness' ability to be
18 able to come into court and to accurately recollect to you
19 as to what that witness has previously perceived?

20 And you should also consider any bias, prejudice,
21 or interests that a witness might have in a case. In other
22 words, do you find some reason that a particular witness
23 would come into court and would testify one way or another
24 to help or to hurt one side or the other, and you may
25 consider any interest that a witness might have in the

1 outcome of the case, if you determine that a witness does
2 have such an interest, and you further find that that
3 interest would bear upon that particular witness'
4 credibility.

5 And you may also consider whether or not the
6 testimony of a witness is strengthened or was it weakened by
7 other testimony or other evidence received during the trial
8 of this case.

9 Now, during the course of the trial you have heard
10 testimony elicited from the defendant during the course of
11 his testifying regarding his having been previously
12 convicted of a criminal offense. Ordinarily evidence of
13 prior criminal convictions are not admissible during the
14 trial of a case, because they are not relevant to any issue
15 that the jury must determine. However, when a witness takes
16 the witness stand and testifies, where that witness has been
17 convicted of particular criminal offenses, evidence of that
18 conviction may be introduced during that witness' testimony,
19 but evidence, such as that, is restricted and limited to a
20 very specific purpose. The only purpose for which it is
21 offered and the only purpose for which it may be considered
22 is for any impeachment value it may have as it relates to
23 the witness' testimony. In other words, you may consider
24 evidence of that conviction as it relates to the credibility
25 and the believability of the defendant's testimony, in the

1 event you find such evidence to be probative and credible on
2 that point, but you may not consider it for any other reason
3 or any other purpose. It is being offered solely for the
4 purpose of impeachment, should it have that value in your
5 opinion. It is not being offered as any proof of the
6 defendant's commission of any crime for which he presently
7 stands charged, and you may not consider it for that
8 purpose.

9 Now, you as the finders of the fact and you as the
10 judges of the credibility of each witness are permitted to
11 believe as much or as little of what a witness has testified
12 to as you deem is appropriate. And, therefore, you may
13 believe everything that a witness testified to. You may
14 choose to believe none of it. You may believe one portion
15 of a witness' testimony and reject some other portion of
16 that same witness' testimony. And in a given case, you may
17 believe one witness as opposed to several, or several as
18 opposed to one. Whatever your good judgment and common
19 sense tells you is the most believable and credible
20 testimony is the testimony that you should accept, and you
21 should reject any testimony or other evidence that you find
22 not to be credible or believable.

23 Again, your sole objective is to simply reach the
24 truth in the matter, and it should not matter from what
25 source that truth may come, whether it be from a witness for

1 the State or a witness for the defendant, or a combination
2 of testimony and evidence received from both sides in the
3 case.

4 Now, in this case, as you know, the defendant is
5 charged with six separate and distinct offenses. You will
6 be considering each of those offenses separately and you
7 will be considering those separately as it relates to the
8 evidence presented and the law that's applicable that I'm
9 going to provide you. You will be called upon to render six
10 separate and distinct verdicts. And as I have told you,
11 those verdicts may be the same. They may be different.
12 That, of course, will depend upon your determination of fact
13 and then your application of the law to the facts as you
14 determine them to be as they relate to each of the separate
15 charges.

16 Now, I have got to give these instructions to you
17 in some order, so I'm simply going to begin with the
18 indictment charging burglary in the first degree. Don't
19 attach any significance to the order I give the instruction
20 to you. I have got to start somewhere. I have got to
21 finish somewhere. When you go back to deliberate, you start
22 anywhere that you want to in any fashion that you want to.

23 The indictment charging burglary in the first
24 degree alleges that the defendant did, here in Cherokee
25 County, on April the 2nd of 2008, enter a dwelling that

1 belonged to Dipali Darji, located here in Gaffney, without
2 consent and with the intent to commit a crime therein. And
3 they recite additional factors which they contend support
4 the charge of burglary in the first degree.

5 Burglary in the first degree is a statutory
6 offense, and that statute is set forth in 16-11-311 of the
7 Code of laws. And the Code of Laws are simply these blue
8 volumes of books. There are twenty-seven of them. Every
9 year the legislature meets. They pass various laws, rules
10 and regulations that govern our conduct in a variety of
11 ways. Some of those statutes are criminal statutes, and it
12 just means that the legislature has described particular
13 conduct and prohibits us from engaging in that conduct in
14 violation of statute. And where a person is found to have
15 engaged in conduct in violation of a statute, then it would
16 subject that person to some form of punishment or penalty.
17 for having violated the statute.

18 Please understand, however, that the jury is never
19 to be concerned with punishment or penalty. That's not
20 something that a jury decides. Your sole obligation, duty,
21 and function in this case is to determine whether or not the
22 evidence in the case proves the defendant guilty of a crime
23 beyond a reasonable doubt, and you are to make that
24 determination without any regard to punishment or to the
25 consequences of your decision. You simply must determine

1 whether or not the defendant's guilt has been proven beyond
2 a reasonable doubt.

3 Burglary in the first degree, as I stated, is set
4 forth in Section 16-11-311, and that statute provides as
5 follows:

6 A person is guilty of burglary in the first degree
7 if the person enters a dwelling without consent and with the
8 intent to commit a crime therein;

9 And when, in effecting entry or while in the
10 dwelling or in flight therefrom, the defendant or some other
11 participant in the crime:

12 Is armed with a deadly weapon; or,

13 Causes physical injury to a person who is not a
14 criminal participant in the crime; or,

15 Uses or threatens the use of a dangerous
16 instrument; or,

17 Displays what is or appears to be a knife, pistol,
18 revolver, rifle, shotgun, machine gun, or other firearm; or,

19 The entering or the remaining occurs in the
20 nighttime.

21 Therefore, based upon the foregoing statute before
22 you could return a verdict of guilty as to the crime of
23 burglary in the first degree, it would be necessary that the
24 evidence in this case has established to your satisfaction
25 beyond a reasonable doubt four essential elements:

1 First, it must be established that the defendant
2 entered a dwelling.

3 Entry is an indispensable element in the crime of
4 burglary, and entry is just simply the act of going into the
5 dwelling.

6 And as stated, it must be an entry into a
7 dwelling. And a dwelling is defined in the law as a
8 building or a structure which is used or normally used for
9 sleeping, living, or lodging by a person.

10 There must be an entry of a dwelling, and,
11 secondly, without consent.

12 Entering without consent means to enter a dwelling
13 without the consent of the owner or person otherwise in
14 lawful possession of the premises.

15 Thirdly, there must be an entry of a dwelling
16 without consent and with the intent to commit a crime
17 therein. There must be an intent to commit a crime, whether
18 or not the crime was actually committed, accomplished, or
19 completed. The mere entry of a dwelling without an intent
20 to commit a crime does not constitute the crime of burglary.
21 It is only when there is an entering accompanied with an
22 intent to commit a crime that the crime of burglary is
23 complete. And a crime of any grade or severity is
24 sufficient to satisfy this element of the crime of burglary.

25 And intent means the state of a person's mind

1 which directs his actions towards a specific object or goal.

2 The entry of a dwelling without consent and with
3 the intent to commit a crime therein completes the crime of
4 burglary.

5 Now, in order for the State to prove the crime of
6 burglary in the first degree, the State must prove a fourth
7 element. And that fourth element is that the State must
8 prove when in effecting entry, or while in the dwelling, or
9 in immediate flight therefrom the defendant or some other
10 participant in the crime was armed with a deadly weapon; or,

11 Caused physical injury to a person who was not
12 participating in the criminal enterprise; or,

13 Used or threatened the use of a dangerous
14 instrument; or,

15 Displayed what appeared to be a knife, pistol,
16 revolver, rifle, shotgun, machine gun, or other firearm; or,

17 The entering or the remaining occurred in the
18 nighttime.

19 Now, while the State may allege more than one of
20 the factors just enumerated above exists in alleging
21 burglary in the first degree, the State does not have to
22 prove more than one of the enumerated factors accompanying
23 the burglary, but the State must prove at least one of the
24 additional factors before burglary in the first degree may
25 be made out.

1 The next indictment I'm going to address is the
2 indictment charging the defendant with the crime of
3 kidnapping, the State alleging that on April 2nd, 2008, he
4 did unlawfully and with criminal intent, seize, confine,
5 inveigle, decoy, kidnap, abduct, or carry away one Dipali
6 Darji, without authority of law.

7 Kidnapping is also a statutory offense and that
8 statutory reference is set forth in 16-3-910 of the Code of
9 laws, and that statute provides that whosoever shall
10 unlawfully seize, confine, inveigle, decoy, kidnap, abduct,
11 or carry away any other person by any means whatsoever,
12 without authority of law, is guilty of the crime of
13 kidnapping.

14 In order for the defendant to be found guilty of a
15 violation of this statute, it would be necessary that the
16 State has proven to your satisfaction beyond a reasonable
17 doubt each of the essential elements of the crime of
18 kidnapping:

19 And the essential elements of kidnapping as
20 provided for in the statute are:

21 Number one, it must be proven that the defendant
22 did seize, or confine, or inveigle, or decoy, or kidnap, or
23 abduct, or carry away another person by some means or
24 method;

25 And secondly, that one, or more, of the above acts

1 was done without the authority of law.

2 Now, with regard to the term set forth in the
3 first element, you are instructed that the term seize means
4 to take hold of suddenly and forcibly.

5 The term confine means to imprison or to restrain
6 or to restrict a person's freedom in some significant way.

7 The terms inveigle and decoy means to lure,
8 entice, or lead astray by false representations or promises
9 or other deceitful means.

10 The term abduct means to take a person away
11 against his or her will and without consent.

12 And the term carry away means to remove from one
13 place to another without legal authority and without consent
14 of the person being removed.

15 The term kidnap means to carry a person away
16 through the use of force and against his or her will and
17 without authority of law.

18 And the term without authority of law simply means
19 that the conduct engaged in was not permitted, sanctioned,
20 condoned, allowed, or justified under the law.

21 Therefore, in order for the defendant to be found
22 guilty of a violation of this statute, the State must prove
23 one -- they may prove more, but it's not necessary that they
24 prove more than one of those terms as set forth in the first
25 element. In other words, the State need not prove each of

1 the terms seize, confine, inveigle, decoy, kidnap, abduct,
2 or carry away. Proof of any one of those prohibited acts is
3 sufficient, so long as it was done without authority of law
4 and without the consent of the person alleged to have been
5 kidnapped.

6 The next indictment I will address is the
7 indictment charging assault and battery of a high and
8 aggravated nature.

9 In order for you to understand an assault and
10 battery of a high and aggravated nature, I'll charge you and
11 define for you the terms of assault and battery and then
12 assault and battery of a high and aggravated nature.

13 An assault is the unlawful attempt to do violence
14 or injury to the person of another where there is the
15 present ability to complete the attempt by way of a battery.

16 And a battery is the unlawful and intentional
17 touching or striking of the person of another by the person
18 committing an assault or by any object put in motion by that
19 person.

20 A battery may be further defined as the carrying
21 into effect an assault by using or applying force to the
22 person of another, however slight, in a rude, angry, or
23 resentful manner and without just cause or legal excuse.

24 A battery is the completion of an act doing
25 violence or injury to the person of another.

1 And an assault and battery of a high and
2 aggravated nature is an assault and battery, as I have just
3 defined those terms for you, which is accompanied by some
4 circumstance of aggravation.

5 And a circumstance of aggravation is defined as
6 some fact, incident, detail, or circumstance accompanying
7 the assault and battery that tends to enhance or to increase
8 the severity of the assault and battery.

9 Some examples of facts which might be considered a
10 circumstance of aggravation would include, but not be
11 necessarily limited to, the following:

12 A fact that might be considered a circumstance of
13 aggravation is the unlawful use of a deadly weapon in the
14 commission of an assault and battery.

15 Also the infliction of serious bodily harm or
16 injury resulting from a battery, the serious harm or injury
17 meaning more than slight, meaning substantial.

18 An assault and battery committed during the course
19 of the intent to commit a felony crime. And you are
20 instructed that the crimes of burglary in the first degree,
21 kidnapping and armed robbery are classified as felonies
22 under the law of this state.

23 Another circumstance that might be considered as
24 an aggravating circumstance is an assault and battery
25 occurring between the parties where there is a difference in

1 their gender and a great disparity between the ages; the
2 physical conditions, or the abilities of the parties.

3 An additional circumstance that might be
4 considered a circumstance of aggravation is the taking of
5 indecent liberties with a female.

6 Additionally a resistance of lawful authority as
7 where an assault and battery occurs in the course of a
8 lawful arrest.

9 Another example might be the purposeful infliction
10 of shame or disgrace.

11 Now, as I have stated, the factors that I have
12 just enumerated are simply examples of circumstances of
13 aggravation, but the existence of any one, or more, of such
14 factors does not automatically make an assault and battery
15 one of a high and aggravated nature; but the existence of
16 such a circumstance is simply a factor which may be
17 considered by you jurors, along with all the other evidence
18 in the case, as well as any other circumstances proven to
19 have accompanied any assault and battery in your
20 determination as to whether or not any assault and battery
21 is one of a high and aggravated nature.

22 The next indictment that I will address is the
23 indictment charging the defendant with the crime of armed
24 robbery.

25 Armed robbery is also a statutory offense and that

1 statute is the set forth in 16-11-330. In order that you
2 could understand the term armed robbery, I'll also be
3 defining for you first the term of larceny and then the term
4 of robbery, because those are necessarily lesser included
5 offenses and must be proven as part of armed robbery. So
6 I'll instruct you on the definition of larceny, robbery, and
7 then armed robbery.

8 Now, in this case the defendant in a separate
9 indictment is also charged with grand larceny. The larceny,
10 as I will be defining it for you, included in the term armed
11 robbery is the same definition that will relate to the
12 indictment charging the defendant with grand larceny also.

13 Larceny is commonly referred to and known as
14 stealing. Larceny is defined in the law as the taking, the
15 stealing and the carrying away of the personal property of
16 another with the intention of permanently depriving the true
17 owner of use and possession of his or her property and with
18 the intent of converting that property to the taker's own
19 use.

20 Robbery is commonly referred to as a larceny by
21 force.

22 Robbery is defined in the law as taking, stealing,
23 and carrying away the property of another, having any value
24 whatsoever, from the person or presence of any person
25 without his or her consent and with an intent to steal the

1 property by using force or violence to accomplish the theft
2 or by threatening the use of force or violence in order to
3 accomplish the theft.

4 And a thing is deemed to be in the presence of a
5 person with respect to the crime of robbery when it is so
6 within his or her reach, inspection, observation, or control
7 that he or she could, if not overcome by violence or
8 prevented by fear, retain possession of his or her property.

9 Forcing a person to surrender property out of fear
10 from intimidation or through the use of force or violence or
11 the threat of the use of force or violence with an intent to
12 steal the property is a robbery under the law.

13 And Section 16-11-330 defines armed robbery as
14 where a person commits the crime of robbery while armed with
15 a pistol, dirk, slingshot, metal knuckles, razor, or any
16 other deadly weapon.

17 Now, the remaining two indictments charge the
18 defendant with burglary in the second degree and with grand
19 larceny.

20 I'll first instruct you on the laws that relates
21 to the indictment for burglary in the second degree. That's
22 the indictment that alleges that the defendant did, on April
23 the 2nd of 2008, unlawfully enter a building belonging to
24 the Corner Stop #2 without consent of the owner and with the
25 intent to commit a crime therein.

1 A burglary in the second degree, again, is a
2 statutory offense. That statute is set forth in 16-11-312
3 of the Code of laws, and that statute provides as follows:

4 A person is guilty of burglary in the second
5 degree if the person enters a building without consent and
6 with the intent to commit a crime therein; and,

7 Either when in effecting entry or while in the
8 dwelling -- excuse me, while in the building, or in
9 immediate flight therefrom the defendant, or any other
10 participant in the crime, is armed with a deadly weapon; or,

11 Causes physical injury to a person not a
12 participant in the crime; or,

13 Uses or threatens the use of a dangerous
14 instrument; or,

15 Displays what is or appears to be a knife, pistol,
16 revolver, rifle, shotgun, machine gun, or other firearm; or,

17 The entering or the remaining occurs in the
18 nighttime.

19 So based upon the foregoing statute, before you
20 could return a verdict of guilty as to the crime of burglary
21 in the second degree, it would be necessary that the
22 evidence has proven to your satisfaction beyond a reasonable
23 doubt the following four elements:

24 Number one, that the defendant entered a building,
25 a building being defined as a structure where goods are

1 normally stored.

2 There must be an entry of the building without
3 consent.

4 Again, entering without consent means to enter a
5 building without the consent of the owner or person
6 otherwise in lawful possession.

7 And consent means voluntary consent. It does not
8 mean forced submittal.

9 And there must be an entry of a building without
10 consent and with the intent to commit a crime therein.

11 Again, as I have stated, there must have been an
12 intent to commit a crime, whether the crime is completed or
13 not. The mere entering of a building without intent to
14 commit a crime does not constitute burglary. It is only
15 where there is an entering accompanied with an intent to
16 commit a crime that the crime of burglary is complete; and
17 crime of any grade or severity is sufficient to satisfy this
18 particular element.

19 The entry of a building without consent and with
20 the intent to commit a crime therein completes the crime of
21 burglary.

22 In order to establish the crime of burglary in the
23 second degree, it is necessary that the State prove one, or
24 more, of the following additional factors:

25 That when in effecting entry or while in the

1 dwelling -- excuse me, or while in the building, or in
2 immediate flight therefrom, the defendant or another
3 participant in the crime was armed with a deadly weapon; or,

4 Caused physical injury to a person who is not a
5 participant in the crime; or,

6 Used, or threaten the use of a dangerous
7 instrument, or displayed what appeared to be a knife,
8 pistol, revolver, rifle, shotgun, machine gun, or other
9 firearm; or,

10 That entering or the remaining occurred in the
11 nighttime.

12 Again, as I have stated, with respect to the law
13 as it relates to burglary in the first degree, while the
14 State may prove more than one of those additional factors
15 than the fourth element, it's not necessary that they prove
16 more than one, but one must be proven before the State will
17 have proven burglary in the second degree.

18 And the remaining indictment charges the crime of
19 grand larceny. And that indictment alleges that the
20 defendant did, on April the 2nd of 2008, take, steal and
21 carry away money in excess of \$5,000 which belonged to the
22 Corner Stop #2 in violation of 16-13-30.

23 Again, larceny is known as stealing. It's defined
24 in the law as taking, stealing, and carrying away the
25 personal property of another with the intention of

1 permanently depriving the true owner of the use and
2 possession of his or her property and converting the
3 property to the taker's own use.

4 Grand larceny is the larceny or theft of personal
5 property of another having a value of more than \$1,000.

6 Now, criminal intent is also a necessary element
7 of every crime that has to be proven beyond a reasonable
8 doubt. The term intent refers to the state of a person's
9 mind that directs his actions towards a specific object or
10 goal.

11 Criminal intent is the state of a person's mind
12 that operates jointly with the commission of an act in the
13 commission of a criminal offense.

14 Criminal intent is a mental state of conscious
15 wrongdoing in contrast to an act that is done inadvertently,
16 mistakenly, accidentally, and without any criminal intent.

17 Now, in this case the defendant has raised what is
18 referred to in the law as the defense of alibi.

19 An alibi means that the defendant was at another
20 specified place at the time that the crime alleged by the
21 State was committed, and, therefore, it was not possible for
22 the defendant to have committed the crime he is accused of
23 committing, because he was not present at the scene of that
24 crime when that crime was committed.

25 While a defendant may present evidence of an

1 alibi, there is no burden on the defendant to prove the
2 existence of that alibi. The burden is on the State to
3 prove beyond a reasonable doubt that the defendant was
4 actually present at the place where the crime was committed
5 and that he actually committed it and, therefore, was not
6 somewhere else.

7 In other words, because the State has the burden
8 of proving the defendant's guilt beyond a reasonable doubt,
9 such a burden would necessarily require that the State prove
10 beyond a reasonable doubt that the defendant was not
11 somewhere else; he was at the scene of the crime and
12 participated in that crime.

13 Well, I believe that covers it.

14 Three things. During the course of your
15 deliberations there may come a time where you have some
16 question about the evidence or testimony. I am never
17 permitted to answer questions that relate to issues of fact
18 or the evidence or the testimony.

19 Also do not inquire as to whether there is some
20 other piece of evidence that you might have. In other
21 words, if you go back and start deliberating, you wonder if
22 something exists that you think might assist you in
23 resolving the case, even if it did exist, you cannot have
24 it because the case is now being submitted to you for your
25 deliberations, and, therefore, no additional evidence may be

1 received, even if it did exists.

2 So I cannot respond to questions of fact and no
3 additional evidence can be received.

4 If during your deliberations you have a question
5 about a witness' testimony and that question can be resolved
6 by your having that testimony replayed in whole or in part,
7 we can bring you back into the courtroom to have testimony
8 of a witness replayed in some portion of it, or in its
9 entirety, if you prefer. So if you have a question about
10 witness' testimony and that can be answered by having the
11 testimony replayed, you are permitted to have testimony
12 reheard. We will have to bring you back into the courtroom
13 for that purpose.

14 If at any time you have a question about the law
15 that you are to apply, I am permitted to answer those
16 questions. So if at any time you need a re-instruction,
17 additional explanation, or a clarification of any law that I
18 have already provided, I am permitted to answer those
19 questions and would be happy to do so.

20 Mr. Foreman, if at any time you need to address
21 any matter to me, if you will write it on a piece of paper,
22 give it to the bailiff, he will submit it to me and then
23 I'll respond to that question accordingly.

24 If we have any smokers on the jury, and I think we
25 do, you are permitted to smoke during deliberations, but you

1 cannot smoke in the jury room. You will have to be taken
2 outside for that purpose. So if anybody wants to smoke, you
3 let the bailiff know and he will take you outside for that
4 purpose, but you are instructed that deliberations have to
5 stop and they may only resume when all twelve jurors are
6 present so that all may participate.

7 And I'm satisfied that all of you do eat and you
8 have ordered lunch and your lunch should be here shortly, if
9 it's not here. Nevertheless, when it does get here, we will
10 bring it to the jury room and you can stop and eat and then
11 start deliberations after you finish eating, or deliberate
12 while you are eating. That's up to you. I'll leave that to
13 your discretion. I'm not going to tell you how to do that.

14 Now, Mr. Foreman, as I have indicated to you, you
15 will have these indictments in the jury room. They are not
16 evidence of anything. They don't prove anything. They
17 will, however, be there to serve as the verdict forms. And
18 as I have stated, you will be asked to write separate
19 verdict forms as to each of the separate indictments. And
20 on the back of each indictment in the lower left-hand corner
21 you will see the word verdict, and it's beneath that word
22 that you are going to indicate the jury's unanimous decision
23 as it relates to that particular charge and indictment.

24 There is also a space for you to sign your name as
25 the foreperson. You are the only juror that needs to sign

1 the verdict form. There is also a space for the appropriate
2 date.

3 Now, with regard to each of the six indictments,
4 you have two possible verdict forms, and those possible
5 verdict forms are guilty and not guilty. So whatever that
6 decision is as it relates to the particular indictment, Mr.
7 Foreman, you just indicate that decision on the back as
8 indicated. Sign your name, place the date on it.

9 After you have reached a decision on all of the
10 indictments, let the bailiff know that you have reached
11 those decisions and we will bring you back to receive those
12 verdicts.

13 Now, with the exception of Ms. Nix, I'll ask the
14 twelve jurors to please go to your jury room. Do not,
15 however, yet begin your deliberations. I have got some
16 matters I'll need to address with the lawyers. If I do not
17 need to bring you back for any reason, I'll simply send word
18 by way of the bailiff that you may begin with your
19 deliberations. In that event, he will bring to the jury
20 room all of the exhibits which have been introduced during
21 the trial. And to you, Mr. Foreman, he will also bring the
22 indictments which will serve as the verdict forms.

23 So please retire to your jury room, but do not
24 begin deliberations until I send you word to do so.

25 (Whereupon, at 1:35 p.m., the jury panel retired

1 to the jury room, awaiting instructions to begin
2 deliberations)

3 THE COURT: Okay. Ms. Nix, you know that you are
4 the alternate?

5 JUROR NUMBER 66: Yes.

6 THE COURT: The twelve original jurors are able to
7 participate, so that's going to conclude your service. We
8 do want to thank you for your participation and the time
9 that you devoted to it. You did order lunch, and so if you
10 want to wait and get your lunch, you can eat it here, or
11 take it with you and leave. That's up to you.

12 JUROR NUMBER 66: Okay.

13 THE COURT: You are going to be excused for the
14 balance of today. I do anticipate that you likely will be
15 coming back tomorrow, but I'm not certain of that at this
16 moment. So when you leave, just be sure that you call back
17 this evening after six o'clock to the number that you have
18 in order to receive that reporting information. Okay?

19 JUROR NUMBER 66: Yes.

20 THE COURT: Thank you again for your participation
21 in this case.

22 JUROR NUMBER 66: Okay. Thank you.

23 (Whereupon, the alternate juror was discharged)

24 THE COURT: Are there any exceptions taken to the
25 instructions or requests for additions to the instructions

1 by the State?

2 MR. BARNETTE: None from the State, Your Honor.

3 THE COURT: By the defendant?

4 MR. SCHULTZ: None from the defense, Your Honor.

5 THE COURT: All right. Let me ask you all to
6 verify all of the exhibits before they go back, please.

7 (Off the record)

8 (Back on the record)

9 THE COURT: All right. All the exhibits are
10 accounted for?

11 MR. BARNETTE: Yes, sir.

12 THE COURT: Mr. Schultz?

13 MR. SCHULTZ: They are, Your Honor.

14 THE COURT: Okay. All right. Send them back and
15 tell the jury to begin deliberations and notify us when they
16 have concluded.

17 (Whereupon, at 1:40 p.m., the jury panel was
18 instructed to begin deliberations)

19 THE COURT: We'll be at ease while the jury is
20 deliberating.

21 (Whereupon, at 1:41 p.m., proceedings were
22 adjourned, pending the verdict of the jury panel)

23 (Whereupon, at 3:44 p.m., proceedings were
24 reconvened)

25 THE COURT: I'm told the jury has reached a

1 decision. Let's get everybody assembled.

2 (Off the record)

3 (Back on the record)

4 THE COURT: All right. I'm told the jury has
5 reached a decision. Are we ready to receive the verdict?

6 MR. BARNETTE: The State is ready, Your Honor.

7 MR. SCHULTZ: The defense is ready, Your Honor.

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

9 (Whereupon, at 3:46 p.m., the jury panel returned
10 to open court to report its verdict)

11 THE COURT: Mr. Foreman, have you and your fellow
12 jurors reached a unanimous decision as to each of the
13 separate charges in the indictments?

14 JURY FOREPERSON: Yes, sir.

15 THE COURT: Have you indicated those decisions on
16 the back of the indictments as requested?

17 JURY FOREPERSON: Yes, sir.

18 THE COURT: And did you sign your name as the
19 foreperson and date it today's date?

20 JURY FOREPERSON: Yes, sir.

21 THE COURT: If you will please hand those verdict
22 forms up by way of the bailiff.

23 You may publish the verdicts.

24 THE CLERK: Indictment 2009-GS-11-824, the State
25 versus John Bendarian Bonner, indictment for burglary, first

1 degree, the verdict is guilty.

2 Signed by foreperson Donald Fritzsche.

3 Indictment 2009-GS-11-825, the State versus John
4 Bendarian Bonner, indictment for grand larceny, the verdict
5 is guilty.

6 Signed by foreperson Donald Fritzsche.

7 Indictment 2009-GS-11-826, the State versus John
8 Bendarian Bonner, indictment for burglary, second degree,
9 the verdict is guilty.

10 Signed by foreperson Donald Fritzsche.

11 Indictment 2009-GS-11-827, the State versus John
12 Bendarian Bonner, indictment for kidnapping, the verdict is
13 guilty.

14 Signed by foreperson Donald Fritzsche.

15 Indictment 2009-GS-11-828, the State versus John
16 Bendarian Bonner, indictment for armed robbery, the verdict
17 is guilty.

18 Signed by foreperson Donald Fritzsche.

19 Indictment 2009-GS-11-829, the State versus John
20 Bendarian Bonner, indictment for assault and battery of a
21 high and aggravated nature, the verdict is guilty.

22 Signed by foreperson Donald Fritzsche.

23 Ladies and gentlemen of the jury, if this is the
24 verdict of you all, please indicate by raising your right
25 hand.

1 Thank you.

2 THE COURT: Does the defendant wish to have the
3 jury polled?

4 MR. SCHULTZ: We do, Your Honor.

5 THE COURT: All right, poll the jury, please,
6 ma'am.

7 THE CLERK: When I call your name and your juror
8 number, if you will raise your right hand for me and I'll
9 ask you a question.

10 Juror 28, Takia Epps. Please raise your right
11 hand. Is this your verdict?

12 JUROR NUMBER 28: Yes.

13 THE CLERK: Juror 82, James Simpson, is this your
14 verdict?

15 JUROR NUMBER 82: Yes.

16 THE CLERK: Juror 25, Callie Deborde, is this your
17 verdict?

18 JUROR NUMBER 25: Yes.

19 THE CLERK: Juror 35, Barry Green, is this your
20 verdict?

21 JUROR NUMBER 35: Yes.

22 THE CLERK: Juror 23, Kevin Davis, is this your
23 verdict?

24 JUROR NUMBER 23: Yes.

25 THE CLERK: Juror 20, Robert Cobb, is this your

1 verdict?

2 JUROR NUMBER 20: Yes, ma'am.

3 THE CLERK: Juror 31, Donald Fritzsche, is this
4 your verdict?

5 JUROR NUMBER 31: Yes.

6 THE CLERK: Juror 27, Marc Eggers, is this your
7 verdict?

8 JUROR NUMBER 27: Yes, ma'am.

9 THE COURT: Juror 5, Oveda Atkinson, is this your
10 verdict?

11 JUROR NUMBER 5: Yes.

12 THE CLERK: Juror 8, Andrew Bailey, is this your
13 verdict?

14 JUROR NUMBER 8: Yes.

15 THE CLERK: Juror 87, Ralph Spencer, is this your
16 verdict?

17 JUROR NUMBER 87: Yes.

18 THE CLERK: Juror 98, Phillip Waters, is this your
19 verdict?

20 JUROR NUMBER 98: Yes.

21 THE COURT: All right. Any other matters to
22 address with the jury present?

23 MR. SCHULTZ: None from the defense, Your Honor.

24 THE COURT: All right. Thank you, ladies and
25 gentlemen for your service in the case. You are excused for

1 the balance of the afternoon. If you will call back after
2 six o'clock this evening to the number that you have on your
3 juror information card to receive reporting information, you
4 will find out about reporting for tomorrow or later in the
5 week. Okay.

6 Thank you again for your participation. Have a
7 good evening. Please call back after six to receive that
8 reporting information.

9 (Whereupon, at 3:51 p.m., the jury panel was
10 discharged)

11 THE COURT: All right. Any other matters to
12 address prior to the imposition of sentence?

13 MR. SCHULTZ: Yes, Your Honor. At this time the
14 defense would move for a new trial based upon all objections
15 and motions denied.

16 THE COURT: All right. That motion is denied.

17 MR. SCHULTZ: Thank you, Your Honor.

18 Your Honor, could the defendant's mother sit
19 there?

20 THE COURT: She may. He can just stay at the
21 table.

22 MR. SCHULTZ: Yes, sir.

23 THE COURT: All right, Mr. Schultz, I'll be glad
24 to hear from you and Mr. Bonner.

25 MR. SCHULTZ: Thank you, Your Honor. Briefly.

1 Mr. Bonner is nineteen years old. Obviously we
2 would like the court to take that into consideration when
3 rendering sentence because of his relative age and youth.
4 Thank you.

5 His mother is here, close family, and his two
6 brothers and his girlfriend are here as well in support of
7 him. They have been here. Obviously Ms. Bonner and Mr. --
8 or Kelvin Bonner had been sequestered, but they were here
9 present during his trial in support of him, so he does have
10 a support network here in Gaffney. He's lived in Gaffney
11 all his life and he just has one criminal conviction. And I
12 believe his mother would like to address the court.

13 THE COURT: All right, Ms. Bonner, I'll be glad
14 hear from you.

15 EVA BONNER: The only thing, I would just like to
16 apologize to everybody out of this that everyone has been
17 through.

18 THE COURT: All right. Thank you, ma'am.

19 MR. SCHULTZ: Thank you, Your Honor.

20 THE COURT: All right, Mr. Bonner, is there
21 anything that you would like to tell me prior to the
22 imposition of sentence?

23 THE DEFENDANT: No, I ain't got nothing to say to
24 you.

25 THE COURT: Anything further on behalf the State?

1 MR. BARNETTE: No, sir. You know his record.
2 Your Honor, you have seen the facts of the case and so
3 forth. Obviously Ms. Darji went through a serious -- I mean
4 a nightmare that night, and I know the court has seen that,
5 and we would ask you to take that into consideration, Your
6 Honor.

7 THE COURT: All right, on Indictment 2009-11-824,
8 an indictment for burglary in the first degree, wherein you
9 have been found guilty by the jury of that offense, the
10 sentence of the court is that you, John Bendarian Bonner, be
11 confined to the South Carolina Department of Corrections for
12 a period of your natural life.

13 Indictment 2009-825, an indictment for grand
14 larceny, wherein you have been found guilty by a jury of
15 that offense, the sentence of the court is that you be
16 confined to the South Carolina Department of Corrections for
17 a period of five years.

18 Indictment 2009-11-826, an indictment for burglary
19 in the second degree, wherein you have been found guilty by
20 the jury of that offense, the sentence of the court is that
21 you be confined to the South Carolina Department of
22 Corrections for a period of fifteen years.

23 Indictment 2009-827, an indictment for kidnapping,
24 wherein you have been found guilty by the jury of that
25 offense, the sentence of the court is that you, John

1 Bendarian Bonner, be confined to the South Carolina
2 Department of Corrections for a period of thirty years.

3 Indictment 2009-11-828, an indictment for armed
4 robbery, wherein you have been found guilty by the jury of
5 that offense, the sentence of the court is that you be
6 confined to the South Carolina Department of Corrections for
7 a period of thirty years.

8 Indictment 2009-11-829, an indictment for
9 aggravated assault and battery, the sentence of the court is
10 that you, John Bendarian Bonner, be confined to the South
11 Carolina Department of Corrections be for a period of ten
12 years.

13 Now, Mr. Bonner, you have a right to appeal the
14 verdicts of the jury and decision that is the sentence of
15 the court. You must file a notice of your intentions to
16 appeal those decisions within ten days of today's date. You
17 will discuss that with Mr. Schultz.

18 Anything else?

19 MR. BARNETTE: No, sir.

20 MR. SCHULTZ: No, sir.

21 (END OF REQUESTED TRANSCRIPT OF RECORD)

22

23

24

25

1 CERTIFICATE

2 I, the undersigned, Michael R. Watts, Official Court
3 Reporter for the Sixteenth Judicial Circuit of the State of
4 South Carolina, do hereby certify that the foregoing is a
5 true, accurate and complete Transcript of Record of the
6 proceedings had and the evidence introduced in the trial of
7 the captioned case, relative to appeal, in the Court of
8 General Sessions for CHEROKEE County, South Carolina, on the
9 17TH AND 18TH days of NOVEMBER, 2009.

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

12
13
14 APRIL 10, 2010

15
16 
17

18 Michael R. Watts
19 Circuit Court Reporter
20
21
22
23
24
25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHEROKEE) IN THE COURT OF GENERAL SESSIONS
3
4 THE STATE)
5 -vs-) TRANSCRIPT OF RECORD
6 JOHN BENDARIAN BONNER,) 2009-GS-11-00824
7 DEFENDANT.) JANUARY 22, 2013
GAFFNEY, SOUTH CAROLINA

8 (RESENTENCING HEARING)
9

10 B E F O R E:

11 THE HONORABLE J. DERHAM COLE, JUDGE.
12

13
14 A P P E A R A N C E S:

15 BARRY BARNETTE, SOLICITOR
16 ATTORNEY FOR THE STATE

17 JOSHUA SCHULTZ, ESQUIRE
18 ATTORNEY FOR THE DEFENDANT

19
20 MICHAEL R. WATTS
21 CIRCUIT COURT REPORTER
22
23
24
25

1	INDEX	
2		
3	WITNESSES	PAGE
4	(NO WITNESSES CALLED)	
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBITS			
2	NO.	DESCRIPTION	ID.	EV.
3	CT-1	COURT OF APPEALS DECISION	4	
4	CT-2	COURT OF APPEALS REMITTITUR	4	
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 (PROCEEDINGS, JANUARY 22, 2013)

2 (Court of Appeals Decision marked as Court's
3 Exhibit No. 1 for identification).

4 (Court of Appeals Remittitur marked as Court's
5 Exhibit No. 2 for identification)

6 MR. BARNETTE: May it please the court, Your
7 Honor, this is the case of State versus John Bonner, Your
8 Honor.

9 The Court of Appeals, Your Honor, in an opinion
10 filed on February 14th, 2012, which is Published Opinion
11 5048, Your Honor, sent us back the burglary first
12 conviction.

13 He was convicted at trial on November 18th, 2009,
14 of several charges, including burglary first degree, Your
15 Honor. The Court of Appeals has vacated the sentence and
16 remanded it back based off of a Supreme Court case that came
17 after this case, Your Honor, basically saying that life
18 without parole for the burglary first conviction can't be
19 given in a non-homicide offense, Your Honor, committed as a
20 juvenile. So the State has brought him back for
21 resentencing, Your Honor.

22 I have marked as two exhibits.

23 Court Exhibit 1 is the actual opinion, Your Honor,
24 that was issued by the Court of Appeals.

25 Court Exhibit No. 2, Your Honor, is the remittitur

1 which has been submitted by the Court of Appeals, Your
2 Honor. This was remitted back to this court on January
3 17th, 2013, Your Honor.

4 If I could enter those in the record, Your Honor,
5 and pass them up to the court.

6 And I believe his attorney, Mr. Josh Schultz at
7 the trial, Your Honor, is here for the sentencing hearing.
8 I believe he has a matter he wants to ask the court about at
9 this time.

10 THE COURT: All right, Mr. Schultz.

11 MR. SCHULTZ: That's correct, Your Honor.

12 May it please the court, Mr. Bonner and I have
13 talked about this case. Mr. Bonner feels that it's in his
14 best interest to continue this matter right now, and we
15 would ask the court to continue this matter.

16 He wants to do some more research. I feel that I
17 have done all the research necessary in this matter and I
18 would like to proceed with it, but I'm doing this on behalf
19 of Mr. Bonner, who requests a continuance from the court.

20 THE COURT: And what does he need time for? What
21 do y'all need time for?

22 MR. SCHULTZ: Mr. Bonner would like to research
23 this -- an issue further when it comes to concurrent -- his
24 concurrent sentencing for his life sentence.

25 THE COURT: Well, what does he need to research?

1 MR. SCHULTZ: The question is that Mr. Bonner
2 wishes me to research, and I've -- I have already come to my
3 conclusion, but Mr. Bonner would like to research it
4 further, if the court can grant him any more time or any
5 less time on the thirty year sentences that the court gave
6 him and also the ten year sentence on the assault and
7 battery of a high and aggravated nature, which ran
8 consecutive to the thirty year sentence that the court gave
9 him. That's what he would like to research.

10 THE COURT: Well, I can't change those sentences.
11 We are all in agreement on that, aren't we?

12 MR. BARNETTE: Yes, sir. As a matter of fact, in
13 the opinion itself basically says Bonner was sentenced as
14 follows: LWOP for the burglary first; five years for grand
15 larceny; fifteen years for the burglary in the second
16 degree; thirty years for the kidnapping; thirty years for
17 armed robbery; ten years for ABHAN, Your Honor. All of them
18 was concurrent to each other, with the exception of the
19 sentence for the ABHAN, Your Honor.

20 It says "Bonner does not challenge his conviction
21 or sentence for any other charge," and that was in the
22 opinion issued by the Court of Appeals, Your Honor. So
23 that's not an issue in front of this court at this time.

24 THE COURT: The only sentence I can impose today
25 is a sentence for burglary in the first degree. That's the

1 only case that's been sent back.

2 MR. SCHULTZ: Yes, sir.

3 THE COURT: Does he still need a continuance?

4 (Off the record)

5 (Back on the record)

6 MR. SCHULTZ: He still says he wants a
7 continuance, Your Honor.

8 THE COURT: And what's he need to research then?

9 The other sentences can't be altered, so what is
10 it that he needs to research now?

11 (Off the record)

12 (Back on the record)

13 MR. SCHULTZ: I beg the court's patience, Your
14 Honor.

15 THE COURT: Okay.

16 (Off the record)

17 (Back on the record)

18 MR. SCHULTZ: Your Honor, he tells me that he does
19 not wish to pursue a continuance at this time.

20 THE COURT: Okay.

21 MR. BARNETTE: May I pass the indictment up, Your
22 Honor?

23 THE COURT: Yes.

24 All right, we are here on Indictment

25 2009-GS-11-824, an indictment for burglary in the first

1 degree, wherein the defendant was previously found guilty of
2 the crime of burglary in the first degree by a jury.

3 The defendant is now before the court for the
4 imposition of sentence.

5 Anything further on behalf of the State?

6 MR. BARNETTE: Your Honor, I believe you know the
7 facts of the case, since you were the trial judge on it,
8 Your Honor.

9 Just two things I would like to bring to the
10 court's attention.

11 One thing, talking about juveniles, I know the
12 court, our U.S. Supreme Court, as well as the Court of
13 Appeals has ruled. But, however, some of the most dangerous
14 individuals I have seen in court has been seventeen years
15 old. I have dealt with Jonathan Vick; Calen Radwill, which
16 is in Lexington County.

17 We also had Eric Morgan in front of Your Honor. I
18 believe on a death penalty case. In this situation -- of
19 course, his sentence was commuted to life.

20 I know they were all murder cases, Your Honor, but
21 I think as a seventeen year old -- of course, you know the
22 facts of the case. He was one of the main instigators in
23 it. And thank God that the alarm went off when they broke
24 into the convenience store next door or the victim would
25 probably not have been alive after that. I think if that

1 alarm hadn't went off and shocked all of them and obviously
2 draw attention from the neighborhood and from the local
3 police, that she would have probably been -- she was
4 definitely hurt emotionally, as well as physically, but I
5 think she would have definitely been dead from that
6 situation if they had had time to go ahead and take care of
7 her, and he was one of the main people involved with him.

8 I know the court knows the previous sentencing.
9 Joshua Manning, he was twenty-three years old and received a
10 sixty year sentence from Judge Hayes, Mark Hayes. And his
11 co-defendant, Labron Agnew received a thirty year sentence,
12 Your Honor. They were two of the main people that was with
13 him when they attacked and assaulted the victim in this
14 case, Your Honor.

15 I did talk to the victim and her family, Your
16 Honor. We had representatives talk to them. They trust the
17 judgment of this court. They appreciate you listening to
18 this case again and they trust your judgment in this case,
19 Your Honor. Thank you very much.

20 THE COURT: Okay.

21 Mr. Schultz?

22 MR. SCHULTZ: Thank you, Your Honor.

23 May it please the court, Mr. Bonner is now
24 twenty-one years old. When he was sentenced by Your Honor I
25 believe he was eighteen. When these acts were committed Mr.

1 Bonner was seventeen and arguably he was a juvenile.

2 In the course of my representation of Mr. Bonner,
3 which is now close to four years, I have come to know him
4 very well. We would like to take this opportunity to
5 explain to Your Honor why Mr. Bonner deserves a second
6 chance at life and a meaningful chance at rehabilitation.

7 His background, unfortunately we have been through
8 this several times, is unfortunately similar to a lot of
9 people who find themselves very young and in a lot of
10 trouble. Mr. Bonner and I have talked at length about this
11 and I do not believe that he ever had a lot of positive role
12 models in his life. I don't believe he had a positive male
13 role model in his life. His father tells me he was in and
14 out of jail for the better part of his life and as a result
15 his relationship with his father was certainly strained.

16 He's told me that his father encouraged him to
17 participate in sports - basketball, football and track. And
18 I believe his ex-football coach is present here today.

19 He told me that when his parents separated when
20 John was about twelve or thirteen years old.

21 I feel strongly that if he had a positive male
22 role model in his life, we may not be standing here right
23 now in front of Your Honor.

24 When his parents were separated, his father
25 stopped being a part of his life. His mother, who is here

1 today is Eva and she encouraged John to go to church and be
2 respectful of people and generally raised him right.

3 Before he was incarcerated John became a father to
4 a young -- to two young children. They are now seven and
5 five. He has a little boy name Sam, a seven year old, and a
6 little girl named Ivy. Because of his current incarceration
7 he has never got to know these children, and he hopes that
8 if the court gives him a meaningful chance at rehabilitation
9 he can develop some kind of relationship with these
10 children.

11 While in prison he has matured significantly, I
12 believe, and I have actually noticed a marked difference --
13 a marked difference in his tone and his attitude now from
14 when I first represented him back in 2009.

15 The Graham case, which Your Honor, of course, is
16 aware of that came down from the United States Supreme Court
17 established that juveniles like him at the time have less in
18 culpability. I believe that Mr. Bonner then had lack of
19 maturity and undeveloped sense of responsibility.

20 In talking with Mr. Bonner several times about
21 what led him to this point, he's told me several times that
22 he's been influenced by people that he should have never
23 been influenced by.

24 As the court said in the Graham case, that they
25 are -- some like John are more vulnerable and susceptible to

1 negative influences and outside pressures, including peer
2 pressure and the characters are not as well formed.

3 In my opinion, this description that the court
4 said in Graham fits Mr. Bonner's personality in 2008, and --
5 actually 2009.

6 I believe he can be reformed. And in the words of
7 Graham again, "from a moral standpoint it would be misguided
8 to equate the failings of a minor with those of an adult,
9 for a greater possibility exists that a minor's character
10 deficiencies will be reformed."

11 Also in looking at the Graham case, Your Honor,
12 the court held that someone who is incorrigible should not
13 have a chance of rehabilitation. John is not incorrigible.
14 He's not a danger to society. He has a very good support
15 network, people that care about him, and I believe that he
16 has the capacity to change what he once was.

17 John has told me that he received his GED in
18 prison and also certification in carpentry and electrician
19 training. It took him approximately about a little over
20 half a year to complete these certifications and John has
21 taken great pride in the ability to start and to finish
22 something that he sets his mind to.

23 He tells me in the very few times that he's
24 allowed out of his cell, he spends most of the time at the
25 library reading about subjects from legal procedure to