

THE STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

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S.C. Supreme Court

Appeal from Spartanburg County
The Honorable Brooks P. Goldsmith, Circuit Court Judge

Appellate Case No. 2013-001284

Circuit Court Case No. 2010-CP-42-4049

NATHANIEL TEAMER,

Respondent,

v.

STATE OF SOUTH CAROLINA,

Petitioner.

**APPENDIX
VOLUME 1 of 3**

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TABLE OF CONTENTS

	<u>Page</u>
Trial Transcript	1-477
Indictments, Arrest Warrant, Ticket, Sentencing Sheets.....	478-489
Direct Appeal Records.....	490-559
PCR Application.....	560-566
Discovery Motion.....	567-568
Return to Discovery Motion.....	569-571
Order granting discovery	572
Amended PCR Application	573-575
PCR hearing transcript	576-814
Map.....	815
PCR Exhibits – Applicant	816-879
PCR Exhibits – State	880-882
Trial Transcript from 2 nd trial	883-1371
Order granting PCR	1372-1409
59(e) Motion	1410-1417
Return to 59(e) Motion.....	1418-1419
Motion Hearing Transcript.....	1420-1461
Order Denying 59(e) Motion.....	1462

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
3
4 The State,)
5 -vs-) TRANSCRIPT OF RECORD
6 Nathaniel Charles Tamer,) 2006-GS-42-1719;1720
7 Defendant.) September 10 - 12, 2007
8) Spartanburg, South Carolina
9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
12
13

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1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	MICHAEL JONES (SW)	
4	Direct examination by Mr. Barnette	114
5	Cross-examination by Mr. Schultz	117
6	ERICA GRAY (SW)	
7	Direct examination by Mr. Barnette	119
8	Cross-examination by Mr. Schultz	126
9	Redirect examination by Mr. Barnette	144
10	ERICA GRAY (SW)	
11	Direct examination by Mr. Barnette	151
12	Cross-examination by Mr. Schultz	152
13	Redirect examination by Mr. Barnette	153
14	MARY GRAY (SW)	
15	Direct examination by Mr. Stalvey	154
16	Cross-examination by Mr. Schultz	160
17	Redirect examination by Mr. Stalvey	172
18	DONALD MARTIN, JR. (SW)	
19	Direct examination by Mr. Barnette	174
20	Cross-examination by Mr. Schultz	177
21	Redirect examination by Mr. Barnette	199
22	JAVANICA [REDACTED] (SW)	
23	Direct examination by Mr. Barnette	200
24	Cross-examination by Mr. Schultz	204
25		

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	ADRIAN TERRELL PATTON (SW)	
4	Direct examination by Mr. Barnette	208
5	Cross-examination by Mr. Schultz	215
6	Redirect examination by Mr. Barnette	226
7	Recross-examination by Mr. Schultz	227
8	Redirect examination by Mr. Barnette	228
9	Recross-examination by Mr. Schultz	229
10	GAIL HEATH (SW)	
11	Direct examination by Mr. Barnette	230
12	JAY GARDNER (DW)	
13	Direct examination by Mr. Barnette	245
14	Cross-examination by Mr. Schultz	249
15	GEORGE EDWARD NICHOLSON (SW)	
16	Direct examination by Mr. Barnette	252
17	DWAYNE DARITY (SW)	
18	Direct examination by Mr. Barnette	256
19	Cross-examination by Mr. Schultz	261
20	Redirect examination by Mr. Barnette	268
21	Recross-examination by Mr. Schultz	270
22	BRANDI NICOLE GENTRY (SW)	
23	Direct examination by Mr. Barnette	271
24	Cross-examination by Mr. Schultz	273
25	Redirect examination by Mr. Barnette	274

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	JOSEPH KLEMAN (SW)	
4	Direct examination by Mr. Barnette	275
5	Cross-examination by Mr. Schultz	276
6	BRANDON LANDRUM (SW)	
7	Direct examination by Mr. Barnette	277
8	Cross-examination by Mr. Schultz	287
9	Redirect examination by Mr. Barnette	304
10	Recross-examination by Mr. Schultz	306
11	TIMOTHY ALLEN ST. LOUIS (SW)	
12	Direct examination by Mr. Barnette	312
13	Cross-examination by Mr. Schultz	318
14	Redirect examination by Mr. Barnette	327
15	Recross-examination by Mr. Schultz	328
16	Redirect examination by Mr. Barnette	329
17	Recross-examination by Mr. Schultz	329
18	DAVID MICHAEL EVETT (SW)	
19	Direct examination by Mr. Barnette	330
20	Cross-examination by Mr. Schultz	341
21	Redirect examination by Mr. Barnette	353
22	Recross-examination by Mr. Schultz	357
23		
24		
25		

1	<u>INDEX</u>	
2	<u>WITNESSES</u>	<u>PAGE</u>
3	JAMES YOUNG (SW)	
4	Direct examination by Mr. Barnette	359
5	Cross-examination by Mr. Schultz	364
6	EDGAR VICTOR GUTHRO (SW)	
7	Direct examination by Mr. Barnette	367
8	Cross-examination by Mr. Schultz	370
9	GEORGE DAVID REEVES (SW)	
10	Direct examination by Mr. Barnette	371
11	Cross-examination by Mr. Schultz	374
12	OSIA FEASTER (DW)	
13	Direct examination by Mr. Schultz	385
14	Cross-examination by Mr. Schultz	391
15	Redirect examination by Mr. Schultz	402
16	DAISY ELAINE FEASTER (DW)	
17	Direct examination by Mr. Schultz	403
18	Cross-examination by Mr. Schultz	405
19	Redirect examination by Mr. Schultz	406
20	Recross-examination by Mr. Schultz	407
21	CHRISTINA M. HOGGLE (DW)	
22	Direct examination by Mr. Schultz	408
23	Cross-examination by Mr. Schultz	409
24		
25		

1	Jury qualification	57
2	Jury sworn	100
3	Opening statements	107,382
4	Closing arguments	415
5	Jury charge	436
6	Verdict	468
7	Sentence	472
8	Certificate	477
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-1	Map		210
4	S-1A	Photograph		210
5	S-2	Photograph		246
6	S-3	Photograph		246
7	S-4	Photograph		247
8	S-5	Photograph		368
9	S-6	Photograph		368
10	S-7	Photograph		368
11	S-8	Photograph		368
12	S-9	Drug report (never submitted to be marked)		
13	S-10	Letter	234	
14	S-11	Letter		234
15	S-12	Envelope		234
16	S-13	Report (never submitted to be marked)		
17	S-14	Videotape		316
18	S-15	Photograph		361
19	S-16	Photograph		361
20	S-17	Photograph		361
21	S-18	Photograph		361
22	S-19	Photograph		361
23	S-20	Toxicology report	255	280
24	S-21	Phone records		116
25	S-21A	C. D. of one phone call		116

1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	S-22	Phone records		116
4	S-23	Envelope		248
5	S-24	Shotgun shell found in the driveway		215
6	S-25	Phone records		254
7	S-26	Handwriting comparison		234
8	S-27	Marijuana		373
9	S-28	Blood	255	260
10	S-29	Urine	255	269
11	S-30	Report	371	373
12	S-31	Receipt		409
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
D-1	Witness interview form		147
D-2	Witness interview form		147
D-3	Witness interview form		147
D-4	Witness interview form		147

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
C-1	Map		14
C-2	Copy of envelope and letter		56
C-3	Copy of envelope and letter		56
C-4	Inmate grievance records		147

Motion

1 (Proceedings September 10, 2007)

2 THE COURT: All right. What's first?

3 MR. BARNETTE: Your Honor, the state is moving to call
4 the first case, State vs. Nathaniel Charles Teamer.

5 We have six indictments Your Honor. The first one is
6 07-GS-42-1407. It's for murder. 07-GS-42-1408, which is
7 assault and battery with intent to kill; 06-GS-42-1732,
8 which is felony D. U. I. great bodily injury;
9 2006-GS-42-1733, failure to stop with great bodily injury.

10 And the other two, Your Honor, would be burglary in
11 the first degree, as well as armed robbery. And those
12 numbers, I believe, is going to be 06-GS-42-1719 and 1720.

13 THE COURT: All right. Does the defendant have any
14 matters to address before we select a jury?

15 MR. SCHULTZ: Yes, we do, Your Honor.

16 The first motion that I would like to make is -- I
17 believe you have a copy of this already. It's a motion for
18 severance.

19 Your Honor, we believe that trying all of these cases
20 at once would be very prejudicial to my client, to the
21 defendant. We think that there would -- trying all of
22 these things together would confuse the jury as to each and
23 every element of the crime. And I think there is a great
24 danger to do that.

25 Now, we realize, and the case-law research that I have

Motion

1 done, that a motion for severance is addressed to the sound
2 discretion of the trial court. And we also realize that
3 there is no clearly defined rule for a motion for
4 severance, whether or not the defendant is entitled to a
5 separate trial.

6 And so but the case law that I found is that the trial
7 court must act consciously in making sure that the
8 defendant's rights are preserved.

9 We believe that the applicable case here is State vs.
10 Tucker, Your Honor. And if I may just read this, "Charges
11 can be joined in the same indictment and tried together
12 where they, one, arise out of a single chain of
13 circumstances; two, are proved by the same evidence; and,
14 three, are of the same general nature and no real right of
15 the defendant has been prejudiced.

16 Your Honor, as for the first, first prong there, we
17 believe that these, all of these incidents, the murder and
18 the ABWIK being the first incident, the burglary first and
19 the armed robbery being the second incident, and the
20 failure to stop and the felony D. U. I. are, not to confuse
21 the Court, but they're three separate incidents.

22 We believe that they do not arise out of the same
23 chain of circumstances. So the defense will not object to
24 trying all of these things separately, three separate jury
25 trials this week.

Motion

1 You know, I don't have a problem with that as long as
2 the defendant's rights are not prejudiced by this. I think
3 all of the incidents happened in a different part of
4 Spartanburg.

5 Neither one of the incidents is similar to the other
6 one. I mean, there's some, there's not a lot of, whole lot
7 of, connections in which a trial court can say they should
8 be tried together. They're not proved by the same
9 evidence, which is the second prong in the State vs. Tucker
10 case.

11 In the murder and the ABWIK there's one witness that
12 is yet to identify anybody in this case. He gives a
13 generalized description that changes a lot.

14 And the armed robbery and the burglary, the second
15 incident, Your Honor, that happened around 11:00 o'clock
16 that night. For the most part you're going to hear
17 testimony from those witnesses of the vocal identification,
18 just vocal identification.

19 The third incident obviously is the failure to stop
20 and the felony D. U. I. My client was in the car at that
21 time.

22 So you have, you know, just three separate incidents
23 that I think should not be tried together. And I really do
24 think that it is prejudicial, and I think the jury would be
25 confused as to these issues.

Motion

1 I think that there is a great danger because the jury
2 may say, well, we find him guilty on, you know, the home
3 invasion, for instance, okay, and then they make an
4 assumption, and I think that would be a wrong assumption,
5 that he did the first one and the third one. So I think
6 there is a great danger.

7 I think the Court must act cautiously in allowing for
8 a joinder if that's what the state wants to do. But I
9 would obviously move for a severance to have the murder and
10 the ABWIK tried separately, the burglary first and the
11 armed robbery tried separately, and the felony D. U. I. and
12 the failure to stop tried separately. Thank you.

13 THE COURT: Mr. Barnette.

14 MR. BARNETTE: Thank you, Your Honor.

15 This occurred back on February the 2nd of 2006 at
16 8:45 p.m., is when the murder and ABWIK happened. And,
17 Your Honor, all of these happened within a mile of each
18 other.

19 I'd like to mark as Court's Exhibit No. 1 a map
20 showing where these occurred at.

21 MR. SCHULTZ: No objection, Your Honor.

22 (Map marked Court's Exhibit No. 1.)

23 MR. BARNETTE: May I pass this up to the Court, Your
24 Honor?

25 THE COURT: Yes.

Motion

1 MR. BARNETTE: Your Honor, the murder occurred on
2 Theodosia Drive at the Chester intersection there, Your
3 Honor, within the Park Hills section of Spartanburg, on the
4 south side of Spartanburg. It happened at 8:45.

5 The armed robbery and burglary occurred at
6 11:00 o'clock. It happened at [REDACTED] Circle there
7 in Spartanburg in the Park Hills area.

8 And the beginning of the failure to stop and felony D.
9 U. I. occurred right between those two on the intersection
10 there at John B. White. There's a Li'L Cricket there, and
11 it's listed on the map. These are all within less than a
12 mile of each other in that whole circumference there. So
13 all three of them occurred in that general area.

14 The -- in the murder case I would argue that res
15 gestae applies in all three situations. In the murder case
16 there will be evidence of latex gloves that was used by the
17 defendant in that case.

18 He had also called one of the victim's cell phone,
19 Mr. Proctor's cell phone, four times and talked to Tony
20 Hunter. We have phone records verifying that those four
21 phone calls occurred.

22 And the cell phone that was used by Mr. Teamer we can
23 verify that Mr. Teamer's number that was sold to him, that
24 he's used that phone. We'll have witnesses that talked to
25 him on that phone. That cell phone was later found in the

Motion

1 car that he wrecked -- this is Osia Feaster's car -- on
2 Mount Zion Road after the city police officers had started,
3 saw him driving without his lights on in her car. And he
4 had to discontinue the chase. They had a no-chase policy.

5 He sent a BOLO out shortly after that, within minutes.
6 The county officers picked him up and followed him to try
7 to stop him. And he wrecked on Mount Zion Road which was
8 quite a distance from where all three of these occurred,
9 obviously showing evidence of flight.

10 In that case somebody was injured, in that case. And
11 he was also charged with felony D. U. I. based on what was
12 in his system and based off the officer's observations.

13 On the burglary first and armed robbery there was a
14 search warrant that was executed that concerned the murder
15 too at [REDACTED] where the defendant lived, which is
16 three or four doors down from where the home invasion
17 occurred, a very short distance from where the failure to
18 stop and felony D. U. I. started, as well as the murder and
19 the ABWIK.

20 In that search warrant they found white latex gloves,
21 as well as blue latex gloves, which was allegedly used in
22 the murder. And our witness, Mr. Proctor, would identify
23 him using the gloves in that case.

24 Your Honor, I would argue that we could try all three
25 of these, because under the res gestae that basically it

Motion

1 would show that there is parts of each case that is
2 intermixed with each other.

3 There is also phone conversations from the jail where
4 the defendant is talking to different people about what he
5 did that night.

6 One of them was a home invasion where he lists two
7 nicknames of two of the people involved with it and says
8 that, "I did that." He also talks about the spree that he
9 did that night. We would play that tape. And obviously
10 maybe a reference about all three of those could be applied
11 as it dealt with all three incidences that night, talking
12 about basically the sprees he did that night or what he
13 did.

14 Let me make sure I'm reading to the Court right on
15 that. I have the exact wording here.

16 (Pause.)

17 MR. BARNETTE: And I don't know if the Court wants me
18 to introduce any phone records concerning those phone calls
19 also for the record as court's exhibits. We do have those
20 phone records if you would need those, Your Honor.

21 Plus, there is also letters that was used. In these
22 letters he makes reference to the different parts of the
23 crime. On one of them he talks about the driving the
24 vehicle, that he wrecked the car on Mount Zion Road.

25 He also talks about the motive in which the reason why

Motion

1 he did the home invasion was because a family member, Duke
2 Donald Martin, was messing with Ieshia, his girl, and he
3 was going to get him back for that, and that basically that
4 person had to pay for it, in his exact words. I won't use
5 the exact words he used. But I do have those letters, Your
6 Honor.

7 And, we believe, Your Honor, trying all three of them
8 together would be part of the res gestae in this case. I
9 know this supposedly happened last -- well, it happened in
10 a 5-hour period, all of this did. It started at 8:45 and
11 ended about 1:00 or 1:15 the next morning on February the
12 3rd.

13 We would ask that based on all of these facts, these
14 are facts that's going to come out in any of these trials,
15 that we be able to try all three cases together.

16 THE COURT: Let me ask you about when he was, when the
17 wreck occurred --

18 MR. BARNETTE: Yes, sir.

19 THE COURT: -- and he was placed under arrest. In the
20 car was found what type of evidence that you would use in
21 either or both other cases?

22 MR. BARNETTE: In the murder we had the cell phone
23 that was found. The cell phone came back to the 921 number
24 that had called the Proctor cell phone earlier. We
25 verified that Mr. Teamer had possession of that cell phone.

Motion

1 And also other people had talked to him on that cell-phone
2 number before this incident occurred.

3 THE COURT: But the phone belonged to who?

4 MR. BARNETTE: It belonged to another individual.
5 That individual said that they sold or gave it to Charlie
6 Teamer a year prior to all of this occurring. We've also
7 got other people that will --

8 THE COURT: The phone did not come from the residence
9 where the murder was committed.

10 MR. BARNETTE: No, sir, it did not, did not come from
11 the house or come from the car where the murder occurred.

12 THE COURT: Right. All right.

13 MR. SCHULTZ: Your Honor, just briefly.

14 This, these incidents happened over a 5-hour period as
15 the solicitor said. So there is a wide area of time that
16 we're dealing with there. Five hours is a lot of time,
17 Your Honor.

18 Your Honor, we realize that these incidents happened,
19 and the first two incidents happened in Park Hills.
20 Actually, Your Honor, one, the murder, was supposed to have
21 happened between Reidville Road and West Main Street. And
22 the, and then the home invasion was supposed to have
23 happened at Overbrook Circle, sort of the same neighborhood
24 but not really. It depends upon your definition of what a
25 neighborhood is, Your Honor.

Motion

1 So as far as the, as far as that goes, I think that
2 they're not part of the same chain of circumstances. There
3 is, like I said before, Your Honor, you have different
4 witnesses. You have different elements. You have
5 different articles that can used to prove from the state's
6 position that these things happened. That's all I have.

7 THE COURT: All right. Solicitor, tell me again, now.
8 What do you perceive to be the connection between the first
9 incident and the second incident?

10 MR. BARNETTE: Your Honor, there was a search warrant
11 that was executed on his residence where he lived at [REDACTED]
12 [REDACTED] Circle.

13 There was latex gloves that was found, white box of
14 white latex gloves, that we would allege would be involved
15 with that.

16 There was also some phone conversations, Your Honor,
17 that'll be there. He said, one phone conversation he said,
18 "I pulled made sense last night (sic), I wrecked my chick's
19 car." He also told him of course the car was stolen. He
20 talks about the chase he made in that case.

21 And we would argue that that basically -- he also
22 talks about mad. "I did that shit to Pooh-Pooh and Dick.
23 You know I did that shit." She says, "Yeah. I heard."
24 And then he admits basically to doing the home invasion on
25 that tape.

Motion

1 And we would argue, Your Honor, that would be the
2 connection between those two crimes. And, obviously, this
3 is Park Hill. I mean, it's within less than a mile of each
4 other where all of these occurred, plus where he lives at.

5 THE COURT: Okay. Is there any other connection that
6 you perceive to be between the murder and the burglary?

7 MR. BARNETTE: There is one other thing, Your Honor.

8 The officers that was working the murder scene at the
9 time, they heard the gunshot.

10 What happened was during the home invasion, the armed
11 robbery and burglary, while they were working the crime
12 scene over on Chester and Theodosia they heard a gunshot
13 where he ran out through the back door, Donald Martin did.
14 And the defendant followed him and took a shot at him with
15 a shotgun at the time.

16 MR. SCHULTZ: Your Honor, if I may, the gunshot there,
17 I'm not sure what Mr. Barnette is referring to, but I think
18 there will be testimony if the armed robbery and burglary
19 case does go forward that an officer responded to the scene
20 and he received a call that a burglary and armed robbery
21 was in progress.

22 When he reached a street near Overbrook Circle, which
23 is where this supposedly happened, [REDACTED] Circle, he
24 heard a shot.

25 The officers did not recover any spent shells, but

Motion

1 they did recover an unspent shell from some kind of
2 shotgun, I believe. I just wanted to clarify that.

3 MR. BARNETTE: And the shot I'm talking about, Your
4 Honor, Investigator Jay Steadman was working the murder
5 scene, and they heard the gunshot fired at the other scene.
6 And of course the police was called to that scene. And one
7 of the officers will testify that he heard a shot when he
8 was coming up there. They did not catch the individual in
9 that neighborhood at that time.

10 THE COURT: Well, what I'm looking for, is there any
11 connection between the people? I mean, in other words, did
12 they leave one scene to go to another scene for some
13 purpose that was connected to the first incident, is what I
14 am trying to discern.

15 MR. BARNETTE: I can't tell the Court that. There's
16 no connection between the two, two groups, the first or
17 second, Your Honor, that I know of.

18 THE COURT: All right. Now, what about the failing to
19 stop and the felony D. U. I.? How long after either of the
20 first two offenses did the failing to stop occur?

21 MR. BARNETTE: It occurred around approximately
22 1:00 o'clock that evening. It would have been two hours
23 after the home invasion or less than two hours after the
24 home invasion.

25 THE COURT: And were they looking for this particular

Motion

1 vehicle or Mr. Teamer?

2 MR. BARNETTE: To be truthful with the Court, the
3 felony D. U. I., the officer originally started after him
4 because he didn't have his lights on and then --

5 THE COURT: All right. Had there any kind of report
6 to the police about Mr. Teamer having committed either of
7 the first two offenses?

8 MR. BARNETTE: Yes. When the police was called there
9 they were told that Charlie Teamer did these. They
10 recognized Charlie Teamer's voice. They were actively
11 looking for Mr. Teamer when the car was pulled out.

12 The car was registered to Osia Feaster, which was a
13 girlfriend of the defendant. As a matter of fact, it's
14 going to be one of his alibi witnesses in this case.

15 THE COURT: Was there a description of the vehicle
16 given to the police that Mr. Teamer was supposed to be in?

17 MR. BARNETTE: No, sir. There was not at that point.
18 They didn't -- I don't think they knew that he was in Ms.
19 Feaster's car at that time.

20 THE COURT: But the, the -- you tell me it was the
21 burglary and the robbery that had been reported to the
22 police as a crime that was committed by Mr. Teamer?

23 MR. BARNETTE: Yes, sir. In fact, they had told the
24 officers at the scene that they recognized Charlie Teamer's
25 voice.

Motion

1 THE COURT: All right. And they reported that to the
2 city police.

3 MR. BARNETTE: Yes, Your Honor.

4 THE COURT: And so the city police were at that point
5 at least on notice to be on the lookout for Mr. Teamer as
6 having committed that burglary and armed robbery.

7 MR. BARNETTE: Yes, sir. They were actually looking
8 for him. I just can't tell you that's the reason why the
9 officer initially --

10 THE COURT: I know. But they were actively trying to
11 find Mr. Teamer.

12 MR. BARNETTE: Yes, sir, at that point.

13 THE COURT: And it just so happened that according to
14 another police officer he committed a traffic offense for
15 which he was being or attempting to be detained or stopped.

16 MR. BARNETTE: Yes, sir. And we would argue flight,
17 obviously the reason why, one reason why, he was trying to
18 get away. Had two different officers from the city. And
19 the city sent the BOLO to the county. Obviously, he didn't
20 want to get caught because he knew they was probably
21 looking for him that he committed those, well, we allege
22 committed two crimes. No question they already had the
23 information on the home invasion and the burglary first and
24 armed robbery. He was a suspect in that crime.

25 THE COURT: Well, I realize y'all haven't given me a

Motion

1 detailed recitation of all the evidence that might be
2 introduced during the trial of the case, but I can, I can
3 see a lot of your connection.

4 I can see how as part of the res gestae that the
5 crimes of failing to stop, and felony D. U. I. in
6 conjunction with that failing to stop, could be logically
7 connected to either or both of the first two incidents, the
8 murder and the ABWIK, and then the burglary and the armed
9 robbery.

10 But I'm having more difficulty in seeing the
11 connection between the burglary and the -- excuse me, the
12 murder and the burglary.

13 MR. BARNETTE: If I could have one second, I need to
14 check with a witness right here.

15 (Pause.)

16 MR. BARNETTE: Your Honor, I was just talking to
17 another witness.

18 He said there's a possibility they may have known
19 about the phone number before the wreck occurred and was
20 looking for him about that.

21 But you've heard me offer the Court they were looking
22 for -- I know they were looking for an home invader.
23 There's no question about that.

24 I cannot as an officer of the Court guarantee though
25 they -- basically, that's about an hour before the wreck

Motion

1 occurred, without talking to another witness.

2 THE COURT: Well, as I say, I can see a logical
3 connection between the failure to stop and either of the
4 crimes, actually assuming both had been reported as having
5 been committed by Mr. Teamer.

6 The only connection I see between the murder offense
7 and the burglary offense is the fact that the state claims
8 Mr. Teamer committed each of those on the same night. But
9 I don't see any other logical connection between the two
10 offenses themselves that would perhaps permit their being
11 tried together.

12 As I understand it, the law in South Carolina requires
13 that in order for crimes to be tried together they have to
14 arise out of a single chain of circumstances, or are proved
15 by the same evidence, or are of the same general nature and
16 no right of the defendant has been prejudiced. And I said
17 or. But actually all of those elements have to be present.

18 These all occurred on the same evening, but they don't
19 appear necessarily to me based on what I've been told to
20 arise out of a single chain of circumstances. They appear
21 to be separate incidents, although some connection. That
22 is the defendant is being alleged to have committed all.
23 But other than that, they don't appear necessarily to be
24 connected.

25 But, however as I've stated, the failing to stop and

Motion

1 the felony D. U. I. do appear to be relevant in that if a
2 person is being sought for having committed some crime and
3 the police attempt to stop them while they're driving a
4 vehicle and they attempt to elude that detention, clearly
5 that's evidence of flight, evidence of guilt or knowledge,
6 evidence that the person is attempting to avoid detection
7 and arrest.

8 So I think there is a logical connection between the
9 failing to stop and the -- which is obviously connected to
10 the driving under the influence -- and the -- either of the
11 crimes themselves that were reported.

12 But, as I've stated, I don't see any logical
13 connection between the murder charge and the burglary
14 charge. And clearly trying those together results in
15 prejudice to the defendant. Obviously, the more crimes you
16 have, the more things he is alleged of doing, the greater
17 risk there is that a jury might consider the numbers of the
18 cases that he's charged with in making it easier for them
19 to determine the guilt on any or all.

20 So because I don't see that close or logical
21 connection, they don't appear to be a result of one chain
22 of circumstances.

23 I'm going to grant the defense's motion to sever the
24 indictments charging murder and assault and battery with
25 intent to kill from the other four indictments charging

Motion

1 burglary, armed robbery, failing to stop and felony D. U.
2 I.

3 Another way of saying it, the failing to stop and
4 felony D. U. I. may be tried with either of the other
5 incidents, but they, the two, are incidents involving
6 murder and burglary, are not to be tried together.

7 Now, did I understand correctly that Teamer had not
8 been identified at that point as the perpetrator of the
9 murder charge when the car was stopped or when he was
10 apprehended?

11 MR. BARNETTE: No, sir. He was initially charged with
12 the armed robbery and burglary first. He was not charged
13 with the murder and ABWIK until later.

14 THE COURT: All right. Well, that convinces me even
15 more so that it's appropriate to sever the murder charge
16 from the burglary charge.

17 MR. BARNETTE: Thank you, Your Honor.

18 MR. SCHULTZ: Your Honor, for what it's worth too, Mr.
19 Teamer was not charged with the burglary and the armed
20 robbery until two weeks when he was picked up on the felony
21 D. U. I.

22 THE COURT: Well, I understand. It's not so much when
23 he was charged with it. It's the fact that he had been
24 accused of it. The police were aware of his identity of
25 being the perpetrator, and they were aware of that fact and

Motion

1 were looking for him at the time that the failing to stop
2 and the felony D. U. I. occurred. So that's what I
3 perceive to be a logical connection between those offenses.

4 MR. SCHULTZ: Yes, sir. Just one more thing, Your
5 Honor, just for confirmation purposes.

6 We're trying the burglary first, the armed robbery.
7 And there was another failure to stop. Was that indicted
8 as well?

9 MR. BARNETTE: No, sir. I think that Mr. Schultz
10 keeps arguing there's two failures to stops. This is a
11 continuation of the first, I mean, that they start with the
12 city. The city calls a BOLO out. The county picks him up
13 shortly after that.

14 It's our position that's a continuation of the whole
15 failure to stop where it started and the county was called.
16 And then of course he wrecked and that was the felony D. U.
17 I.

18 THE COURT: Let me be sure I understand.

19 It had been reported that Mr. Teamer had committed the
20 burglary and the armed robbery.

21 MR. BARNETTE: Yes, sir.

22 THE COURT: The city police were aware of that fact.

23 MR. BARNETTE: Yes, sir.

24 THE COURT: They were attempting to locate Mr. Teamer.
25 His vehicle was -- the city police attempted to stop a

Motion

1 vehicle being operated by Mr. Teamer. He left the
2 city-limits jurisdiction. The county called, I mean,
3 excuse me. The city police called the county sheriff's
4 department to assist in apprehending Mr. Teamer and the
5 vehicle. And then the county is actually the one that
6 located him and apprehended him.

7 MR. BARNETTE: Yes, sir.

8 MR. SCHULTZ: The only part I disagree -- well, the
9 only part that I disagree with is that at the time that he
10 was stopped for -- well, he was charged with the -- not
11 charged. But when he was, he attempted to be pulled over
12 they did not have the description.

13 The officers, I believe it's Officer St. Louis and
14 Officer Evett, did not to my understanding in the
15 discovery, did not have a description of Mr. Teamer.

16 The initial reason, as the solicitor said, was that he
17 had -- his headlights were off. So that's -- I just wanted
18 to clarify that that's my understanding of the case as it
19 stands right now.

20 THE COURT: Well, yeah. Well, maybe I, maybe I
21 misspoke, but did I understand that Mr. Teamer was not
22 being chased because that officer doing the chasing thought
23 he had committed the crime of burglary and armed robbery?

24 MR. SCHULTZ: Yes, sir.

25 THE COURT: He was attempting to stop him for some

Motion

1 other reason. But it was subsequent to those crimes having
2 been reported, Mr. Teamer being identified as a suspect and
3 the police themselves looking for Mr. Teamer, although the
4 officer that actually chased him was not one of those
5 looking for him for that reason.

6 MR. SCHULTZ: Yes, he was not aware of that, yes.

7 THE COURT: But the knowledge that Mr. Teamer would
8 have would be the same either way if he were the
9 perpetrator of the crime. So that's why I find that to be
10 a logical connection.

11 MR. SCHULTZ: That's fine, Your Honor. Thank you.

12 THE COURT: All right. What's the state's position on
13 it? How are you going to go forward?

14 MR. BARNETTE: I believe, Your Honor, we're going to
15 go forward on the burglary first and armed robbery, failure
16 to stop and the felony D. U. I. with great bodily injury,
17 Your Honor.

18 THE COURT: Okay.

19 MR. BARNETTE: And we would ask for a later date on
20 the murder and ABWIK at that time, at a later time.

21 THE COURT: All right. Any other matters we need to
22 address before we bring the jury around?

23 MR. SCHULTZ: Yes, sir, Your Honor.

24 As I said before, this, this changes a lot of the
25 pretrial motions that I have working on it. But still

Motion

1 there are some pretrial motions that are indeed relevant.

2 Now, there are, as you know there are, letters written
3 by my client after he was picked up but before he was
4 charged for the burglary first and the armed robbery.
5 There's letters from the defendant to Erica Gray. And the
6 state intends to introduce these letters.

7 I believe, I think these letters, I believe are too
8 prejudicial. They're long rambling letters that, to be
9 honest, Your Honor, don't make a whole lot of sense. And I
10 think that while these letters could be considered
11 relevant, I think that under Rule 401 that it would lead to
12 a confusion of the issues.

13 I don't think the jury can draw a lot of inferences
14 out of there. I don't think it can draw a motive. I think
15 the jury would have to take a lot of logical inferences to
16 its utter extreme to see motive and identity in the
17 burglary and the armed robbery out of these letters.

18 THE COURT: Well, understand, now, that there's
19 nothing wrong with taking logical inferences to an extreme
20 as long as they're logical.

21 MR. SCHULTZ: Yes, sir. Yes. That's true, Your
22 Honor.

23 But I guess when you make too many inferences, maybe I
24 misspoke there. I believe that too many inferences, I
25 think would lead to some kind of confusion on the part of

Motion

1 the jury in inferring any kind of motive of Mr. Teamer for
2 the burglary and the armed robbery.

3 THE COURT: All right. Well, where did the letters
4 come from?

5 MR. SCHULTZ: The letters actually were written by the
6 defendant. He was at the jail and he sent them out.

7 THE COURT: This was after he was under arrest for
8 these offenses?

9 MR. SCHULTZ: No. This was actually before he was
10 under arrest to my understanding.

11 THE COURT: Well, he was in jail for what?

12 MR. SCHULTZ: He was in jail for the felony D. U. I.

13 THE COURT: Okay. So it was after these offenses.

14 MR. SCHULTZ: It was after, yes, sir.

15 THE COURT: All right. And how were they obtained?

16 MR. SCHULTZ: I believe Erica Gray gave them to the
17 solicitor's office.

18 MR. BARNETTE: That's correct. Well, they gave them
19 actually to the -- brought in and gave to the Department of
20 Public Safety and we got those.

21 THE COURT: But the recipient of the letters provided
22 them to the police.

23 MR. SCHULTZ: Yes, sir.

24 THE COURT: Okay. All right. And you've got copies
25 of those letters?

Motion

1 MR. SCHULTZ: Yes, I do, Your Honor. I beg the
2 Court's patience.

3 MR. BARNETTE: I have copies too, Your Honor. I don't
4 think one of them's going to pertain now. I'll have to
5 double check. I know these two will pertain. That's one
6 of them.

7 THE COURT: Just let me see the ones that you intend
8 to offer.

9 MR. BARNETTE: And let me look at the other one, Your
10 Honor. I know it was involving the murder. That's part of
11 it. They used those jail sheets I guess to finish that
12 out.

13 MR. SCHULTZ: Yeah, okay.

14 MR. BARNETTE: May I approach, Your Honor? Do you
15 want these marked as court's exhibits or anything?

16 THE COURT: Well, they don't need to be marked yet.
17 All right. And the state perceives the relevance of these
18 letters to be what?

19 MR. BARNETTE: Your Honor, several things.

20 One, it tells me about the motive for him to do the
21 home invasion and burglary, Your Honor. He talks about, he
22 brings up the Duke, which is Donald Martin, messed with his
23 girl Ieshia. And he says that he went over to teach him
24 basically a lesson. I'll let you read the letters from
25 there.

Motion

1 Your Honor, he also talks about in another letter
2 where he wrecked, wrecked the car and the felony D. U. I.

3 In that case, Your Honor, and the letters emphasize,
4 basically those two crimes. And we think they're relevant
5 from there, Your Honor, and they're highly probative and
6 any prejudice would be outweighed the --

7 THE COURT: And you're proposing to offer the, each of
8 these in their entirety?

9 MR. BARNETTE: Possibly, Your Honor. Let me look
10 through those again. I know that's one of the -- I know we
11 had a pretrial conference back in the judge's chambers
12 about what we talked about out here, about the motions.
13 Basically, we may agree to let them all in on those two
14 letters.

15 THE COURT: You may agree to let --

16 MR. BARNETTE: Agree if they want to present the
17 whole, you know, letter. They don't have no objection to
18 it. I think they want the whole letter entirely entered,
19 and we have no objection.

20 THE COURT: Well, right now he's objecting to these
21 being introduced.

22 MR. BARNETTE: Yes, sir. Well, we would move the
23 relevant parts be entered in there obviously about the
24 motive and about the car wreck and so forth. But, you
25 know, at this point that wouldn't be moving in the whole

Motion

1 letter in at this time on both of them.

2 THE COURT: All right. So you intend to offer the
3 entire, each of these letters in their entirety.

4 MR. BARNETTE: Yes, sir, at this point.

5 MR. SCHULTZ: Your Honor, I think I would just like to
6 be heard just on the record about the foundational aspects
7 of this.

8 There's, there's nothing in here. The solicitor
9 office has not presented anything that my client actually
10 wrote these letters.

11 THE COURT: Well, I understood that the recipient was
12 going to offer them.

13 MR. BARNETTE: Yes, sir, or we have people that can
14 lay a foundation.

15 We've also got the, where he wrote the jail several
16 letters. We have taken that information and had a
17 handwriting analysis done it. I don't think there's any
18 question it's going to be his handwriting on that.
19 Obviously, they said the foundation can be laid. It's
20 going to be laid.

21 THE COURT: Well, I mean, I assume the recipient can
22 do that, can't you?

23 MR. BARNETTE: Yes, sir.

24 THE COURT: All right. Well, I'll just have to read
25 the letters and see what the relevance is, and then I'll

Motion

1 address it.

2 All right. What else do you have?

3 MR. SCHULTZ: Your Honor, beg the Court's patience.

4 (Pause.)

5 MR. SCHULTZ: There are also some phone conversations
6 that were recorded at the jail. We believe that really the
7 same kind of logic that we used for the relevancy of the
8 letters.

9 I think the jail recordings are themselves, not only
10 are they prejudicial, but I, but I think more so than being
11 prejudicial they lead to confusion of the facts by the
12 jury, I think. And that's why we would object to not only
13 the relevancy of it, but it also tends to confuse the jury.

14 Your Honor, as I said before, if you do hold that it's
15 relevant I would just ask that a large portion of the whole
16 phone conversation which the state intends to offer be read
17 into the, be listened to by the jury, not just the portion
18 that the solicitor's office wants to have.

19 THE COURT: All right. These are phone conversations
20 from the defendant -- between the defendant and who?

21 MR. SCHULTZ: There are several phone conversations
22 but the one -- beg the Court's patience.

23 (Pause.)

24 MR. SCHULTZ: Yeah, Your Honor. To tell the truth, I
25 listened to the phone conversations. I couldn't tell who

Motion

1 he was talking to.

2 THE COURT: All right. Well, does the solicitor --
3 solicitor, do you know who the conversations were between?

4 MR. BARNETTE: I have a pretty good idea, but I'm
5 really not involved in it. I pretty well know who it is.

6 THE COURT: So the purpose of you offering the
7 conversations is just to give, to introduce statements made
8 by the defendant --

9 MR. BARNETTE: Yes, sir.

10 THE COURT: -- that relate to these crimes?

11 MR. BARNETTE: Yes, sir. But there may be more
12 relevance than that as the trial develops.

13 THE COURT: Well, I understand. But, but, I mean,
14 they can't be introduced in your case in chief unless
15 they're relevant to something.

16 MR. BARNETTE: Yes, sir. Well, there's no question
17 it's Mr. Teamer. He identifies himself as Little C. I've
18 got people that can identify him as being the person that
19 made those, made the statements to that individual.

20 THE COURT: You're talking about you've got somebody
21 who can identify Mr. Teamer as being the person that's --

22 MR. BARNETTE: He identifies himself.

23 THE COURT: -- as having the conversation over the
24 telephone?

25 MR. BARNETTE: Yes, sir.

Motion

1 THE COURT: All right. And what -- are you intending
2 to introduce an entire conversation between he and some
3 other person?

4 MR. BARNETTE: The majority, well, that part. What it
5 is, he's 3-waying people. He keeps calling and talking to
6 different folks. I wasn't going to introduce the whole
7 phone -- there is 15 different phone conversations where
8 he's talking to several different people. I've had people
9 look at them.

10 As a matter of fact, identified another person that
11 was talking to him on a phone call. Not planning to
12 introduce that, just planning to introduce the part where
13 he talks about this crime.

14 THE COURT: All right. So the only portions of the
15 conversations that the state is intending to introduce is
16 where Mr. Teamer is discussing the burglary and the armed
17 robbery incident and the failing to stop and the felony D.
18 U. I. incident?

19 MR. BARNETTE: Yes, sir. And there's another tape
20 where he says I pulled many stunts last night, I wrecked my
21 chick's car, and he's talking to another individual.

22 THE COURT: Okay.

23 MR. BARNETTE: The reason why that's relevant that he
24 may already -- I don't know. I was just looking at the
25 evidence. He may already -- he wasn't driving the car.

Motion

1 That might become relevant, not so much from an alibi
2 defense which he has alleged.

3 THE COURT: And this is the car that was wrecked on
4 Mount Zion Road?

5 MR. BARNETTE: Yes, sir.

6 THE COURT: Okay. And it did belong to who?

7 MR. BARNETTE: Osia Feaster which is his girlfriend.
8 Well, one of his girlfriends.

9 THE COURT: All right. Well, as long as the
10 conversations alleged are relevant to or his -- are you
11 characterizing these as admissions or confessions?

12 MR. BARNETTE: Yes, sir; yes, sir.

13 THE COURT: Of relevant elements of the offenses?

14 MR. BARNETTE: Yes, sir.

15 THE COURT: Okay. Well, Mr. Schultz, in that event I
16 think they'd be relevant and they'd be admissible.

17 MR. SCHULTZ: Yes, sir.

18 THE COURT: Now, I don't know what. I mean, I, I, of
19 course I haven't heard the conversations. I don't know if
20 there's prejudicial information that's contained in the
21 calls that's not relevant to these offenses.

22 But so far as Mr. Teamer is admitting to some other
23 person his participation or commission of the offenses that
24 the state is proceeding to trial on, then it's relevant.
25 And they would be admissible.

Motion

1 MR. SCHULTZ: Yes, sir, Your Honor.

2 MR. BARNETTE: Your Honor, one other thing. I know we
3 was talking about the letters earlier. There's some
4 envelopes that the letters came in. One of them, he
5 identifies himself as Murda Rich at an address at 950
6 California Avenue. We'd also intend to introduce that
7 envelope on the front of it.

8 And plus there's also an envelope that was done during
9 the search warrant of the residence where he lived with his
10 mother, Mary Teamer. They found a letter addressed to that
11 address, Murda, [REDACTED] Circle in Spartanburg, South
12 Carolina. We intend to also enter that.

13 THE COURT: Okay. Well, you are just intending to
14 introduce this? You're not intending to comment upon it or
15 to use it for any other purpose other than to prove that he
16 was the person that wrote the letter and sent the letters?

17 MR. BARNETTE: That, Your Honor. Plus, obviously it
18 goes to I. D. since he's using an alibi defense.

19 THE COURT: That's what I mean.

20 MR. BARNETTE: Yes, sir.

21 THE COURT: All right. Does the defense need to be
22 heard?

23 MR. BARNETTE: And, Your Honor, just one other thing
24 just for reference.

25 I don't, you know, when he -- when the home invasion

Motion

1 occurs the person that goes and does the home invasion
2 identifies himself as Murda at the front door. And they
3 assumed it was Charlie Teamer as having that as his
4 nickname.

5 THE COURT: All right. Well, clearly, it's
6 admissible to substantially prove the identify of the
7 defendant as the perpetrator, assuming that's a name that
8 he goes by.

9 MR. SCHULTZ: Your Honor, the only, the only thing, we
10 don't contest the relevancy of it now that you're really --
11 I would just like to have that whole conversation maybe
12 heard at an in-camera hearing in order to determine if
13 there's any things that are too prejudicial in any way.

14 THE COURT: Which conversation, the telephone
15 conversation?

16 MR. SCHULTZ: The telephone conversation, Your Honor.

17 THE COURT: Okay.

18 MR. BARNETTE: It'll just take me a minute, Your
19 Honor. I'll get my laptop and get the disc, and I'll play
20 it for you.

21 THE COURT: Okay. Wait a minute before you go. Let's
22 go ahead and finish these motions, and then we'll address
23 that.

24 All right. What else do you have Mr. Schultz?

25 MR. SCHULTZ: Your Honor, I have a couple of more

Motion

1 things. But one thing I just thought of, and I know this
2 may be asking a lot of the Court.

3 I had been preparing for the murder, and-but I, I had
4 also prepared for the armed robbery and the burglary first
5 and the felony D. U. I. as well.

6 But my strategy changes a little bit now that you've
7 granted my motion for severance. I'm not asking for a
8 continuance for, you know, the next term or anything like
9 that. I'd like to maybe pick a jury today and then maybe
10 discuss with my client this afternoon what this case is
11 now, because this changes a little bit of my thinking. And
12 I think it will change a little bit of the strategy that I
13 intend to offer through my cross-examination with my
14 opening statement to my closing argument.

15 So I would just like to maybe make a motion for the
16 state to call their first witness first thing in the
17 morning. I would be ready to go then.

18 I mean, I'm almost ready. It's not that I'm saying
19 I'm not ready to try this case. But the motion for
20 severance and your granting of that motion changes my
21 strategy around a little bit. So I'd just like to have the
22 afternoon to go over some strategy with my client.

23 MR. BARNETTE: Your Honor, we strongly object. I
24 mean, you're going to pick a jury. You're going to be
25 ready to go at lunchtime, be read to go. I mean, it's his

Motion

1 motion to sever. He should have anticipated that you --

2 THE COURT: Well, I don't disagree with that.

3 Mr. Schultz, you've got to assume, at least you've got
4 to plan, for the fact that the Court might grant your
5 motion and be prepared to have your strategy in place in
6 the event you succeed on your motion.

7 So we might can take a little extra time for lunch.

8 MR. SCHULTZ: That's fine.

9 THE COURT: And you can talk to him during the lunch
10 recess. But I'm not going to, I'm not going to continue
11 the case until in the morning.

12 MR. SCHULTZ: That's fine, your Honor. Thank you.

13 THE COURT: All right.

14 MR. SCHULTZ: The other motion is that I want to make
15 sure that there were no statements given by Mr. Teamer that
16 the state intends to use other than the letters and the
17 phone conversations which the state contends is an
18 admission.

19 I want to make sure that there's no statements that I
20 haven't been given. I want to make sure that those, he
21 didn't say anything about being picked up for the felony D.
22 U. I. or anything like that. And I don't believe there is,
23 but I just wanted to make sure.

24 THE COURT: All right. Other than the statements that
25 the state attributes to Mr. Teamer contained in telephone

Motion

1 conversations from the jail and letters written to Erica
2 Gray -- is it Erica Gray? Are there any other statements
3 the state intends to introduce that you contend Mr. Teamer
4 made?

5 MR. BARNETTE: Statements to Erica Gray and Osia
6 Cheeks Gray, but obviously there's no statements to law
7 enforcement. Obviously, all the statements he made was to
8 non-law enforcement personnel, Your Honor. And of course
9 introduce the Murda comment at the door and things like
10 that, would the only statements that we -- what we've
11 talked about here in court today.

12 THE COURT: Okay.

13 MR. SCHULTZ: All right. My other motion, and I'm not
14 sure at this time if my client intends to testify. But if
15 he does I want to find out if the state presented any
16 evidence for past convictions and what evidence that they
17 will present if my client takes the stand and the state
18 chooses to cross-examine him.

19 THE COURT: Well, have you been provided with a
20 criminal history of your client?

21 MR. SCHULTZ: I have, Your Honor.

22 THE COURT: And are there convictions in that criminal
23 history that could be used for impeachment purposes under
24 the rule?

25 MR. SCHULTZ: There are, Your Honor.

Motion

1 THE COURT: Does the state intend to offer evidence of
2 any of those convictions?

3 MR. BARNETTE: Yes, sir. He was convicted of assault
4 with intent to kill in front of Judge Maddox.

5 THE COURT: What year?

6 MR. BARNETTE: The date of that was, looks like,
7 June 21st of 2000. He received a sentence of three years
8 suspended to one year, five years probation. I do have the
9 indictments too, Your Honor, I'll make part of the record.
10 That's 01-GS-42-43 -- that can't be right.

11 THE COURT: Well, we'll deal with that later. Just
12 give me the offenses right now.

13 MR. BARNETTE: Okay. ABHAN, Your Honor.

14 THE COURT: What year?

15 MR. BARNETTE: This is going to be June the 27th of
16 2002. Another assault and battery of a high and aggravated
17 nature. That was also June 27th of 2002. Unlawful
18 possession of a pistol by person under age of 21. That was
19 also June 27th of 2002. Discharging a firearm into a
20 dwelling. That was also June 27th of 2002. And another
21 ABHAN, Your Honor, June 27th of 2002.

22 THE COURT: All right. So we have got one assault and
23 battery with intent to kill, three assault and batteries of
24 a high and aggravated nature, one possession of a pistol
25 under 21 and one discharging a firearm into a dwelling, all

Motion

1 within the last seven years.

2 MR. BARNETTE: Yes, sir. And he received -- well, it
3 really doesn't matter. He received seven years suspended
4 to five years and five years probation, Your Honor, on
5 those last four charges.

6 THE COURT: All right. Mr. Schultz, do you perceive
7 any reason why those convictions should not be admitted for
8 impeachment purposes pursuant to Rule 609?

9 MR. SCHULTZ: Yes, I do, Your Honor. It goes to Green
10 vs. State, which is the controlling law, I think, for that.

11 Well, he hasn't been convicted of armed robbery and
12 burglary before in the past, or failing to stop or felony
13 D. U. I.

14 I believe that ABWIK and ABHAN three times are
15 significantly violent crimes, not the way the sentences is
16 rendered. It's currently 85 percent. But ABWIK is.

17 So I think that introducing the same or similar crimes
18 are highly prejudicial and should not be allowed if my
19 client decides to take the stand, especially the ABWIK and
20 the ABHAN's. And also possession of a pistol too, because
21 my client is said to be armed with a, with a gun at the
22 time.

23 I think that the jury will see that and say that the
24 suspect has a violent history and thus because he was
25 violent he committed these offenses, I think, again, would

Motion

1 lead to the jury's confusion about this.

2 THE COURT: Mr. Barnette.

3 MR. BARNETTE: Yes, sir. We feel like they are very
4 probative, Your Honor, under the test because obviously
5 he's using an alibi defense.

6 I don't know if he's going to testify or not, but
7 obviously he's going to deny doing this crime. I don't
8 know if he's going to argue he's feasible or not. But
9 obviously it goes to his character to show what he's done
10 in the past to do violent things like this, especially
11 what's going to be described during the case.

12 As well, Your Honor, in this situation I think it
13 outweighs the prejudice. And we have asked to be able to
14 ask him if he does take the stand about that.

15 THE COURT: All right. Well, as I understand it,
16 they're not being offered for Lyle evidence. They're being
17 offered for impeachment, for whatever the impeachment value
18 might be.

19 Of course I don't know the context of the case as of
20 yet to any significant degree. I don't know the importance
21 of the defendant's testimony right now. I don't know
22 whether or not the defendant's going to testify.

23 So I'll address the issue of the admission of those
24 offenses for impeachment purposes when and if the defendant
25 makes a decision to testify in this case.

Motion

1 MR. SCHULTZ: Thank you, Your Honor.

2 THE COURT: All right.

3 MR. SCHULTZ: I believe, Your Honor, and I want to
4 make sure about this, is I'm going to make a motion to
5 require the state to give all the criminal records of any
6 witnesses that are going to testify. And I believe I have
7 all of these, all of these records. But I want to make
8 sure and put that on the record.

9 THE COURT: All right. All the criminal histories on
10 witnesses of non-law enforcement witnesses have been
11 provided?

12 MR. BARNETTE: That's correct, Your Honor.

13 MR. SCHULTZ: Your Honor, my second to last motion,
14 and I'm not sure if this is applicable in this case. I'm
15 not sure what witnesses the state intends to call. I am
16 sure about some witnesses, but others I'm not.

17 Going back to the murder case, I know this case has
18 been severed, Your Honor. But there was a person that --
19 there was a jailhouse snitch, Your Honor, for lack of a
20 better word, that was going to testify against my client
21 with, with the murder case.

22 Now, I'm not sure if he's going to testify, being that
23 the motion to sever has been granted. And if he does
24 choose to testify I want to make a motion to find out if he
25 had been offered anything in exchange for his testimony

Motion

1 today. I don't think he's going to testify, but I wanted
2 to make sure.

3 MR. BARNETTE: Your Honor, he may testify because he
4 also has information about the home invasion.

5 His attorney is Phil Sinclair. There's not been any
6 deals cut with him in this case. He is charged presently
7 with an ABWIK where him and the defendant or codefendants,
8 in. But there's been no deals cut on that.

9 THE COURT: All right. So the state's position is
10 he's not been offered anything or promised thing in return
11 for his testimony.

12 MR. BARNETTE: The only thing, you know, obviously, if
13 he cooperates we will tell the sentencing judge the
14 cooperation. We have not threatened him in any sense or
15 have not gave him a reduction in the charge.

16 THE COURT: Well, Mr. Schultz, clearly you can ask the
17 witness about it. But the solicitor's position is he's not
18 provided any such benefits to that witness.

19 MR. SCHULTZ: Yes, sir.

20 And my last motion is for sequestering all of the
21 potential witnesses with the copy of that, I think,
22 sequestering -- we realize, Your Honor, that it's not a
23 matter of right that the defense has and it's at the sole
24 discretion of the trial court. But I would just like to
25 make a motion to sequester all of the state's witnesses at

Motion

1 this time.

2 MR. BARNETTE: We have no objection as long as the
3 defense witnesses are also sequestered, Your Honor.

4 MR. SCHULTZ: That's fine, Your Honor.

5 THE COURT: All right. That's reciprocal. All, all
6 potential witnesses will be under a sequestration order.

7 Now, all witnesses are not here. So I'll have to rely
8 upon each of you to instruct the witnesses that they remain
9 sequestered during the trial and are not permitted to
10 discuss their testimony with any other witness in the case.

11 MR. BARNETTE: And, Your Honor, we would ask for,
12 obviously the victims would not be under the sequestration
13 and have a right to be here. We'd ask.

14 I don't know who is going to be the investigating
15 officer. But I know on the murder who is going to be the
16 investigating officer. But I'll have to check and see who
17 is going to be for the home invasion.

18 And also as for Rick Gregory too, he's a potential
19 witness. He will not testify on direct. It's just he's
20 been with our interviews and so forth. He works for our
21 office, going to be a witness and so forth. But I don't
22 intend, intend, intend for him for him to testify unless
23 somebody -- he's been on listening to witnesses as they
24 have talked to us. And if there's anything that may be on
25 impeachment or something like that, would be the reason why

Motion

1 he would be called in to testify.

2 THE COURT: What's the defense's position on the
3 state's request?

4 MR. SCHULTZ: Well, there's one thing I wanted to
5 bring up.

6 The solicitor mentioned, Mr. Barnette mentioned, the
7 fact that the victims have a right to be here. I
8 understand that, and that's the Victims Bill of Rights.
9 But I'm not sure that each and every victim or witness.
10 There's, there's three people that have gave statements to
11 this effect identifying Mr. Teamer using voice recognition.

12 I believe that they, they should be sequestered, all
13 three of them. That's, that's the only. I don't have a
14 problem with any of the police officers staying, staying
15 here. But I think the victims should be sequestered.

16 THE COURT: And the reason for that would be what?

17 MR. SCHULTZ: Well, Your Honor, I'm making this in all
18 good faith.

19 I think that there's a lot of contradictions in the
20 statements and what they told the police and how they
21 relayed the information at a later time. One person gave
22 one statement then that night, and then they gave a later
23 statement at a later time saying it was definitely Charlie
24 Teamer.

25 Now, you'll see, and this will change of course, but

Motion

1 the statements does not change. The statements say that
2 all three of the victims gave that night do not identify
3 Charlie Teamer, the statements don't.

4 Now, what they say to the police is different
5 obviously. But I think that can be used as
6 cross-examination. But, at the same time, I think that
7 there is a possibility and there's a danger that one
8 witness can hear one story and then the other witness can
9 hear the other story. The other witness as yet to testify
10 can hear that story and change her story accordingly, so.

11 THE COURT: Well, that's perhaps very true, and that's
12 oftentimes a reason that it's given for sequestration, for
13 a request for sequestration. But, as I understand it, you
14 stated that each of these witnesses has already provided a
15 written statement to law enforcement.

16 MR. SCHULTZ: They have, yes, sir.

17 THE COURT: Well, if that's the case, then if their
18 statement, if their testimony changes to, in order to
19 comport with some other witness' testimony, you have the
20 written statement they've already provided to the police to
21 cross-examine him on.

22 So I think that's adequate notice to safeguard any,
23 any rights the defendant might have to effective
24 representation and to be able to properly examine the
25 witnesses' testimony in this case.

Motion

1 It's a little unusual in the sense that now, you know,
2 we do have the Victims Bill of Rights, and I think one of
3 those sets forth they have a right to be present during the
4 trial of the case. And I don't think they can be excluded
5 except upon some compelling reason. And a compelling
6 reason might be that they have a chance to, you know,
7 provide testimony and it fits well with other witnesses'
8 testimony.

9 But, as I say, in this case they've already provided
10 written statements. So if there's going to be, there's
11 going to be a conflict, then the defense has an adequate
12 opportunity to cross-examine him for the benefit of the
13 jury's consideration.

14 So I'm going to deny your motion to sequester the
15 three persons who are alleged to be the victims in this
16 incident. And their names are what?

17 MR. BARNETTE: It's going to be Erica Gray, Your
18 Honor, Mary Gray and Donald Martin. And there is a fourth
19 one. It's the daughter, but I'm not going to have the
20 daughter sitting in here on this.

21 THE COURT: Mary Gray and Donald Martin?

22 MR. BARNETTE: And Erica Gray.

23 THE COURT: All right.

24 MR. BARNETTE: And there's a 9-year-old Javanica
25 [REDACTED], I mean, Javanica [REDACTED] but she's not going to be

Motion

1 present. We're not going to have her in the courtroom
2 until she testifies.

3 THE COURT: So she's going to be sequestered.

4 MR. BARNETTE: She's going to be -- well, she, she
5 won't be here. She can be sequestered.

6 THE COURT: All right. Okay.

7 MR. BARNETTE: She's nine years old. She don't to be
8 in here for this.

9 THE COURT: All right. And Erica Gray and Mary Gray
10 and Donald Martin have all provided written statements.

11 MR. BARNETTE: I believe so, Your Honor. I know Erica
12 has. Let me check about Mr. Martin, whether he has or not,
13 Your Honor.

14 THE COURT: And those have been given to the defense.

15 MR. BARNETTE: I know that the Grays have.

16 THE COURT: Have you got a statement from Donald
17 Martin?

18 MR. SCHULTZ: I do, Your Honor.

19 MR. BARNETTE: I just wanted to make sure of that. I
20 knew the Grays have.

21 THE COURT: Understand that these witnesses still are
22 not to discuss their testimony with other witnesses.
23 They're just simply going to be permitted, they're going to
24 be allowed to be present.

25 MR. BARNETTE: Yes, sir.

Motion

1 THE COURT: But they're not to discuss their testimony
2 either inside the courtroom or outside of it.

3 All right. What else?

4 MR. SCHULTZ: That's it, Your Honor. Thank you.

5 THE COURT: All right. Have y'all have any requests
6 for voir dire?

7 MR. BARNETTE: Yes, sir.

8 MR. SCHULTZ: I do, Your Honor.

9 THE COURT: And witness lists?

10 MR. BARNETTE: Your Honor, there is one more motion
11 the state may have.

12 (Copy of envelope and letter marked Court's Exhibit
13 No. 2; copy of envelope and letter marked Court's Exhibit
14 No. 3.)

15 THE COURT: All right. Any other matters we need to
16 address before the jury is brought around?

17 MR. BARNETTE: None from the state, Your Honor, unless
18 you -- do you want to listen to the phone conversation
19 afterwards?

20 THE COURT: Yeah. We'll do that afterwards, after
21 lunch.

22 MR. SCHULTZ: Nothing from the defense, Your Honor.

23 THE COURT: Okay. Bring the jury around please, sir.
24 I am going to need the indictments too.

25 (The following takes place in the presence of the jury

Jury qualification

1 venire.)

2 THE COURT: Good morning, ladies and gentlemen of the
3 jury panel.

4 My name is Derham Cole. I am a resident judge here in
5 the 7th Judicial Circuit and here in Spartanburg County.
6 And I am presiding over a term of general sessions court,
7 just as Judge Hayes is next door. And that of course is
8 part of the reason that you're here. We've got three terms
9 of court, two general sessions or criminal courts being
10 operated and one common pleas or civil court being operated
11 this week.

12 In this courtroom only criminal cases will be heard.
13 So in the event you come to this courtroom and you're
14 selected to participate in the trial of a case, it will be
15 one of a criminal nature. That is some person will be
16 accused of having committed some type of crime. And when
17 they enter a plea of not guilty the burden is upon the
18 state through the solicitor or the prosecutor to establish
19 that person's guilt beyond a reasonable doubt.

20 Now, the first case that we have that's going to
21 require some of your participation in this courtroom is the
22 case of the State vs. Nathaniel Charles Teamer.

23 Mr. Teamer has been accused by the solicitor of having
24 committed several criminal offenses that they have called
25 for trial this morning. Those offenses arise out of one

Jury qualification

1 particular event or course of events which the state
2 alleges occurred back on or about February the 2nd of 2006.

3 Now, when the state brings a charge against another
4 person they do so by way of a warrant and then by way of a
5 document called an indictment. The indictment is a legal
6 document that sets forth the charge that has been brought
7 against another, and it sets forth the allegations that
8 support that particular charge having been brought.

9 The indictments are not evidence of anything. They're
10 not proof of anything. But they are or do contain the
11 charge that has been brought against the defendant for
12 which he now is going to stand trial.

13 Now, in this case the state has alleged that
14 Mr. Nathaniel Charles Teamer committed four separate
15 offenses. As I stated, they are alleged to have arisen out
16 of one particular event or course of events occurring back
17 on February the 2nd of last year.

18 The four charges that the state has brought against
19 this defendant include burglary in the first degree, armed
20 robbery, failing to stop when signaled by a law enforcement
21 officer and felony driving under the influence.

22 The state alleges by way of these indictments that Mr.
23 Teamer did on or about February the 2nd of 2006 wilfully
24 and intentionally enter a dwelling that belonged to Erica
25 Gray which was located at [REDACTED] Circle here in the

Jury qualification

1 city of Spartanburg, that he entered that dwelling without
2 the consent of the owner or the person in possession, and
3 that after entering the dwelling he intended to commit a
4 crime therein. And they allege certain other aggravating
5 factors which I'll explain to you later on. But for right
6 now all you need to know is that the state is alleging that
7 the defendant committed the crime of burglary in the first
8 degree.

9 They also allege that he committed the crime of armed
10 robbery. And they allege by way of a separate indictment
11 that he did while armed with a pistol or other firearm, did
12 take, steal and carry away from the person or presence of
13 one Donald Martin certain goods or monies that belonged to
14 Mr. Martin, and that he took those items with the intention
15 of depriving Mr. Martin of use and possession of his
16 property. That constitutes if proven the crime of armed
17 robbery.

18 They also allege that he committed the crime of
19 failing to stop when signaled by a law enforcement officer.
20 And they allege that he did here in Spartanburg County
21 while driving a vehicle on a road or street fail to stop
22 when signaled by a law enforcement officer in a vehicle
23 using a blue light or siren to effect that stop, and that
24 he further violated some duty or violated some statute or
25 neglected some duty imposed by law in the operation of that

Jury qualification

1 motor vehicle.

2 And they also allege that he is guilty of felony
3 driving under the influence. They allege that he did drive
4 a vehicle here in Spartanburg County while he was under the
5 influence of alcohol or drugs or some combination of
6 substances that would impair your ability to operate that
7 motor vehicle, and that he did violate an act which was
8 forbidden -- excuse me -- he violated a statute that
9 prohibits some conduct by law or he neglected a duty
10 imposed by law in the driving of that motor vehicle; and
11 that that conduct proximately caused great bodily injury to
12 one James Young, those allegations supporting the charge of
13 a felony driving under the influence.

14 Now, as to all of those allegations and as to each of
15 those indictments and the charges contained therein the
16 defendant has entered a plea of not guilty. And that plea
17 of not guilty therefore places upon the state the burden of
18 proving the allegations that they have set forth in each of
19 those indictments, the burden of proving each of the
20 essential elements that constitute the crimes that they
21 have alleged against this defendant; and therefore the
22 burden is upon the state to establish the defendant's guilt
23 to the satisfaction of 12 jurors beyond a reasonable doubt
24 before any verdict of guilty could be returned.

25 So we're going to be selecting 13 of you. There'll be

Jury qualification

1 12 primary jurors and one additional alternate juror. And
2 you'll be called upon to participate in the trial of the
3 case. And by of your participation you're simply going to
4 be called upon to listen to testimony that will come from
5 witnesses testifying during the trial and to consider any
6 other evidence offered during the trial of the case.

7 After all of that evidence has been presented I'll
8 instruct you on the law that's applicable in each of these
9 cases. And then the jury will go back and begin
10 deliberations. And you will examine the evidence. You'll
11 decide the facts, apply the law and arrive at a fair and
12 just decision as it relates to each of the separate
13 indictments containing a charge against this defendant.

14 Now, before we can begin with jury selection in the
15 case I'm going to ask you a number of questions. The
16 purpose of these questions is to determine if there is some
17 reason why any one of you jurors should not be selected to
18 participate in the trial of this particular case.

19 And so as these questions are asked should they apply
20 to you and you need to respond, I'm going to ask that you
21 please stand. And I will address those matters with you
22 individually in the event that should become necessary.

23 During the course of this process and as these
24 questions are asked of you if you think that the response
25 that you need to provide is going to cause you to be

Jury qualification

1 providing personal information that you prefer not to
2 provide in front of an audience, you just let me know.
3 I'll let you come down here if that happens to be the case.
4 And I'll discuss it with you privately here at the bench.
5 But you must respond to a question during the course of
6 this process if it applies to you, because I have to have
7 that information.

8 Now, first of all, the defendant, that is the person
9 who has been accused of these offenses, is Nathaniel
10 Charles Teamer.

11 Mr. Teamer, if you will, please stand and face the
12 jury panel so that they may see who you are.

13 (Whereupon, the defendant and Mr. Schultz and Mr.
14 Hatcher stood.)

15 THE COURT: Standing with Mr. Teamer to your right is
16 Josh Schultz who is assisting him in the trial of this
17 case. And James Hatcher who is standing to your left of
18 Mr. Teamer, he's also a lawyer assisting Mr. Teamer in the
19 trial of the case.

20 Thank you. Y'all may be seated.

21 Presenting the case on behalf of the state are Barry
22 Barnette and Alex Stalvey. Mr. Barnette is the principal
23 deputy solicitor for the 7th Judicial Circuit, and Mr.
24 Stalvey being an assistant circuit solicitor for the
25 7th Judicial Circuit. They'll be presenting the case on

Jury qualification

1 behalf of the state.

2 The persons who are alleged in the indictments to be
3 the victims of these offenses would include Erica Gray. I
4 thought they were coming in.

5 MR. BARNETTE: They were, Your Honor. I think the
6 jury got in before they got in. They're still outside.

7 THE COURT: They're outside.

8 All right. Ask Ms. Gray and Mr. Martin and Mr. Young
9 to come in, please.

10 (Whereupon, the witnesses entered the courtroom.)

11 THE COURT: Just ask them to come up and have a seat
12 in those three chairs right here.

13 All right. Now, the person who is alleged to be the
14 victim of the burglary is Erica Gray.

15 Ms. Gray, if you will, please stand so the jury may
16 see who you are.

17 (Whereupon, the witness stood.)

18 THE COURT: Thank you.

19 The person alleged to be the victim of the armed
20 robbery is Donald Martin. I'll ask that Mr. Martin, if you
21 will, stand so the jury may see who you are.

22 (Whereupon, the witness stood.)

23 THE COURT: And the person alleged to be the victim in
24 the felony driving under the influence is James Young.

25 MR. BARNETTE: He isn't right here right now, Your

Jury qualification

1 Honor. He will be.

2 THE COURT: Mr. Young -- where does he reside?

3 MR. BARNETTE: He resides at 227 Burdette Street in
4 Spartanburg, South Carolina.

5 THE COURT: 227 Burdette Street.

6 MR. BARNETTE: Yes, sir.

7 THE COURT: Is that in the city or county?

8 MR. BARNETTE: I believe that's in the county, Your
9 Honor.

10 THE COURT: Okay. Now, in addition to those persons
11 who have been identified as the victims in the indictments
12 and in addition to the defendant, there are other persons
13 that will likely be called as witnesses during the trial of
14 the case.

15 You must have taken my lists back. Did you take my
16 list back?

17 MR. BARNETTE: I don't think so, Your Honor.

18 THE COURT: Oh, the court reporter has it.

19 Other potential witnesses in the case are going to
20 include the following.

21 Now, the reason that I am identifying all of these
22 persons for you is because when I get through identifying
23 everybody that's either involved in the case or is a
24 potential witness in the case, I need to know if any juror
25 is connected by blood or marriage to any of these persons

Jury qualification

1 or whether you have a close personal, social, professional
2 or business relationship with any of these persons who have
3 had identified. That's going to include the lawyers.

4 And so I'll call out the list of potential witnesses.
5 And I've already called out four. And I've also identified
6 the lawyers for you.

7 If anybody knows any of the persons who have just been
8 identified for your benefit, I need for you to stand. And
9 I also need for you to stand if you happen to be connected
10 in any way or you know any of these additional persons that
11 will be, that may be called as witnesses during the trial
12 of the case.

13 And they include Heather Forrester of the Spartanburg
14 Public Safety Office; A. T. Patton and C. E. Tillotson also
15 of the Spartanburg Department of Public Safety; Javanica
16 [REDACTED] a resident of Spartanburg; Clearance Murphy, a
17 resident of Spartanburg; Robin Morman, a resident of
18 Spartanburg; Dwayne Darity, a trooper with the South
19 Carolina Highway Patrol; David Evett, deputy sheriff,
20 Spartanburg County; Brandon Landrum, state law enforcement
21 division; T. St. Louis, Spartanburg Department of Public
22 Safety; Mike Jones, Captain with the Spartanburg County
23 Detention Facility; Joseph Kleman, emergency room,
24 Spartanburg Regional Medical Center; Brandi Gentry,
25 emergency room, Spartanburg Regional Medical Center;

Jury qualification

1 Investigator J. Gardner, Spartanburg Department of Public
2 Safety; also Investigators Jay Steadman, Cheryl Boyd and
3 Toby Bradley, also each with the Spartanburg Department of
4 Public Safety; Rusty Clevenger, circuit solicitor's office;
5 Mark Freeman, the county detention facility; Nancy Vinson,
6 county detention facility; Amy Ruth Hunter; Duran Woodruff;
7 Annie Kelly, each residents of Spartanburg; Amy Stephens.

8 These following persons are employed with the state
9 law enforcement division. Amy Stephens; Jan Bryson; Rhonda
10 Fields; Denis Earele; Tammy Bannister; Alice Shealy; Ken
11 Whitner; Nikki Perry; Gail Heath; Selena Kinard; Betty
12 Butler; Marsha Leizel; Sheree Brown; Theresa Hooks; Larry
13 Ross; Karonda Williams; Karl Kenley.

14 Also, Michelle Peak and Reggie Laird employed by
15 Carolina Community Services; Brandon Crowe with Singular
16 Wireless Telephone Service; Ashley Harris with the
17 sheriff's department; Mylnor Beach, Spartanburg Department
18 of Public Safety; Stephen Lully, Coroner's Office; Margaret
19 Greer with the sheriff's department.

20 The following persons are also employed with the
21 Department of Public Safety: David Reeves; S. M. Watts;
22 David Wood; Lou Parris; Ed Guthro; Doris Boozer; J. L.
23 Hall; Stephen Lamb; and Jason Harris.

24 Also, Robert Rosenberg with the sheriff's department;
25 and Todd Wilson and Rick Gregory with the circuit

Jury qualification

1 solicitor's office.

2 Any other potential witnesses on behalf of the state
3 or the defense?

4 MR. BARNETTE: Keith Gibbs, Your Honor, we would ask
5 to add to that list, Your Honor, from the sheriff's
6 department.

7 THE COURT: Keith Gibbs with the Spartanburg County
8 Sheriff's Department.

9 Have you got some?

10 MR. SCHULTZ: Your Honor, there is no additional
11 witnesses for the defense. I think you named Osia Feaster
12 and Elaine Feaster.

13 THE COURT: I don't think I did. But where are they
14 listed?

15 MR. SCHULTZ: Actually they're listed on page two.

16 THE COURT: Of the state's list?

17 MR. SCHULTZ: Of the state's list. Actually Osia
18 Feaster is, she's 28, Your Honor.

19 THE COURT: Well, she's not on this list, is she?

20 MR. BARNETTE: No, sir, she's not.

21 THE COURT: All right. Osia?

22 MR. SCHULTZ: Osia, yes.

23 THE COURT: Osia Feaster?

24 MR. SCHULTZ: Yes.

25 THE COURT: All right. Is she a resident of

Jury qualification

1 Spartanburg?

2 MR. SCHULTZ: Yes, she is.

3 THE COURT: Okay. City or county?

4 MR. SCHULTZ: City.

5 THE COURT: Okay. And who else?

6 MR. SCHULTZ: And Elaine Feaster, city of Spartanburg.

7 THE COURT: Anybody else?

8 MR. SCHULTZ: That's it, Your Honor. Thank you.

9 THE COURT: Okay. All right. Now, does any juror
10 know any of those persons who have just been identified for
11 your benefit -- the lawyers, purported victims, the
12 defendant, those other additional witnesses? If you know
13 any of those or you're connected in any fashion, I'm going
14 to ask that you please stand. And we just have one.

15 Okay. If you will, give me your name and your juror
16 number, please, ma'am.

17 JUROR NO. 72: Kirby Lanford, Juror No. 72.

18 THE COURT: And who is it that you know?

19 JUROR NO. 72: I worked with each of the investigators
20 and officers of the Spartanburg Public Safety.

21 THE COURT: Okay. Is there anything about that fact
22 or that connection that would impair your ability to be
23 fair and impartial in the trial of this case?

24 JUROR NO. 72: It could. I work with them.

25 THE COURT: Just yes or no.

Jury qualification

1 JUROR NO. 72: Yes.

2 THE COURT: If you can answer it that way.

3 JUROR NO. 72: Yes, sir.

4 THE COURT: Okay. All right. We'll excuse you from
5 service in the trial of this case, but don't leave yet.

6 Yes, ma'am.

7 JUROR NO. 45: I know Rick Gregory.

8 THE COURT: And can you tell us who you are, please?

9 JUROR NO. 45: Juror No. 45.

10 THE COURT: And how do you know Mr. Gregory?

11 JUROR NO. 45: From school, high school.

12 THE COURT: From what?

13 JUROR NO. 45: High school.

14 THE COURT: High school. Is there anything about that
15 fact that would impair your ability to be fair in this
16 case?

17 JUROR NO. 45: No.

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

19 Anyone else? I need everybody who needs to respond to
20 the question, please stand. Nobody else except this lady
21 standing?

22 Okay. Your name and number, please.

23 JUROR NO. 138: Freida Smith. I'm 138.

24 THE COURT: Who is it that you know?

25 JUROR NO. 138: I know Mark Freeman. He is a son of a

Jury qualification

1 friend.

2 THE COURT: All right. And would that fact in any way
3 affect your ability to be fair in this case?

4 JUROR NO. 138: No, sir.

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

6 Now, I read to you from the indictments to let you
7 know what the state is claiming, basically what the case is
8 about. That's not intended to be a detailed recitation of
9 the facts or evidence that might be presented in the case
10 but just to give you a basic understanding as to what the
11 case is about because I need to know if any member of the
12 jury panel has already obtained any kind of information
13 that relates to this case from any source.

14 In other words, have you heard about it, have you read
15 about it, have you seen anything about it, have you
16 discussed it or talked about it with anybody, have you
17 overheard any discussions or conversations about it?

18 I need to know if any juror has been exposed to any
19 type of information from any source that relates to this
20 particular case. If so, I would ask that you please stand.

21 (No response.)

22 THE COURT: Is there any member of the jury panel who
23 has already made up your mind or formed an opinion about
24 the case based upon what you've heard up to this point or
25 based upon any other consideration? If so, please stand.

Jury qualification

1 (No response.)

2 THE COURT: Has any member of the jury panel or any
3 member of your immediate family ever been employed as any
4 type of law enforcement officer, whether it be with the
5 sheriff's department, a city police department, a town or
6 municipal law enforcement agency, the state law enforcement
7 division, the F. B. I., any county or state detention
8 facility, a military police agency, department of probation
9 and parole, marshal service, any type of law enforcement
10 agency? I need to know if you or a family member are now
11 or have ever been employed as a law enforcement agent. If
12 so, please stand.

13 All right. Now, those who are standing, what I'm
14 going to do is I'll start to my left, this lady on the
15 front row dressed in the black. I'll work back and across.
16 I need for each you to, each of you to, give me your name
17 and your juror number. And then tell me how you are
18 connected to any type of law enforcement. And then I'll
19 ask you if that would affect your judgment in any fashion.

20 I'll start with you, ma'am.

21 JUROR NO. 126: Juror No. 126. I have a cousin who
22 works as a court bailiff for this court system.

23 THE COURT: And what's your cousin's name?

24 JUROR NO. 126: Sabrina Sims.

25 THE COURT: And would that have any bearing upon your

Jury qualification

1 decision in the case?

2 JUROR NO. 126: No.

3 THE COURT: Thank you. Be seated.

4 Yes, ma'am.

5 JUROR NO. 56: Juror No. 56. I have a cousin who was
6 police chief in Landrum.

7 THE COURT: And what was their name?

8 JUROR NO. 56: Gary Laughter.

9 THE COURT: Would that have any bearing upon your
10 decision in the case?

11 JUROR NO. 56: No, sir.

12 THE COURT: Thank you. Be seated.

13 Yes, sir.

14 JUROR NO. 202: Juror No. 202, Jonathan Tooley. I
15 have an aunt that's a Greenville County sheriff's, Joan
16 Morgan.

17 THE COURT: Would that affect your judgment in any
18 case?

19 JUROR NO. 202: No.

20 THE COURT: Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 197: 197, Mia Thompson. My father-in-law
23 was assistant director of the F. B. I.

24 THE COURT: Would that have any bearing upon your
25 decision?

Jury qualification

1 JUROR NO. 197: No, sir.

2 THE COURT: Thank you. Be seated.

3 Yes, ma'am.

4 JUROR NO. 168: Juror 168, Margie Wingo. I have a
5 brother-in-law that's retired from the Spartanburg city.

6 THE COURT: And his name is what?

7 JUROR NO. 168: Hugh Elliott.

8 THE COURT: Would that have any bearing upon your
9 decision?

10 JUROR NO. 168: No, sir.

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

12 Yes, ma'am.

13 JUROR NO. 163: Maureen Wilkie, Juror 163. I have a
14 brother-in-law who is a state prison guard.

15 THE COURT: And in what county?

16 JUROR NO. 163: Actually it's in a different state.

17 THE COURT: Okay. Would that have any bearing upon
18 your decision?

19 JUROR NO. 163: I don't think so.

20 THE COURT: Thank you. Be seated.

21 Yes, ma'am.

22 JUROR NO. 179: My name is Rhonda Faulkner. I'm 179.
23 My father is retired from the Spartanburg County Detention
24 Facility.

25 THE COURT: Would that have bearing upon your

Jury qualification

1 decision?

2 JUROR NO. 179: No.

3 THE COURT: Thank you. Be seated.

4 Yes, sir.

5 JUROR NO. 113: My name is John Quinn. My little
6 brother is city police in Inman, and my first cousin is
7 Chuck Wright, Spartanburg County Sheriff.

8 THE COURT: All right. And your juror number is what?

9 JUROR NO. 113: 113.

10 THE COURT: Would either of those facts have any
11 bearing upon your decision in the case?

12 JUROR NO. 113: No, sir.

13 THE COURT: Thank you. Be seated.

14 Yes, ma'am.

15 JUROR NO. 64: Jenol Johnson, 64. Retired. My
16 husband is a retired public safety officer.

17 THE COURT: And would that have any bearing upon your
18 decision in this case?

19 JUROR NO. 64: No, sir.

20 THE COURT: Thank you. Be seated.

21 Yes, sir.

22 JUROR NO. 53: Rodney Higgins, Juror 53. My cousin
23 is, works for the detention center here in Spartanburg.

24 THE COURT: His name?

25 JUROR NO. 53: Mamie Higgins.

Jury qualification

1 THE COURT: Would that have any bearing upon your
2 decision?

3 JUROR NO. 53: No, sir.

4 THE COURT: Thank you. Be seated.

5 Yes, ma'am.

6 JUROR NO. 94: Shirley Millwood, No. 94. My brother
7 was a former deputy for Spartanburg County.

8 THE COURT: Would that have any bearing upon your
9 decision?

10 JUROR NO. 94: No.

11 THE COURT: Thank you. Be seated.

12 Yes, ma'am.

13 JUROR NO. 158: Juror 158, Minnie West.

14 Brother-in-law is a retired city police officer.

15 THE COURT: Would it have any bearing upon your
16 decision in this case?

17 JUROR NO. 158: No, sir.

18 THE COURT: Thank you. Be seated.

19 Yes, ma'am.

20 JUROR NO. 72: I have an uncle that's a police officer
21 in Woodruff.

22 THE COURT: All right. Now, I think we've already
23 excused you, haven't we? You've already been excused, so
24 you won't need to answer any more questions. Okay. Thank
25 you.

Jury qualification

1 Has any member of the jury panel or any member of your
2 immediate family ever been the victim of or ever been
3 accused of the commission of what I'm going to describe as
4 a violent crime? And those would include offenses such as
5 murder, manslaughter, burglary, armed robbery, criminal
6 sexual conduct, assault and battery with intent to kill, a
7 criminal domestic violence of a high and aggravated nature
8 or any other similar type of offense that could be put into
9 the violent-crime category.

10 Any juror or member of your immediate family ever been
11 the victim of such an offense or ever been accused of such
12 an offense? If so, I would ask that you please stand.

13 All right. Now, I've got six people standing. Is
14 that all? I've got six.

15 All right. I'm going to ask you to tell me what you
16 need to in order to respond to the question. If you prefer
17 not to respond to the question in front of the audience,
18 you don't have to. You can come down here and provide me
19 with that information here at the bench if you prefer.
20 I'll leave that up to you. I'll just call on you. If you
21 want to come down here, come down here. If you don't, tell
22 me the information from where you are.

23 And we'll start with you again, please, ma'am.

24 JUROR NO. 126: I would like to approach the bench.

25 THE COURT: Now, the lawyers are going to be coming up

Jury qualification

1 here with me because they have to have the information, but
2 nobody else will know what anyone says.

3 (Bench conference held off the record with juror and
4 counsel.)

5 (Whereupon, the juror was excused from the trial.)

6 THE BAILIFF: No. 64.

7 (Bench conference held off the record with juror and
8 counsel.)

9 THE COURT: Next.

10 THE BAILIFF: No. 11.

11 (Bench conference held off the record with juror and
12 counsel.)

13 (Whereupon, the juror was excused from the trial.)

14 THE COURT: Next.

15 THE BAILIFF: No. 180.

16 (Bench conference held off the record with juror and
17 counsel.)

18 THE BAILIFF: 158.

19 (Bench conference held off the record with juror and
20 counsel.)

21 THE BAILIFF: No. 6.

22 (Bench conference held off the record with juror and
23 counsel.)

24 THE BAILIFF: No. 200.

25 (Bench conference held off the record with juror and

Jury qualification

1 counsel.)

2 THE COURT: All right. Anyone else need to respond to
3 that question?

4 (No response.)

5 THE COURT: All right. Based upon the information
6 provided the Court, Jurors Nos. 126 and 11 are excused from
7 service in the trial of this case.

8 Has any member of the jury panel ever been called to
9 testify as a witness in the trial of a criminal case? If
10 so, please stand.

11 Yes, ma'am.

12 JUROR NO. 122: I'm Shameka Richards, 122. And I was
13 a witness of a robbery and assault, a Manuel -- I forget
14 his name.

15 THE COURT: Okay. How long was that?

16 JUROR NO. 122: It was last year when I went to court.

17 THE COURT: All right. So you were called to testify
18 as a witness. And who called you as a witness? Did the
19 state call you or did the defense call you?

20 JUROR NO. 122: The state.

21 THE COURT: All right. And were you a witness to the
22 crime?

23 JUROR NO. 122: No. I was just a witness to him after
24 the crime.

25 THE COURT: Okay. But you were called to testify by

Jury qualification

1 the state.

2 JUROR NO. 122: Yes, sir.

3 THE COURT: And the type of that case was that?

4 JUROR NO. 122: It was an assault case.

5 THE COURT: All right. And is there anything about
6 that experience you had that would impair your ability to
7 be fair in this case?

8 JUROR NO. 122: No, sir.

9 THE COURT: Thank you. Be seated.

10 MR. SCHULTZ: Your Honor, what juror number was that?

11 THE COURT: 122.

12 MR. SCHULTZ: Thank you.

13 THE COURT: Is there any member of the jury panel who
14 is a member of any of the following organizations, or do
15 you contribute time or volunteer time or contribute money
16 to any of these types of organizations?

17 And those would include the Mothers Against Drunk
18 Drivers, Citizens Against Violent Crime, the honorary
19 sheriff's association, the fraternal order of police, the
20 South Carolina Troopers Association, the South Carolina Law
21 Enforcement Officers Association or any other similar type
22 of organization that might be classified or described as a
23 law enforcement support organization or victims rights type
24 of organization.

25 I need to know if any juror contributes time or money,

Jury qualification

1 or you are a member of any of those types of organizations.

2 If so, please stand.

3 All right. I'll start with the lady on the front row.

4 If you'll give me your name and your number, and tell me
5 how the question relates to you.

6 JUROR NO. 193: Teresa Owens. And I have contributed
7 money to the honorary sheriff's association.

8 THE COURT: And your number was what?

9 JUROR NO. 193: 193.

10 THE COURT: All right. Thank you, ma'am. Be seated.

11 Yes, ma'am.

12 JUROR NO. 190: Lindsey Wilkins, Juror No. 190. I
13 support the troopers association. I donate money to that.

14 THE COURT: Thank you. Be seated.

15 Yes, ma'am.

16 JUROR NO. 179: Rhonda Faulkner, 179. I contribute to
17 law enforcement agencies and to Safe Homes.

18 THE COURT: Thank you. Be seated.

19 Yes, ma'am.

20 JUROR NO. 45: Juror No. 45. To Safe Homes and the
21 troopers association.

22 THE COURT: Thank you. Be seated.

23 Yes, ma'am.

24 JUROR NO. 158: Minnie West, 158. Troopers
25 association, contribute.

Jury qualification

1 THE COURT: Thank you. Be seated.

2 Yes, sir.

3 JUROR NO. 54: James Holder, 54. State troopers
4 association.

5 THE COURT: Thank you. Be seated.

6 Yes, ma'am, in the back.

7 JUROR NO. 120: Pam Rice, No. 120. I contribute to
8 the troopers association and I volunteer on Ciro's (sic).

9 THE COURT: Tell me about that.

10 JUROR NO. 120: That's a prison ministry organization
11 that goes into prisons to give retreats to inmates.

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

13 Yes, sir.

14 JUROR NO. 177: David Blalock, 177. I contribute to
15 the fraternal order of police.

16 THE COURT: Fraternal order of police.

17 JUROR NO. 177: Yes, sir.

18 THE COURT: Thank you. Be seated.

19 All right. Now, understanding who the lawyers are,
20 understanding who the persons alleged to be the victims
21 are, understanding who the defendant is, understanding who
22 the potential witnesses are, understanding what the case is
23 about, is there any member of the jury panel that knows of
24 any reason whatsoever why you think you could not be fair
25 and impartial if you were called upon to serve as a juror

Jury qualification

1 in this particular case? If so, please stand.

2 (No response.)

3 THE COURT: Any other questions requested by the
4 state?

5 MR. BARNETTE: None from the state, Your Honor.

6 THE COURT: By the defendant?

7 MR. SCHULTZ: None for the defendant, Your Honor.

8 THE COURT: All right. Now, as your names are called
9 you're going to be asked to come forward.

10 Each of your names are typed on a slip of paper, and
11 they're in the jury drum over there. The clerk is going to
12 draw a name randomly. And as that name is called you're
13 going to be asked to come forward and simply stand right
14 there in front of where the bailiff is standing. Look back
15 towards where your fellow jurors are seated.

16 Each side has an opportunity to have you seated for
17 service in the case or to have you excused from service in
18 the case.

19 If either of the lawyers asks that you be excused, you
20 can go back and have a seat where you are now. If both
21 agree to have you seated for service in the case, then
22 you'll be having a seat in that jury box to your right and
23 to my left.

24 So please simply come forward as your name is called,
25 and you'll be instructed if you're to be seated for service

1 in the case or excused from service in the case.

2 I misstated one thing. Your names are supposed to be
3 in, but they are not. But they will be in a few minutes.

4 If it gets too warm in here for any of y'all, y'all
5 let me know.

6 (Whereupon, a jury was impanelled.)

7 THE COURT: All right. Those who have been selected,
8 I will ask you to please go with the bailiff to a jury
9 room, and I'll bring you back in just a few minutes to
10 excuse you for lunch.

11 (The following takes place outside the presence of the
12 jury.)

13 THE COURT: Any matters to be addressed regarding jury
14 selection by the state?

15 MR. BARNETTE: None from the state, Your Honor.

16 THE COURT: By the defendant?

17 MR. SCHULTZ: I do have one. I'd like to approach,
18 Your Honor.

19 THE COURT: All right.

20 (Bench conference held off the record.)

21 THE COURT: All right. Bring all of them back,
22 please.

23 (The following takes place in the presence of the
24 jury.)

25 THE COURT: All right. Juror 187, you are Robert who?

1 JUROR NO. 187: Yes. Robert Henderson.

2 THE COURT: Henderson. Mr. Henderson, I understand
3 you have already been excused for tomorrow.

4 JUROR NO. 187: Yes, sir.

5 THE COURT: Well, this case is going to last more than
6 just a day. So we're going to excuse you now. You won't
7 be able to participate since you can't be here tomorrow.

8 If you will, just go back and have your seat.

9 Ms. Zimmerman, that means you're going to take --
10 you'll be the 12th juror right now. So move over one seat.
11 We will draw one more alternate juror.

12 (Whereupon, Juror No. 187 was excused from service.
13 Juror No. 175 was changed from an alternate juror to a
14 juror, and Juror No. 30 was selected as the alternate
15 juror.)

16 THE COURT: All right. Any other matters we need to
17 address regarding jury selection?

18 MR. BARNETTE: None from state, Your Honor.

19 MR. SCHULTZ: None for the defense, Your Honor.

20 (Whereupon, the remaining members of the jury venire
21 were excused.)

22 THE COURT: All right. Now, those jurors who have
23 been selected, you are also going to be excused for lunch
24 at the present time.

25 We've got some matters I'll need to address before we

1 can actually begin with the trial of the case, and we'll do
2 either before or right after lunch. But I am going to ask
3 you to come back at 3:30, at 3:30 this afternoon. And we
4 should be in a position at that time to begin with the
5 trial of the case.

6 Now, keep in mind, and this is an instruction that you
7 must follow now that you've been selected. You are not to
8 discuss this case in any fashion whatsoever with any person
9 whatsoever.

10 It doesn't matter if it's family members, doesn't
11 matter if it's friends. You can't even discuss it with
12 your fellow jurors. You can't discuss it at all with any
13 person until the case has been submitted to you and you've
14 been asked to begin with your deliberations. That of
15 course won't be until the end of the trial after all of the
16 evidence has been received and I've instructed you on the
17 law that's applicable in the case. And when that time
18 comes I'll tell you. But until that time comes you can't
19 talk about the case in any fashion whatsoever with any
20 person whatsoever.

21 Also, you're not permitted at any time during the
22 trial of this case to allow yourselves to be exposed to any
23 type of media coverage that might relate to the case. I
24 don't know if there'll be any. But if there is you have to
25 prevent yourself from being exposed to it.

1 So don't look at anything that might appear on
2 television; don't listen to anything that might come over
3 the radio; do not read anything that might be in the
4 newspaper that relates to this case.

5 You also cannot conduct any research or do your own
6 investigation into anything that relates to the case. So
7 don't try to find out anything about the case on your own.

8 You have to base a decision only upon what you see and
9 hear during the trial of this case. So no discussions, no
10 exposure to any type of media, no research or investigation
11 on your own.

12 With that, do have a good lunch. And please report
13 back to that jury room that you've just been introduced to.
14 Please report back to that jury room not later than 3:30
15 this afternoon, 3:30 this afternoon. Have a good lunch.

16 (The following takes place outside the presence of the
17 jury.)

18 THE COURT: All right. Any matters to address before
19 we recess for lunch?

20 MR. BARNETTE: None from the state. We do have that
21 tape whenever you want us to come back, Your Honor, to
22 listen to.

23 THE COURT: How long will it take?

24 MR. BARNETTE: It will take, the part that I want, to
25 be 20 seconds or 30 seconds to play.

1 MR. SCHULTZ: The phone conversation in itself is a
2 little longer obviously.

3 MR. BARNETTE: Well, the phone conversation is 15
4 minutes if you want to listen to the whole thing. But what
5 we will play will be 30 seconds.

6 THE COURT: Well, is there any reason that I need to
7 listen to the whole conversation?

8 MR. BARNETTE: If they want to play it, I mean. We're
9 going to play the --

10 THE COURT: You just intend to introduce part of it.
11 You don't object to the defense offering the whole thing if
12 they want to?

13 MR. BARNETTE: No, sir. If they want to, that's fine.

14 THE COURT: Well.

15 MR. SCHULTZ: Yeah. The rest of it is -- I just
16 wanted to see if in your opinion you thought there was
17 something too prejudicial on the rest of the tape. I don't
18 believe there is but --

19 THE COURT: Well, you know what part they're offering.

20 MR. SCHULTZ: Yes, I do.

21 THE COURT: All right. And you've listened to the
22 tape.

23 MR. SCHULTZ: I have.

24 THE COURT: Do you object to what they're offering?

25 MR. SCHULTZ: I don't object to what they're offering,

1 but I would like to have the whole thing shown to the jury.

2 MR. BARNETTE: Your Honor, if he wants to in his case
3 show it to the jury, that's fine. I don't have any problem
4 with that if he wants to. I mean, he's not going to tell
5 me what I am going to play and what I am not going to play.
6 I'm going to play what I will play. And if he wants to
7 play the rest of it, he can. That would be our position.
8 I'm not telling the Court what to do.

9 THE COURT: Well, my only concern would be if
10 something is taken out of a context. I mean, if it's not,
11 if it's not, I mean, in other words, if an extraction of a
12 portion does not destroy the context in which it was
13 provided, then you don't need to play the whole thing. The
14 state doesn't need to play the whole thing.

15 If it does need to be played in the context and it
16 might be -- even though it's not the whole tape, it might
17 be some portion on either side of the extracted portion it
18 might need to be played so that's in the context. But-and
19 then the defense can play the entire conversation if you
20 wish to. You can introduce it in your case.

21 I'm just saying that I'm not going to require the
22 state to introduce anything but what they offer in their
23 case unless in fairness it must be, there must be
24 additional parts of it played in order to put it in the
25 proper context.

1 So why don't y'all discuss that as you leave right now
2 and see if y'all can resolve that issue.

3 MR. BARNETTE: I don't think I am going to. My
4 position is I'm going to play the part I think is
5 pertinent. If he wants to play the rest of it, I'm not
6 going to, I mean, the rest --

7 THE COURT: Oh, well. Do you think that in fairness
8 that to have it in the proper context the Court needs to
9 require additional parts of it, Mr. Schultz?

10 MR. SCHULTZ: I think in fairness the Court does. I
11 think it should be taken, as you said, of the whole matter.
12 A lot of the parts don't make sense. A lot of the parts
13 are very confusing.

14 THE COURT: Well, if they don't make sense and they're
15 confusing how is that going to help in putting it in the
16 proper context?

17 MR. SCHULTZ: Well, that's a good point. But I think
18 the main point is that there is a lot of talk about these
19 individuals prior to that, not in, not in a context of an
20 armed robbery or a burglary. So I think that in all
21 fairness, I think it should be allowed, the rest of it.

22 MR. BARNETTE: We're not objecting to it.

23 THE COURT: All right. Well, the tape is available.
24 I'm going to allow the state to introduce whatever portion
25 they want to. If the defense wants to introduce the

1 balance of it, you may, and if the state doesn't object to
2 that.

3 MR. SCHULTZ: That's fine, Your Honor.

4 THE COURT: Okay.

5 MR. BARNETTE: Thank you, Your Honor.

6 THE COURT: All right. Court is in recess until 3:30.

7 (Whereupon, a recess was taken.)

8 THE COURT: Any matters to address before the jury is
9 brought in?

10 MR. BARNETTE: Your Honor, one thing I did just for --
11 I told Mr. Schultz this. On the phone call that we talked
12 about from the jail, we had numerous, like 166, phone
13 calls, or a bunch.

14 What I did, I took the specific phone call and put it
15 on one C. D. And we marked that Exhibit 21-A. I've got to
16 get an evidence list. But I went ahead and separated that
17 and put that as 21-A. So therefore they could -- what I
18 think we're going to do is I'm going to play my portion and
19 then he's probably going to request that the whole thing be
20 played. And it's on one C. D. So it's not going to be an
21 issue dealing with both phone calls when it has to go back
22 to the jury room. So that will make it easier from that
23 standpoint.

24 And the other thing, I think it was the letters. From
25 that standpoint I didn't know what the Court's ruling would

1 be on the letters from that standpoint.

2 THE COURT: Well, at what point are you going to get
3 to the letters in your presentation?

4 MR. BARNETTE: It won't be, it won't be at the first.
5 Well, it could be the second or third, because I have
6 somebody to authenticate their handwriting at that point.

7 THE COURT: Well, did I understand it that you're
8 wanting to introduce the entire letter?

9 MR. BARNETTE: Yes, sir.

10 THE COURT: Or did you just want to introduce some
11 relevant portions of it?

12 MR. BARNETTE: I can introduce relevant portions of
13 it, Your Honor. But I believe they want to introduce the
14 whole letter, which I didn't have an objection to on these
15 two letters.

16 MR. SCHULTZ: That's correct, Your Honor.

17 THE COURT: Okay. Well, what is the -- are you
18 intending to introduce the entire letter from the start, or
19 did you just want to introduce some relevant portion of it?
20 In other words, I know you don't have any objection to the
21 whole letter coming in, but is that your request or not?

22 MR. BARNETTE: Well, I originally was just going to go
23 to do all, what I thought was pertinent parts of it. But
24 they asked to have the whole letter in. And I have no
25 objection to that too, Your Honor.

1 THE COURT: Well, I understand you don't. What I'm
2 saying is they have objected to the letters coming in.

3 MR. SCHULTZ: That's correct, Your Honor.

4 THE COURT: So, in other words, if, if you have a
5 portion that you want to introduce that you believe is
6 relevant, then that's the only portion they're objecting
7 to.

8 MR. BARNETTE: Yes, sir.

9 THE COURT: So I need to know what that is. And if
10 they want to introduce the rest of it, they can introduce
11 it, or you can agree to introduce it at their request. But
12 I'm just saying I need to know which portions you
13 specifically want to introduce that they object to so I can
14 address that issue and then, as I understand it, if I rule
15 against them on their objection the whole letter comes in.

16 MR. BARNETTE: Yes, sir. May I see the copies of the
17 letters I handed up to the Court?

18 THE COURT: Yes, sir. And that will be at the request
19 of both.

20 MR. BARNETTE: Yes, sir.

21 THE COURT: Now, those are just copies. Do you have
22 the original?

23 MR. BARNETTE: The original, actually Gail Heath from
24 SLED is going to be bringing those. She actually did
25 balances on them.

1 THE COURT: They won't be coming in until she gets
2 here?

3 MR. BARNETTE: Well, I was going to show, show the
4 copies and ask to substitute the originals, Your Honor,
5 after they're verified. I didn't think we would be getting
6 to it this quick, or the rest of the case -- that's fine.

7 THE COURT: Well, we may not.

8 MR. BARNETTE: Yes, sir.

9 THE COURT: I mean, I don't know. I mean, we're going
10 to get to maybe 5:00 o'clock.

11 MR. BARNETTE: Yes, sir.

12 THE COURT: So have you got some witnesses you're
13 going to put up ahead of that?

14 MR. BARNETTE: Yes, sir.

15 THE COURT: All right. Well, we probably won't get to
16 those letters unless that's the first witness.

17 MR. BARNETTE: No, sir. It's not the first witness.
18 But I was going to do it second or third, Your Honor.

19 THE COURT: Well, we've got to open. Y'all have got
20 to do your opening statements. And I've got to talk to
21 them first, and y'all have got to do your opening
22 statements. And then who is your first witness?

23 MR. BARNETTE: It's probably going to be Mike Jones,
24 Captain Jones.

25 THE COURT: And who is after him?

1 MR. BARNETTE: I was going to try to call Ms. Gray
2 next. I can rechange that around.

3 THE COURT: Okay. Well, let me see y'all just a
4 minute.

5 (Bench conference held off the record.)

6 THE COURT: All right. I've got two exhibits. They
7 have been previously marked as court's exhibits. They are
8 Court's Exhibit No. 2 and Court's Exhibit No. 3.

9 Court's Exhibit No. 2 is represented to be a letter,
10 represented by the solicitor to be a letter, from the
11 defendant to Natalie Gray. And from that letter the state
12 wishes to introduce selected portions of the letter. Those
13 selected portions have been highlighted by the solicitor.

14 And, Mr. Schultz, you've seen the highlights?

15 MR. SCHULTZ: I have, Your Honor.

16 THE COURT: Now, the Court's Exhibit No. 2 is a letter
17 that was postmarked February the 8th of 2005. Is that --

18 MR. BARNETTE: No, Your Honor. I think that will be
19 2006.

20 MR. SCHULTZ: Your Honor, are you referring to the
21 letter to Ms. Gray, Natalie Gray?

22 THE COURT: Yes. Court's Exhibit No. 2 is a letter
23 postmarked February the 8th of 2006 --

24 MR. SCHULTZ: Yes, sir.

25 THE COURT: -- to Natalie Gray at Kenington Drive

1 (sic).

2 All right. Now, you do or do not have any objection
3 to those selected portions being introduced into evidence?

4 MR. SCHULTZ: Your Honor, at this time I do not.

5 THE COURT: Do not have an objection?

6 MR. SCHULTZ: No.

7 THE COURT: All right. Court's Exhibit No. 3 is a
8 letter the state contends was written by the defendant
9 addressed to Ieshia [REDACTED] also at Kenington Drive postmarked
10 February the 9th of 2006.

11 The solicitor again has highlighted certain portions
12 of that letter, selected portions that they wish to
13 introduce in the trial.

14 Do you have any objection to those selected portions
15 being introduced?

16 MR. SCHULTZ: Yes, I do, Your Honor.

17 THE COURT: All right. And what's the nature of your
18 objection?

19 MR. SCHULTZ: I think the, those letters are highly
20 prejudicial, and I don't think, especially the selection
21 that the state, the solicitor, highlighted is highly
22 prejudicial. And I don't think it's relevant. I think
23 that the jury would be confused by the selection. I think,
24 as I said before, it should be taken into context if it's
25 introduced at all.

1 THE COURT: All right. Solicitor, and your position
2 is the selected portions are relevant as to what?

3 MR. BARNETTE: Your Honor, to prove the motive in this
4 case.

5 He claims that Duke, which is Donald Martin, was the
6 individual that was messing with Ieshia, his girl, and he
7 had to teach him a lesson. I'm just paraphrasing. I know
8 you've got the letters in front of you. And he's talking
9 about that he's going to make everybody pay, that when he
10 got out he was going to the leave the burg (sic) and he was
11 going to -- he wanted her to go live with Osia Feaster, his
12 girl, and she would take care of her and things of that
13 nature.

14 This is an alibi defense that they're putting up when
15 they gave us notice of an alibi defense. Therefore I think
16 it's highly pertinent that the motive was shown why he
17 would go over there and do this kind of robbery in this
18 situation and burglary in this case and that he's in love
19 with her and several other things. I can't remember the
20 whole thing that was outlined, but that's basically what
21 the letter said.

22 THE COURT: All right. The selected portions are
23 admitted over objection.

24 All right. Anything else?

25 MR. BARNETTE: Your Honor, we was up at the bench

1 conference when we saw these other things.

2 Did I understand the defense to say that they did not
3 want to do an opening statement at this point?

4 MR. SCHULTZ: That's correct, Your Honor. We're
5 reserving our opening statements until the beginning of our
6 case in chief.

7 THE COURT: Well, I'll make that determination.
8 You're going to waive any opening statement at the present
9 and you're going to seek the Court's permission to make an
10 opening statement at the beginning of any defense
11 presentation?

12 MR. SCHULTZ: Yes, sir. I actually, Your Honor,
13 apologize. I wasn't aware that I had to seek permission of
14 the Court, but I guess I would like to seek permission of
15 the Court to do my opening statement at the beginning of my
16 case in chief.

17 THE COURT: Well, you're going to always. If you're
18 going to -- in other words, if you're going to try to do
19 something that's not traditional in the trial of the case,
20 you need to seek permission to do it ahead of time.

21 MR. SCHULTZ: Yes, sir, Your Honor.

22 THE COURT: All right. We will address it when the
23 time comes.

24 All right. Anything else?

25 MR. BARNETTE: I think that's it, Your Honor, at this

1 point.

2 THE COURT: All right. Bring the jury in and ask Mr.
3 Ward to take the foreperson's seat. Mr. Ward.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: Good afternoon, ladies and gentlemen.

7 We are ready to begin with the trial of the case for
8 which you were selected.

9 Mr. Ward, I'm going to ask you to serve as the
10 foreperson of the jury. As the foreperson you'll have
11 three specific duties that none of the other jurors will
12 have.

13 Number one, you will be asked to serve as the
14 spokesperson for the jury. And so if during the trial
15 something arises that needs to be brought to my attention,
16 if you'll let me know if you're here in the courtroom or
17 let the bailiff know, and he'll relay those comments to me.

18 Secondly, you'll also be asked to preside over the
19 jury deliberations when that time comes at the trial's
20 conclusion after all of the evidence has been received and
21 I've instructed you on the law. And when you're asked to
22 go back and to begin jury deliberations in the case you
23 will be presiding over that process in the jury room simply
24 to ensure that those deliberations are carried out in some
25 orderly fashion.

1 Thirdly, you'll be asked to actually write the verdict
2 or the decisions of the jury. And you'll do that on
3 verdict forms that I'll provide you at the trial's
4 conclusion on which you will indicate the jury's unanimous
5 decision.

6 Now, the foreperson has those specific duties that
7 I've just indicated. That does not mean that he is any
8 more important than any of you other jurors because the
9 decisions of a jury are the unanimous consensus opinions of
10 all 12 jurors. And so all of you will have an equal say
11 and an equal vote in what the ultimate decisions will be in
12 this case.

13 Someone simply has to be delegated those
14 responsibilities that I have just indicated, and I have
15 delegated those to Mr. Ward in appointing him as the
16 foreperson. But all of you jurors are equally important so
17 far as the ultimate decisions are concerned, because, as I
18 stated, the verdicts have to be unanimous. All of you must
19 be in agreement.

20 Now, Mr. Putnam and Mr. Falk, each of you have been
21 selected as alternate jurors. And the function of
22 alternate jurors is to take the place of one or more of the
23 original 12 if during the trial one or more of these jurors
24 cannot continue to serve in the trial of the case.

25 And if one or more are unable to continue, then one or

Jury sworn

1 both of you will be called upon to take those jurors'
2 places. And in that event you or both of you would become
3 part of the 12. In that event you would participate
4 throughout the trial, including in the jury deliberations
5 when that time comes.

6 If however when the time comes for deliberations, if
7 the original 12 are able to participate in that function,
8 then your service as alternates would end and you would not
9 participate any further, because the verdict of a jury is
10 that of 12. No more than 12 are permitted to engage in
11 that process.

12 But it is important that each of you pay just as
13 careful attention as we ask of all of the jurors in the
14 case because it does occur from time to time for one reason
15 or another one or more of these original jurors may be
16 called away. In that event you would be called upon to
17 participate in the deliberations also.

18 So we do appreciate your participation as alternate
19 jurors just as we appreciate the participation of all of
20 you jurors who have been selected for the purpose of
21 deciding the verdicts in this particular case.

22 You may swear the panel.

23 (Whereupon, the jury was duly sworn.)

24 THE COURT: All right. Ladies and gentlemen, as you
25 are well aware, you have been selected to decide the

1 verdicts in the case of the State vs. Nathaniel Charles
2 Teamer.

3 He's been accused by the prosecutor of having
4 committed four separate and distinct offenses, although the
5 state does allege that they arose out of one particular
6 event or course of events which the state alleges occurred
7 back on or about February the 2nd and February the 3rd of
8 2006.

9 By way of these indictments the state alleges that
10 Mr. Teamer committed the crime of burglary in the first
11 degree, of armed robbery, of failing to stop when signaled
12 by a law enforcement officer and for felony driving while
13 under the influence.

14 Now, as I have already told you, as to each of those
15 indictments and as to the allegations contained therein the
16 defendant has entered a plea of not guilty. And, as I told
17 you, that plea of not guilty therefore places upon the
18 state the burden of proving all of the allegations that
19 they have set forth in each indictment, the burden of
20 proving each of the essential elements of the crimes that
21 are alleged against the defendant; and therefore the burden
22 is upon the state to establish the defendant's guilt to
23 your satisfaction beyond a reasonable doubt before he could
24 be found guilty of any crime the state claims he committed.

25 Now, you have four separate charges. The state has to

1 prove him guilty of each of those charges beyond a
2 reasonable doubt. You must consider each of those charges
3 separately, and you must determine whether or not his guilt
4 has been proven beyond a reasonable doubt based upon the
5 evidence presented and the law that's applicable as it
6 relates to each of the separate charges.

7 And so in this case when you go back to deliberate,
8 your verdicts may be the same, they may be different. That
9 will depend upon your determination as to the facts based
10 upon your consideration of the evidence and then your
11 application of the law that I will have provided you to the
12 facts as determine them to be.

13 And so you could find the defendant guilty of all of
14 the charges; you could find him not guilty of all of the
15 charges. You could find him guilty of one or more of the
16 charges and not guilty of the remainder of those charges.
17 And, as I say, that will just be dependent upon your
18 determination of fact and your application of the law. But
19 there are separate and distinct charges for which you will
20 have to determine the appropriate separate and distinct
21 verdicts.

22 Any time a person is accused of a crime they are
23 always under the law presumed to be innocent. And that
24 presumption of innocence remains with any person who is
25 charged with a crime from the time that he is placed under

1 arrest and throughout the course of the criminal process
2 and even throughout the course of the actual trial in the
3 case.

4 That presumption of innocence is going to be with Mr.
5 Teamer throughout this trial even as you go back to begin
6 with your deliberations in the case. That presumption of
7 innocence will be with him in that jury room, and it will
8 be with him forever unless you 12 jurors determine that
9 he's no longer entitled to that presumption of innocence as
10 it relates to a particular charge.

11 In other words, if after you've carefully considered
12 all of the evidence in the case, you've decided the facts,
13 you've applied the law and you determine that his guilt has
14 been proven beyond a reasonable doubt as to a particular
15 charge, then and only then would he no longer be entitled
16 to that presumption of innocence, because his guilt will
17 have been proven to your satisfaction beyond a reasonable
18 doubt.

19 But it's only if and unless and until you are
20 satisfied of his guilt beyond a reasonable doubt that that
21 presumption of innocence would no longer be applicable.
22 And if you determine that his guilt has not been proven
23 beyond a reasonable doubt, then of course that presumption
24 would be with him forever.

25 Now, the way the trial will proceed is that in a

1 moment the lawyers are going to address you in what are
2 called opening statements. The defense may request to wait
3 until the time comes for them to present any evidence.
4 Nevertheless, they're provided an opportunity to make an
5 opening statement to you.

6 The purpose of the opening statements by the lawyers
7 is not for the purpose of providing you with any evidence
8 upon which you will base your decision, because what the
9 lawyers tell you in any statement before you is not to be
10 considered by you as evidence because they're not witnesses
11 to anything. They won't be testifying under oath; they
12 won't be taking the witness stand; they won't be subjected
13 to direct and cross-examination as witnesses will be. And
14 so what they tell you in their opening statements or in
15 their closing statements after all of the evidence has been
16 received is not to be considered by you as any evidence in
17 the case.

18 But you should listen to what they have to say because
19 those statements do serve a purpose. And the opening
20 statements serve to provide you with a basic understanding
21 as to what this case is about from the perspective of the
22 state and the defense so that you'll have some context in
23 which to place the evidence that we will be receiving
24 shortly after those opening statements.

25 The closing statements by the lawyers occur after all

1 of the evidence has been received. And still those are not
2 evidence in the case, but they do serve a purpose. And it
3 affords the lawyers an opportunity to discuss with you the
4 evidence that you've seen and heard during the trial of the
5 case. And through that discussion each will be trying to
6 persuade you or to convince you that that evidence does or
7 does not support a particular decision.

8 Now, it's in between the opening and the closing
9 statements that we receive evidence. As I've told you, the
10 state has the burden of proof. They've got to prove,
11 because they brought these charges, they have to prove the
12 defendant guilty beyond a reasonable doubt. So they'll go
13 forward first in their presentation of evidence.

14 After the state has concluded with its presentation
15 the defendant has the same opportunity and right to present
16 evidence. But understand a defendant in a criminal trial
17 is not obligated to produce any evidence. He doesn't have
18 to testify. He doesn't have to call any witnesses, because
19 the burden is not upon him to establish that he's not
20 guilty because in many cases that might not even be
21 possible. The burden is always upon the state to prove his
22 guilt beyond a reasonable doubt.

23 And so a defendant doesn't have to testify or present
24 evidence. And if a defendant chooses not to, you can't
25 consider that in any way. You can't hold that against him

1 or her. And you can't allow that to influence your
2 decision. You have to base your decision upon the evidence
3 that is presented during the trial of the case.

4 Now, after all of the evidence has been received and
5 after you've heard from the lawyers I will then instruct
6 you fully on the law as it relates to each of these
7 particular offenses. And then you'll be asked to go back
8 into the jury room and begin with your deliberations. And
9 through that process you will carefully examine all of the
10 evidence. You will evaluate the credibility of witnesses'
11 testimony.

12 After you carefully consider all of that evidence
13 you'll decide what you believe to be the true facts as they
14 relate to this case. Once you decide those facts you will
15 then apply the law that I will have provided you, and you
16 will determine whether or not the defendant's guilt has
17 been proven beyond a reasonable doubt as it relates to each
18 of the separate indictments. If it has, your verdict is
19 guilty. If it has not, your verdict is not guilty.

20 So all that we ask for you to do is to pay careful
21 attention throughout the course of the trial. Give each
22 witness the same degree of attention as they testify so
23 that you'll be in a proper position to be able to fairly
24 evaluate a witness' testimony and its credibility or
25 believability based upon not only that witness' testimony

Opening statement

1 but in light of all of the testimony and all of the
2 evidence received during the trial.

3 It's also important that you keep an open mind
4 throughout the course of the trial. And by that I simply
5 mean that you are not to begin making up your minds or
6 formulating your opinions as to what you think the ultimate
7 decisions in this case ought to be until all of the
8 evidence has been received, until I have instructed you on
9 the law that's applicable and until you've been asked to
10 begin with your deliberations at the trial's conclusion.
11 That is the process that is designed for you 12 jurors to
12 arrive at a fair and just decision.

13 So I do want to thank you in advance for your
14 participation, as well as for your careful attention. I
15 would ask that you please give your lawyers your attention
16 now as they give you their opening statements.

17 Mr. Stalvey.

18 MR. STALVEY: Thank you, Your Honor. May it please
19 the Court.

20 THE COURT: Yes, sir.

21 MR. STAVLEY: Ladies and gentlemen, as the judge just
22 told you, you will be the judges of the facts of this case.
23 And the facts of this case arise out of two separate
24 incidents that both occurred on the night of
25 February 2nd of 2006.

Opening statement

1 At around 11:00 o'clock that night this defendant,
2 Charles Teamer, went to [REDACTED] Circle. That's the
3 home of Mary Gray. She lives there with her daughter,
4 Erica, Erica's brother, Donald Martin, and Erica's
5 daughter, Javanica, age nine years old.

6 This house, [REDACTED] Circle, is right up the
7 street from where the defendant lives at [REDACTED]
8 Circle. This defendant was friends with the Grays. He had
9 been in their house plenty of times. In fact, he had been
10 to their house that afternoon.

11 Now, ladies and gentlemen, at about 11:00 o'clock Mary
12 Gray had gone back to her bedroom to watch T. V. Javanica
13 and her mother, Erica, were getting ready for bed. Donald
14 Martin sat in the living room watching T. V.

15 He hears a knock at the door, and then he hears
16 somebody trying to get in the door. Donald goes up to the
17 door and he says who is it. He hears it's Murda.

18 Now, ladies and gentlemen, earlier this morning you
19 were introduced to the defendant as Charles Teamer, but he
20 goes by several other names. Some call him Little Charlie,
21 some call him Little C. But most everyone knows him by the
22 nickname Murda. That's how Donald Martin knew him.

23 Donald Martin recognized his voice from seeing him so
24 many times because he lived down the street from him, and
25 he also recognized his nickname. So he didn't think

Opening statement

1 anything was wrong.

2 He opens the door. He sees this defendant with a
3 black mask on holding a shotgun in his hands. This
4 defendant pushes his way into the house, forces Donald
5 Martin to the ground, says give it up, give it up, goes
6 through his pockets, takes a sum of money out of his
7 pockets.

8 Mary Gray is in the back bedroom. She hears what's
9 going on and calls the police. The defendant goes to that
10 back bedroom. He points the gun at Mary Gray. Erica comes
11 in the room. He points the gun at Erica. Nine-year-old
12 Javanica, Mary's granddaughter, comes in the room. He
13 grabs Javanica by the hair and puts the shotgun to her head
14 and tells the three women y'all better not be calling the
15 police.

16 Donald Martin while all of this is going on gets up
17 and runs out of the house. The defendant chases him out of
18 the house. Shortly thereafter the police respond to that
19 house, and they ask them do you have any idea who just
20 broke into your house. Without any doubt, without any
21 hesitation, they said, yes, that's Charlie Teamer.

22 Not only did he, did the three of them and Donald
23 Martin recognize his voice, but they also all heard him
24 announce himself at the door as Murda, the nickname that
25 they all knew him by.

Opening statement

1 Ladies and gentlemen, as I told you, this case
2 involves two incidents. The second incident begins around
3 1:00 a.m. that night.

4 The defendant is at the Li'L Cricket on John B. White
5 Boulevard. Officer St. Louis of the Spartanburg Public
6 Safety Department sees him pull out of the parking lot
7 without his headlights on. The defendant is driving a blue
8 Caprice Classic.

9 Now, ladies and gentlemen, at this point the police
10 did not know what kind of vehicle this defendant would be
11 driving. So Officer St. Louis did not suspect this
12 defendant had been involved in the earlier home invasion.
13 What he did suspect is that the defendant's driving down
14 the road without his headlights on at 1:00 o'clock in the
15 morning. He's figuring he's driving under the influence.
16 Officer St. Louis gets behind the defendant and tries to
17 pull him over. The defendant speeds away.

18 Now, Officer St. Louis follows Spartanburg Public
19 Safety Department procedure and does not chase the
20 defendant. Before he can lose sight of the defendant he
21 sees him throw a beer can out of his window.

22 Officer St. Louis puts out a be-on-the-lookout report
23 over the radio to the highway patrol and the sheriff's
24 office, be on the lookout for a blue Caprice Classic. He's
25 failed to stop for a blue light and he also may be driving

Opening statement

1 under the influence.

2 Moments later Deputy David Evett of the Spartanburg
3 County Sheriff's Office sees the defendant passing by in
4 the blue Caprice Classic. After hearing the report over
5 the radio he starts to follow him and attempts to pull him
6 over. Again the defendant speeds up.

7 Deputy Evett follows him in the direction he went,
8 loses sight of him for a couple of seconds and hears a
9 crash. When he catches up to the defendant he sees that
10 the defendant had run head-on into a pickup truck coming
11 from the opposite direction.

12 Deputy Evett approaches the pickup truck. A Mr. James
13 Young is driving that truck. James Young sits in the
14 driver's seat screaming in pain. He suffered serious
15 injuries to his leg. And you'll hear him describe those
16 injuries to you.

17 Deputy Evett looks at the defendant's car. He sees
18 the defendant trying to get out of the car and run away.
19 He's able to apprehend him there and places him under
20 arrest for driving under the influence as well as failure
21 to stop for a blue light.

22 Because they suspect him of driving under the
23 influence, they take the defendant to Spartanburg Regional.
24 They run some tests on his blood. Those tests come back
25 and show that the defendant when he caused the wreck with

Opening statement

1 Mr. Young was not only under the influence of alcohol. He
2 was also the influence of drugs.

3 Because of that incident the defendant is charged with
4 felony D. U. I. resulting in serious bodily injury to
5 Mr. Young, as well as failure to stop for a blue light
6 resulting in serious bodily injury.

7 Ladies and gentlemen, those are the facts of this
8 case. As you are probably aware, I wasn't out there that
9 night. Solicitor Barnette was not out there that night.
10 The reason we know these things is we've talked to the
11 people that were there that night.

12 And now it's your turn to hear from those people too.
13 You'll hear from the witnesses and the victims of these
14 cases that were there that night. You'll hear from the
15 police officers that responded to each of these scenes.
16 You'll hear from the detectives that investigated these
17 cases.

18 Ladies and gentlemen, you'll also see the evidence
19 that was collected by the police in this case. You'll see
20 other pieces of evidence. And this evidence serves two
21 important purposes.

22 The first, the evidence as well as the testimony is
23 going to give you a clear picture of what happened that
24 night. The evidence that will be presented will also go to
25 support what you hear from the state's witnesses.

Opening statement

1 Ladies and gentlemen, I ask that you review this
2 evidence and you listen to these witnesses carefully,
3 because not only are they going to tell you what happened
4 that night, but you're also going to find out why this
5 happened.

6 You see, this wasn't just some random act of violence,
7 the burglary of the Grays' home. This defendant had not
8 one but two specific reasons he went to the Grays' house
9 that night. You're going to hear about that during this
10 case.

11 I ask that you take everything you hear into careful
12 consideration. I ask that you review all the evidence and
13 listen to the testimony with a clear and unbiased mind.

14 If you do that, ladies and gentlemen, at the
15 conclusion of this case it will be clear to you that this
16 defendant is guilty of all of the charges he faces here
17 today. Thank you.

18 THE COURT: Mr. Schultz.

19 MR. SCHULTZ: Your Honor, at this time the defense
20 wishes to ask permission from the Court to reserve their
21 opening statement until the beginning of their case in
22 chief.

23 THE COURT: All right. Mr. Barnette.

24 MR. BARNETTE: First witness, Your Honor?

25 THE COURT: Yes.

Michael Jones
Direct examination by Mr. Barnette

1 MR. BARNETTE: I would like to call Captain Mike Jones
2 to the stand, please.

3 MICHAEL JONES, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BARNETTE

6 Q Captain, would you state your full name for the
7 record, please?

8 A Captain Michael Jones.

9 Q And where do you work at, sir?

10 A Spartanburg jail.

11 Q And how long have you worked there, sir?

12 A Since 1981.

13 Q And what are you in charge of, sir?

14 A I'm over the keeping the inmate phone calls and
15 records.

16 Q And did we make a request for phone calls involving
17 this defendant, phone calls that he had made?

18 A Yes, sir.

19 Q And can I show you State's Exhibit No. 21? Is that a
20 copy of those phone calls that were made by Mr. Teamer?

21 A Not from me.

22 Q But are those copies of that tape or whatever from
23 there?

24 A Yes.

25 Q And these recordings, is the inmate told ahead of time

Michael Jones
Direct examination by Mr. Barnette

1 that they're being recorded?

2 A Yes.

3 Q Could you tell the jury how that's done?

4 A Well, as he picked the phone up, and when you make a
5 call, it comes on it and gives a little prompt that's
6 saying that your phone calls will be monitored or will be
7 taped or subject to be taped at any at any time.

8 Q Yes, sir. And how long do they have to talk on one?

9 A Fifteen minutes.

10 Q Okay. And do y'all record all phone calls that go in
11 and out of the jail?

12 A Yes, sir.

13 Q And do y'all keep a call record when it called's to a
14 certain phone number?

15 A Yes, sir.

16 Q Let me show you State's Exhibit No. 22. Was that a
17 call record that was made to the -- phone calls made from
18 the jail to a certain number?

19 A Yes, sir.

20 Q And what phone number was that?

21 A It's 864. I can't see it. It's 542-[REDACTED]

22 Q And did we make a request for that record also, sir?

23 A Yes, sir, you did.

24 Q And specifically here on the sixth call, what date was
25 that call made?

Michael Jones
Direct examination by Mr. Barnette

1 A It looks like February the 5th of 2006.

2 Q And what time was it made?

3 A 1317.

4 Q And that recording is on the, was part of the
5 recordings that you sent to us, is that right?

6 A Yes, sir.

7 Q Okay.

8 MR. BARNETTE: Your Honor, I would like to enter
9 State's Exhibits 21 and 22 in at this time.

10 MR. SCHULTZ: No objection, Your Honor.

11 THE COURT: Okay.

12 MR. BARNETTE: And, Your Honor, in the course of
13 talking to the defense counsel beforehand, I have 21-A,
14 which is that separate phone call. And we are going to ask
15 to enter that into evidence also just on that one phone
16 call. And I believe it's 166 originally. We would like to
17 enter that into evidence also.

18 THE COURT: Okay.

19 MR. SCHULTZ: No objection, Your Honor.

20 THE COURT: That's 21, 22 and 21-A?

21 MR. BARNETTE: Yes, sir. They're entered into
22 evidence at this time.

23 (Phone records marked State's Exhibit No. 21; C. D. of
24 one phone call marked State's Exhibit No. 21-A; phone
25 records marked State's Exhibit No. 22.)

Michael Jones
Cross-examination by Mr. Schultz

1 Q And it's the, it's the inmate calling that phone
2 number, whoever calls from the jail, that will be the phone
3 they're calling from on these records.

4 A Yes, sir.

5 Q Please answer any questions Mr. Schultz may have for
6 you, sir.

7 CROSS-EXAMINATION

8 BY MR. SCHULTZ

9 Q Now, you've never heard this Mr. Teamer on the phone,
10 correct?

11 A No, sir.

12 Q Okay. And do you know where this phone call was made
13 from?

14 A Just from the jail.

15 Q Pardon?

16 A Just from the pod out, from the phone from inside the
17 jail.

18 Q Do you know which specific pod it was?

19 A Well, I can tell you. If you show it to me I could
20 show you, I could tell you.

21 Q All right.

22 A It was made from -- just the one call or any calls?

23 Q The specific call, the sixth item.

24 MR. BARNETTE: The sixth call.

25 Q The sixth call..

Michael Jones
Cross-examination by Mr. Schultz

- 1 A It says pod five.
- 2 Q Okay. Are you sure it says pod five there?
- 3 A Yes, sir.
- 4 Q All right. Do you know where Mr. Teamer was at that
- 5 time, what pod he was in?
- 6 A No, sir.
- 7 Q So it could have been in pod two, pod three, pod four,
- 8 pod five?
- 9 A No. That phone was made from -- that call was made
- 10 from that phone in pod five.
- 11 Q You're positive it was pod five.
- 12 A Yes.
- 13 Q What about the previous five here? What pods were
- 14 they made in?
- 15 A Three was made in booking; four was in pod six; and
- 16 five, the fifth and sixth, were made in pod five.
- 17 Q All right.
- 18 MR. SCHULTZ: Beg the Court's patience, Your Honor.
- 19 THE COURT: Yes, sir.
- 20 (Pause.)
- 21 MR. SCHULTZ: That's all I have, Your Honor.
- 22 MR. BARNETTE: No further questions.
- 23 We'd ask that this witness be available for recall at
- 24 a later time if we need him for that.
- 25 THE COURT: You may step down. Thank you.

Erica Gray
Direct examination by Mr. Barnette

1 MR. BARNETTE: Your Honor, the state would like to
2 call Erica Gray.

3 ERICA GRAY, having been first
4 duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. BARNETTE

6 Q Ms. Gray, if you would, talk loud enough so these
7 folks can hear back here. Okay? And, if you would, give
8 us your full name, please.

9 A Erica Bonnett Gray.

10 Q And, Ms. Gray, where do you work at?

11 A Sam's Club.

12 Q And what do you do there, ma'am?

13 A Marketing.

14 Q And back on February the 2nd of 2006, where did you
15 live at, ma'am?

16 A [REDACTED]

17 Q Is that in the city of Spartanburg?

18 A Yes, sir.

19 Q And is that in the county of Spartanburg?

20 A The city.

21 Q The city. And also it's the county of Spartanburg
22 also, ma'am.

23 A Yes, sir.

24 Q Okay. Who lives with you at the address, ma'am?

25 A Mary Gray, my mother; Donald Martin, my brother; and

Erica Gray
Direct examination by Mr. Barnette

- 1 Javanica [REDACTED] my daughter.
- 2 Q Just take your time. Okay. And make sure, like I
- 3 said, they're going to have to be able to hear you here.
- 4 That day what did you do, ma'am?
- 5 A I got off of work about 9:30. I took a bath and got
- 6 ready for bed. I was in the bed when I heard a knock at
- 7 the door. And he said his name was Murda Rich.
- 8 Q And whose nickname is that?
- 9 A Nathaniel Teamer.
- 10 Q And do you see him in the courtroom here today?
- 11 A Yes, sir.
- 12 Q Can you identify him for me, please?
- 13 A Right there.
- 14 Q Can you describe what he's wearing?
- 15 A The khaki pants and a beige t-shirt, I mean,
- 16 button-down shirt.
- 17 Q Is he the gentleman sitting between the two?
- 18 A He's in the middle of those two.
- 19 Q And when you got home was it dark that night?
- 20 A Yes, sir.
- 21 Q And after you heard the, when you heard somebody say
- 22 that, who, who did you think it was?
- 23 A I thought it was Charlie, Nathaniel.
- 24 Q And how long had you known Charlie Teamer?
- 25 A Over 18 years. I don't know. I have known him for a

Erica Gray
Direct examination by Mr. Barnette

1 long time.

2 Q And how did you know him?

3 A I got a baby by his first cousin.

4 Q And has he been to your house before?

5 A Plenty of times.

6 Q And have you talked to him and things like that?

7 A Yes, sir.

8 Q When is the last time you saw him in that house before
9 that?

10 A I saw him the day before. He used to come to my house
11 every day almost.

12 Q And where did he live at?

13 A He stayed like three houses down from me on Overbrook
14 Circle.

15 Q And the day before you said he was there, did you
16 receive something that day?

17 A Yes. I got my income tax.

18 Q And did you receive a check?

19 A Yes. I had already cashed it.

20 Q And how much was it for?

21 A \$5,000.

22 Q And did he know about that?

23 A Yes, sir.

24 Q How did he know about it?

25 A I was counting it. I was getting ready to go buy a

Erica Gray
Direct examination by Mr. Barnette

1 car.

2 Q Did he see you counting it?

3 A Yes, sir.

4 Q Going back to that night, did -- what happened after
5 you heard his name or heard Murda Rich at the door?

6 A Then I heard the noise going on in the living room.
7 He knocked over the television, and he was telling Donald
8 Martin to get down, get down, give me your money.

9 So then I was calling 9-1-1. I called them three
10 times. And he came running to the back and said y'all
11 better not be calling the police.

12 I had went to the room with my mother and Javanica, my
13 daughter. Javanica was asleep on the bed. That's when he
14 jerked. Her jerked her up by her hair and put the gun to
15 her head and hit me in the back with the gun and told me to
16 go get my pocketbook. And when I went and got my
17 pocketbook and shook it out, all I had in there was
18 cigarettes.

19 Q What happened to the money?

20 A My money?

21 Q Yeah.

22 A I spent it on a car.

23 Q Had you bought a car with it?

24 A Yes. I had already bought a car.

25 Q What happened then?

Erica Gray
Direct examination by Mr. Barnette

1 A That's when my brother had ran -- Donald had ran out
2 the door. And Nathaniel just went out the door. And he
3 shot.

4 Q How many times did he shoot?

5 A One time.

6 Q What happened then?

7 A The police came in.

8 Q How long after he had left the house did they come?

9 A It was like seconds. He left the house. About one or
10 two seconds later they was in the door.

11 Q Did he take anything away from you?

12 A The only cigarettes. That's all I had in my
13 pocketbook was cigarettes, Newports.

14 Q And did you recognize his voice?

15 A Yes, sir.

16 Q And whose voice was it?

17 A Nathaniel Teamer. I knowed his voice the time he --
18 the first thing he said.

19 Q Does he have other nicknames also?

20 A Little C and Murda and Little Charlie.

21 Q And have you heard a tape from the jail that you've
22 listened to, that I've asked you to listen to, in our
23 office?

24 A Yes, sir.

25 Q And who is the person's voice on that tape?

Erica Gray
Direct examination by Mr. Barnette

1 A Nathaniel's.

2 Q And what is your nickname?

3 A Pooh-Pooh.

4 Q And your brother Donald Martin, what is his nickname?

5 A Duke.

6 Q So you're known as Pooh-Pooh?

7 A Yes.

8 Q And he's known as Duke.

9 A Yes.

10 Q And is that what people in the neighborhood know you
11 as?

12 A Yes.

13 Q And did the defendant, Charlie Teamer, call you by
14 that name also?

15 A Yes.

16 MR. BARNETTE: Your Honor, at this time I would like
17 to play State's Exhibit No. 22 -- well, 21-A, the portion
18 of the tape.

19 THE COURT: All right.

20 MR. BARNETTE: Your Honor, I am going to play the
21 first part where they announce, where they tell them it's
22 going to be recorded and then move straight to the
23 pertinent part.

24 (Whereupon, a portion of the tape was played for the
25 jury.)

Erica Gray
Direct examination by Mr. Barnette

1 Q Who is that on the -- making the phone call?

2 A Charlie.

3 Q And which nickname did he use?

4 A Little Charlie.

5 (Whereupon, a portion of the tape was played for the
6 jury.)

7 Q And who was making that statement?

8 A Little Charlie.

9 Q And who is he talking about?

10 A About me and Duke, my brother, Donald.

11 Q And who is Ieshia?

12 A That's my oldest daughter.

13 Q And what, what was he upset about?

14 A He said that my brother, Donald, used to mess with
15 Ieshia when they was younger.

16 Q Did he like Ieshia?

17 A That's his little cousin too.

18 Q And was he mad about supposedly he thought Donald had
19 messed with Ieshia?

20 A Yes.

21 MR. BARNETTE: One moment, Your Honor, please.

22 (Pause.)

23 Q If you would please answer any questions Mr. Schultz
24 may have for you.

25

Erica Gray
Cross-examination by Mr. Schultz

1 CROSS-EXAMINATION

2 BY MR. SCHULTZ

3 Q Now, Ms. Gray, you gave a couple of statements in this
4 case, correct?

5 A Yes.

6 Q Okay. Your first statement was given that same night,
7 correct?

8 A Yes.

9 Q Okay. Now, Erica, according to your first statement
10 you state that you were sleeping around 11:00 o'clock,
11 correct?

12 A Yes.

13 Q Okay. You were sound asleep, right?

14 A Yes.

15 Q Okay. And then you heard a noise in the living room.

16 A Yes, sir.

17 Q Okay. While you were sleeping did you hear it or --

18 A The time he came in the door I -- when he came in the
19 door I was on the phone with the police. I heard him.

20 Q Right when he came in the door you were on the phone
21 with the police?

22 A No. By the time he, he was telling Donald to get on
23 the floor I was calling the police saying they was a robber
24 in the house.

25 Q Okay.

Erica Gray
Cross-examination by Mr. Schultz

1 A I called them three times before he came to the back.

2 Q All right. So you heard a noise in the living room.

3 A Yes.

4 Q And when you heard this noise according to your
5 statement you called 9-1-1.

6 A Yes.

7 Q Is that your practice to whenever you hear a noise in
8 the living room to call 9-1-1?

9 A No. You could hear it, the knocking stuff over. The
10 television was right there at the door. He smacked that
11 with the gun. You could hear all the stuff going on.

12 Q He smacked it with a gun?

13 A Yes.

14 Q Well, the suspect smacked it with a gun, correct?

15 A Yes.

16 Q Okay.

17 A And it just fell over. It was just a small television
18 in the living room.

19 Q Now, you didn't mention that in your first statement.

20 A That the television fell over? That was on the floor
21 when the police came too.

22 Q But you didn't mention that in your first statement,
23 correct?

24 A I don't know.

25 Q And you would think that was a pretty important thing

Erica Gray
Cross-examination by Mr. Schultz

1 to do.

2 A Yes. It was brought up. The police was there when he
3 was taking the statement down. The television was still in
4 the floor.

5 Q Okay. But you didn't mention anything in your
6 statement that you gave to the police that night, that the
7 T. V. was knocked over.

8 A I don't know. I was so scared, I don't know.

9 Q All right.

10 MR. SCHULTZ: Permission to approach the witness, Your
11 Honor?

12 THE COURT: Yes, sir.

13 Q Now, Erica, this is your first statement. It's a
14 1-page statement. Is that your signature there?

15 A Yes.

16 Q Okay. Who is the witness there? Can you read that?

17 A Uh-huh.

18 Q You don't know who witnessed your signature there?

19 A It must have been an officer.

20 Q Okay. all right. And that's your pertinent
21 information, right?

22 A Uh-huh.

23 Q And this is your statement, correct? And this was
24 done at 11:45 p.m. And when did you say the suspect came
25 in?

Erica Gray
Cross-examination by Mr. Schultz

- 1 A I don't know what time he came in.
- 2 Q You don't know?
- 3 A What time he came in, about 11:00 something.
- 4 Q About 11:00 something.
- 5 A Yes. It had to be 11:00 something.
- 6 Q Okay. And you state you were in the bed asleep and
- 7 heard a noise in the living room and then you called 9-1-1.
- 8 Okay. Where is your room in relation to the door?
- 9 A Right there close to the living room.
- 10 Q Right there close to the living room.
- 11 A Uh-huh.
- 12 Q All right. Now, you knew that Donald Martin was in
- 13 the front room, right?
- 14 A Yes.
- 15 Q Did he make a noise?
- 16 A I don't -- not that I know.
- 17 Q You don't know.
- 18 A I don't know if he made a noise.
- 19 Q Okay. So you're not sure when the noise actually
- 20 happened, right? Say if you're not sure.
- 21 A I'm not sure when.
- 22 Q Okay.
- 23 A The noise came when he came in the door. There wasn't
- 24 no noise in the living room until he came in the house.
- 25 Q But you knew that Mr. Martin was in the front room.

Erica Gray
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q And you were in the bedroom. So that noise could have
3 been Mr. Martin.
- 4 A No, not making that kind of noise. Everybody in the
5 bed, and Mr. Martin don't make that kind of noise at night.
6 We have to work.
- 7 Q It was 11:00 o'clock, right?
- 8 A Yes.
- 9 Q Okay. Did you go in the living room at all?
- 10 A No, sir, until the police came.
- 11 Q Okay. So you were in the bedroom all of this time.
- 12 A Yes, sir.
- 13 Q Okay. Now, according to your first statement you said
14 the suspect was dressed in black, dressed all in black, in
15 fact. Is that true?
- 16 A Yes.
- 17 Q And he had a ski mask on.
- 18 A Yes.
- 19 Q So he was dressed all in black and he had a ski mask
20 on.
- 21 A Yes, sir.
- 22 Q All right. You don't mention anything about a ski
23 mask in your first statement, do you?
- 24 A I told the police he had on a ski mask.
- 25 Q Okay. I don't see it on your first statement. You'd

Erica Gray
Cross-examination by Mr. Schultz

1 think that's pretty important.

2 A Uh-huh.

3 Q Right?

4 A Yes.

5 Q You say that he's dressed in black. Could you read
6 the one, two, three, fifth line there, and the sixth line?
7 Read out loud to the jury.

8 MR. BARNETTE: Your Honor, is that a question or is
9 that --

10 Q Could you read that out loud for the jury?

11 MR. BARNETTE: I think he's got to set a foundation.

12 THE COURT: That statement is not in evidence, is it?
13 You can ask her. You can ask her questions about any
14 previous statement she may have made, but that document is
15 not in evidence.

16 MR. SCHULTZ: That's fine, Your Honor.

17 Q Going back to the ski mask, you do not mention this in
18 your first statement.

19 A It's not on there, but I mentioned it that night to
20 the police.

21 Q Okay. And whoever this was, a suspect told you to get
22 your pocketbook, correct?

23 A Yes.

24 Q Okay. And then you put your pocketbook on the bed?

25 A I shook all the stuff out on the bed.

Erica Gray
Cross-examination by Mr. Schultz

- 1 Q How much money was in the pocketbook?
- 2 A Wasn't no money in the pocketbook.
- 3 Q No money.
- 4 A No.
- 5 Q Okay. Let's go back in time a little bit. Your
- 6 testimony today said that that day, which is February 2nd,
- 7 2006, Charlie Teamer was over at your house, correct?
- 8 A Yes.
- 9 Q Okay. And he had -- he knew that you got your tax
- 10 refund back.
- 11 A That was the day before that happened.
- 12 Q But you said in your testimony that was that day.
- 13 A No. I said it was the day before.
- 14 Q Are you positive?
- 15 A Yes. I had gotten my tax, my money, back the day
- 16 before. And I had got a car, bought a car with it.
- 17 Q And this is your 2005 taxes?
- 18 A Yes.
- 19 Q Okay. And how much was this refund?
- 20 A \$5,000.
- 21 Q Okay. And that's in cash?
- 22 A Yes.
- 23 Q You cashed it that day, and that was \$5,000 in cash.
- 24 A Yes, \$5,000 in cash.
- 25 Q All right. So it will be fair to say that Charlie

Erica Gray
Cross-examination by Mr. Schultz

1 knew this.

2 A Yes.

3 Q All right.

4 A I stood in there and counted it.

5 Q Okay. So you were counting it that day, or the day --

6 A The day before I was counting it.

7 Q The day before you were counting it.

8 A Uh-huh.

9 Q Okay. And let me just go over this again. You were
10 sure that Charlie knew.

11 A Yes.

12 Q Knew about that. That's a lot of money, \$5,000,
13 correct?

14 A Yes.

15 Q Now, going back to the home invasion here, then the
16 suspect told you to get on the floor.

17 A Yes. He hit me from the bottom of the bed. He was at
18 the bottom of the bed standing, and I was standing right
19 there.

20 Q So did --

21 MR. BARNETTE: Objection, Your Honor. Let her answer
22 the question or let her explain her question.

23 THE COURT: Let her finish her response. And you can
24 ask her the next question.

25 MR. SCHULTZ: Yes, sir.

Erica Gray
Cross-examination by Mr. Schultz

1 Q You can go ahead.

2 A I was standing right there beside the bed. He hit me
3 in the back with a gun and said get on the floor.

4 Q But in your first statement when things were freshest
5 in your mind did you once write down the name Charlie
6 Teamer?

7 A Did I once? Could you repeat that?

8 Q When you gave your statement to the police at 11:45,
9 this is 45 minutes after this supposedly happened. Did you
10 ever once write down the name Charlie Teamer in your
11 statement?

12 A Yes. I told the police it was Charlie Teamer that
13 same night.

14 Q Okay. But in your statement did you say that?

15 A Yes. I told him that. He wrote the statement and I
16 signed it. I told him it was Charlie Teamer.

17 Q In your first statement you said that.

18 A The time the police came in the door we said Charlie
19 Teamer.

20 Q And you're sure you said that in your first statement
21 that you gave to the police.

22 A Yes.

23 Q Okay.

24 MR. SCHULTZ: Your Honor, I'd like to enter this into
25 evidence, this statement here, from Erica Gray.

Erica Gray
Cross-examination by Mr. Schultz

1 MR. BARNETTE: Your Honor, I'm going to object. She's
2 testified to it. That's what a police officer wrote down.
3 It's what she's already testified to.

4 THE COURT: Well, let me see y'all just a minute.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 Q Ms. Gray, I am going to -- permission to approach the
8 witness?

9 THE COURT: You may.

10 Q Now, this is your statement again. Is that your name?

11 A Yes.

12 Q Is that your signature?

13 A Yes.

14 Q Okay. I'd like to refresh your memory. Could you
15 read this statement? And then I am going to ask you this
16 one question about that. Okay.

17 (Pause.)

18 Q Are you finished?

19 A Uh-huh.

20 Q Okay. Now, I just have one question about this. Did
21 you ever mention Charlie Teamer in this statement?

22 A It's not on the statement, but I mentioned it to the
23 police that night.

24 Q But you never mentioned Charlie Teamer in this
25 statement, correct?

Erica Gray
Cross-examination by Mr. Schultz

- 1 A No. He didn't --
- 2 Q Yes or no?
- 3 A He didn't write it in the statement.
- 4 Q Yes or no?
- 5 A No.
- 6 Q Thank you. Now, you also gave a second statement,
- 7 correct?
- 8 A I talked to the detective at work the next day, I
- 9 think.
- 10 Q Uh-huh. So that was February the 3rd.
- 11 A I think it was.
- 12 Q Oh.
- 13 A I know I talked to him at work.
- 14 Q Okay. Again, Erica, that's your name.
- 15 A Uh-huh.
- 16 Q That's your pertinent information, 109 Overbrook
- 17 Circle, and that's your signature.
- 18 A Yes.
- 19 Q Okay. What's the date that this statement was
- 20 written?
- 21 A The 7th.
- 22 Q The 7th. So it wasn't the next day. It was the 3rd,
- 23 or the 7th.
- 24 A Yes.
- 25 Q You're saying it was the 3rd.

Erica Gray
Cross-examination by Mr. Schultz

- 1 A Well, I talked to him at work. I don't remember what
2 day it was. I talked to him at work.
- 3 Q Okay. That was five days. That was almost a week
4 later that you gave the second statement, right?
- 5 A Yes.
- 6 Q Now, in your second statement you state when this all
7 happened that you were in the bedroom.
- 8 A Yes.
- 9 Q In your second statement you say that you were not
10 asleep.
- 11 A I was asleep when he came to the door.
- 12 Q In your first statement --
- 13 A Before he got there when a knock, I heard the knock at
14 the door, I was. I was asleep.
- 15 Q And where is your bedroom, again?
- 16 A Right there by that. It's the hallway is just a
17 little bitty thing. It's not really a hallway. And my
18 bedroom is sitting right behind it by the living room,
19 right across, across from it.
- 20 Q Now, you just read your first statement, correct?
- 21 A Yes.
- 22 Q Okay. Things were freshest in your mind.
- 23 A Yes.
- 24 Q At 11:45. Do you mention anything about Javanica?
- 25 A Yes, no. It's not in the statement. But, yes, I told

Erica Gray
Cross-examination by Mr. Schultz

- 1 the police about Javanica that night.
- 2 Q And wouldn't that be pertinent?
- 3 A Yes. But they knew about her that night.
- 4 Q But you didn't mention it in your first statement. So
- 5 in your first statement you never mentioned anything about
- 6 Charlie Teamer. You mentioned, didn't mention anything
- 7 about a T. V. Did you mention anything about anybody
- 8 identifying themselves as Murda?
- 9 A I told, I said all of that that night when the police
- 10 was there.
- 11 Q Yeah. I understand that. But in your statement.
- 12 A The police wrote that statement. I guess he didn't
- 13 write it down.
- 14 Q The police wrote the statement?
- 15 A Yes. They was writing down what I was saying.
- 16 Q So those are not your words.
- 17 A Yes.
- 18 Q Those are your words or they were not your words?
- 19 A They was writing it and I signed it.
- 20 Q So that's not your handwriting on that?
- 21 A That's my signature.
- 22 Q That's your signature. No. The statement itself.
- 23 A No.
- 24 Q No? That's not your handwriting?
- 25 A No.

Erica Gray
Cross-examination by Mr. Schultz

1 Q All right. So that's the police officer's
2 handwriting, right?

3 A Yes.

4 Q So, in your first statement you don't talk about
5 anybody identifying themselves as Murda, Charlie Teamer.
6 Finally five days after this supposedly happens you say,
7 oh, yeah, it's Charlie Teamer, right?

8 A No. I said it that night.

9 Q But you didn't put it in your statement. That's what
10 I'm saying. And you agree that that would be pertinent to
11 the police investigation of this case, don't you?

12 A Yes.

13 Q Okay. And you never once mentioned anything that this
14 man did anything to Javanica, right?

15 A Yes, that night. Javanica had her own statement, I
16 mean her own police report too.

17 Q Javanica gave a statement?

18 A Yes.

19 Q Okay. Do you know how much the suspect robbed from
20 you supposedly?

21 A He didn't get nothing from me but --

22 Q He didn't get anything from you?

23 A No, just the Newports out of my pocketbook.

24 Q All right. Nevertheless, Charlie knew that you had
25 \$5,000.

Erica Gray
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q And the suspect didn't know this probably, whoever
- 3 this was, because you couldn't see it, correct?
- 4 A I can hear him. I know his voice.
- 5 Q You could hear him.
- 6 A Yes.
- 7 Q All right. But you couldn't see him.
- 8 A No. He had a ski mask on.
- 9 Q He had a ski mask on. Okay. Did you ever give a
- 10 description to the police as far as physical
- 11 characteristics?
- 12 A No.
- 13 Q Okay. Now, he was dressed all in black, the suspect,
- 14 correct?
- 15 A Yes, yes.
- 16 Q All right. He had a ski mask. What kind of -- did he
- 17 have a coat?
- 18 A No.
- 19 Q Didn't have a coat?
- 20 A No.
- 21 Q What was he wearing?
- 22 A It was like a hooded sweatshirt thing.
- 23 Q A hooded sweatshirt. And that was black too?
- 24 A Yes.
- 25 Q Okay. So a hooded sweatshirt, a ski mask. And what

Erica Gray
Cross-examination by Mr. Schultz

1 kind of pants?

2 A He had on black.

3 Q Black pants. Okay. And you're sure about that.

4 A Yes.

5 Q Okay. Did he have any other thing?

6 A He had a gun, a big gun, in his hand.

7 Q A big gun.

8 A Yes.

9 Q Okay. What kind of gun was it?

10 A It's a long gun.

11 Q A long gun.

12 A Yes, sir.

13 Q Okay. So it wasn't a handgun, correct?

14 A No.

15 Q Was it a shotgun?

16 A I don't know.

17 Q You got a good look at it, didn't you?

18 A I just know it was a long gun. I don't know what --
19 nothing about guns.

20 Q Okay. So the suspect didn't get any money from you.

21 A No.

22 Q Okay.

23 MR. SCHULTZ: Beg the Court's patience, Your Honor.

24 (Pause.)

25 Q Now, just to go back.

Erica Gray
Cross-examination by Mr. Schultz

1 MR. SCHULTZ: I apologize to the Court.

2 Q Your second statement, the one you gave five days
3 after this happened -- right? You said according to your
4 testimony that he had black pants, a black shirt and a ski
5 mask.

6 A Yes.

7 Q Okay. You never mentioned anything about any gloves.
8 Did he have gloves on?

9 A I don't remember.

10 Q You don't remember?

11 A No, I don't.

12 Q Okay. Again, Erica, this is your statement -- Erica
13 Gray. That's your signature. I'd like for you to read
14 this statement, and then I'm going to ask you a question
15 about that.

16 (Pause.)

17 Q Are you done with that statement?

18 A Uh-huh.

19 Q Now, according to your testimony here today you said
20 they didn't have on black gloves, correct?

21 A Yeah. I said I don't remember.

22 Q Okay. But your statement says that he, the suspect,
23 did, correct?

24 A Yes.

25 Q Okay. And it's your testimony today that the suspect

Erica Gray
Cross-examination by Mr. Schultz

1 only took Newport cigarettes from you.

2 A Yes. I didn't have any money.

3 Q Okay. Now, Charlie knew that you had \$5,000, correct?

4 A Yes.

5 Q The suspect didn't take \$5,000.

6 A No. I had bought a car.

7 Q Okay.

8 MR. SCHULTZ: Your Honor, I beg the Court's patience.

9 (Pause.)

10 Q I just have a couple of more questions. Do you have a
11 criminal record?

12 A Yes. I have a distribution.

13 Q A distribution charge?

14 A It's about 11 years ago. It's been about ten years,
15 about the year '97.

16 Q Okay. I'm reading a record of a conviction --

17 MR. BARNETTE: Your Honor, I'm going to object at this
18 point. She's answered the question.

19 THE COURT: Well, let me see where you're going with
20 it.

21 (Bench conference held off the record in the presence
22 of the jury but out of the hearing of the jury.)

23 Q So you were convicted of distribution, correct?

24 A Yes.

25 Q Of what?

Erica Gray
Redirect examination by Mr. Barnette

1 A Of crack.

2 Q Crack cocaine.

3 A Yes.

4 Q Did you serve any jail time?

5 A Yes.

6 Q How much?

7 A A year and a half.

8 Q A year and a half.

9 MR. BARNETTE: Your Honor, I'm going to object at this
10 point.

11 THE COURT: Sustained. That's not an appropriate
12 question.

13 MR. SCHULTZ: Thank you, Your Honor. That's all I
14 have.

15 REDIRECT EXAMINATION

16 BY MR. BARNETTE

17 Q Ma'am, let me ask you one question. The person that
18 you heard on that tape that we played earlier for the jury,
19 who was that?

20 A Nathaniel Teamer.

21 Q Who was the person that night?

22 A Murda.

23 Q Also known as?

24 A Little C and Charlie.

25 Q And what's his real name?

Erica Gray
Redirect examination by Mr. Barnette

1 A Charlie.

2 Q Do you see him in the courtroom here today, ma'am?

3 A Yes.

4 Q And who is the man that robbed you and broke into your
5 house that night?

6 A The one sitting between those two right at that table.

7 Q Thank you.

8 MR. BARNETTE: May we approach on one thing, Your
9 Honor?

10 (Bench conference held off the record in the presence
11 of the jury but out of the hearing of the jury.)

12 THE COURT: All right. Anything further of this
13 witness?

14 MR. BARNETTE: Nothing from the state, Your Honor.

15 THE COURT: You may step down.

16 MR. BARNETTE: We would just like to reserve her for a
17 later time.

18 THE COURT: Okay. Ladies and gentlemen, we're going
19 to recess for the afternoon.

20 As you leave remember the caution I've previously
21 given you. Do not discuss the case during the overnight
22 recess. Don't allow yourselves to be exposed to any type
23 of media coverage that might relate to it. Don't conduct
24 any research or do your own investigation into any issue
25 that arises during the trial or relates to the case.

Erica Gray
Redirect examination by Mr. Barnette

1 Have a good evening, and please report directly to
2 your jury room at 9:30 in the morning, at 9:30 in the
3 morning.

4 (The following takes place outside the presence of the
5 jury.)

6 THE COURT: Court is in recess until 9:30 in the
7 morning.

8 END OF PROCEEDINGS SEPTEMBER 10, 2007
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1 (Proceedings September 11, 2007)

2 (The following takes place outside the presence of the
3 jury.)

4 (Witness interview forms marked Defendant's Exhibits
5 No. 1 through 4 for Identification.)

6 THE COURT: All right. Any matters to address before
7 the jury is brought in?

8 MR. BARNETTE: Your Honor, the only thing, I think we
9 had a conference back in chambers with Mr. Schultz and Mr.
10 Hatcher.

11 We're going to enter some letters or move to enter
12 some letters, and they've been marked as State's Exhibit 10
13 and 11. There's a few letters. State's Exhibit 12 which
14 is a hand -- sent to SLED for handwriting analysis with a
15 known sample from the jail records at the county jail.

16 We're asking to mark those as Court's Exhibit -- I
17 guess that's Court's Exhibit 4, and that's known samples.

18 I think that Mr. Schultz is going to stipulate that
19 those are records from the -- I'm sorry.

20 (Inmate grievance records marked Court's Exhibit No.
21 4.)

22 MR. BARNETTE: And the -- and those Court's Exhibit 4,
23 Your Honor, we're just going to enter for the court's
24 record to show where those known samples came from.

25 And we're going to show. We've marked it now as

1 State's Exhibit 26. We have the known writing sample, one
2 page from all those samples we have and one of the letters
3 that was sent which would be State's Exhibit -- I believe
4 that's going to be State's Exhibit 11. And State's
5 Exhibit 11 is page three from State's Exhibit 11 (sic)
6 showing all of State's Exhibit 26. And pursuant to the
7 Court's original ruling, I'm going to ask Mr. Heath to show
8 the State's Exhibit 26 to the jury and explain how she did
9 the comparisons.

10 And then also we're going to have her read State's
11 Exhibit No. 11 or 12. It will be State's Exhibit 11 into
12 the record. And then on State's Exhibit 10 there's parts
13 that the Court asked on the Court's Exhibit 4 that she just
14 read the yellow portions to the jury.

15 MR. SCHULTZ: My only concern, Your Honor, is does she
16 know what parts that she has to read from the letter on the
17 left.

18 THE COURT: You're talking about from State's
19 Exhibit 10?

20 MR. SCHULTZ: State's Exhibit 10 you have in your hand
21 now.

22 THE COURT: That's not what I have in my hand. I have
23 got Court's Exhibit No. 2 in my hand, but it is a copy of
24 State's Exhibit 10.

25 MR. SCHULTZ: Yes.

1 THE COURT: Well, are you going to provide her with a
2 copy of State's Exhibit 10?

3 MR. BARNETTE: I can. I was going to ask the Court if
4 I could use Court's Exhibit 2 since it's already marked and
5 just ask her to read the yellow parts.

6 THE COURT: That's fine. Do you need to look at it?

7 MR. SCHULTZ: I've already seen it.

8 THE COURT: Okay. So I understand that Court's
9 Exhibit No. 4 are documents containing the handwriting of
10 the defendant, and he stipulates to their authenticity.

11 MR. SCHULTZ: Yes, Your Honor.

12 THE COURT: These documents came from the Spartanburg
13 County Detention Facility and they were generated and
14 written by him.

15 MR. SCHULTZ: Yes, sir.

16 THE COURT: They are being introduced as a court's
17 exhibit simply for the benefit of the record. Portions of
18 these documents have been extracted and used and will be
19 used by the SLED handwriting expert to demonstrate her
20 testimony in comparing the known sample as taken from
21 Court's Exhibit No. 4 and the question sample which are the
22 letters in Exhibits, State's Exhibits, Nos. 10 and 11.

23 MR. BARNETTE: That's correct, Your Honor.

24 THE COURT: Okay.

25 MR. SCHULTZ: Yeah. My principal concern is I

1 expressed to you back in chambers, was that the jury would
2 see some of those jail records. I know that's not the case
3 now, but I just wanted to put that on the record.

4 THE COURT: All right. Well, you know. You have
5 looked at the exhibits to be used by the witness and you
6 know which handwriting samples will be shown before the
7 jury. And none of those samples have any prejudicial
8 material in it --

9 MR. SCHULTZ: No.

10 THE COURT: -- so far as you can determine. And
11 you're satisfied with the ones that will be shown to the
12 witness.

13 MR. SCHULTZ: I'm satisfied with the ones, yeah.

14 THE COURT: Okay. Anything else?

15 MR. BARNETTE: Just, Your Honor, I am going to show
16 these to Mr. Schultz. We're going to substitute State's
17 Exhibit 1 -- 1 and 1-A, two maps that we have. We're going
18 to ask to put those on the record for now, and we'll have
19 those exhibits at a later time.

20 MR. SCHULTZ: Judge, may we approach the bench?

21 THE COURT: Uh-huh.

22 (Bench conference held off the record.)

23 THE COURT: All right. Are we ready for the jury now?

24 MR. BARNETTE: Yes, sir, Your Honor. I will be
25 recalling a witness from yesterday.

Erica Gray
Direct examination by Mr. Barnette

1 THE COURT: All right. Bring the jury in, please,
2 sir.

3 (The following takes place in the presence of the
4 jury.)

5 THE COURT: Good morning, ladies and gentlemen.

6 As you know, when we recessed yesterday the state had
7 begun with their presentation of evidence. So we're going
8 to continue with that presentation this morning.

9 Mr. Barnette.

10 MR. BARNETTE: May it please the Court, Your Honor.

11 I would like to recall Erica Gray to the stand,
12 please.

13 THE COURT: Ms. Gray, you know that you were placed
14 under oath yesterday and you remain under oath for the
15 purpose of these questions.

16 THE WITNESS: Yes, sir.

17 ERICA GRAY, having been
18 previously duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q Ms. Gray, let me show you what's been marked as
21 State's Exhibit 10 and State's Exhibit 12 and State's
22 Exhibit 11, which also has a letter inside of it. If you
23 would, look at those items for a second. Whose handwriting
24 is that, Ms. Gray?

25 A Nathaniel Teamer's.

Erica Gray
Cross-examination by Mr. Schultz

1 Q And have you seen his handwriting before?

2 A Yes, sir.

3 Q And do you recognize that being his handwriting?

4 A Yes, sir.

5 Q And is that on all of the items?

6 A Yes, sir.

7 Q If you would, ma'am, please answer any questions that

8 Mr. --

9 MR. SCHULTZ: Barry, may I see those?

10 MR. BARNETTE: Yes.

11 (Pause.)

12 CROSS-EXAMINATION

13 BY MR. SCHULTZ

14 Q The solicitor just asked you about these, correct?

15 A Yes, sir.

16 Q Who is that letter addressed to?

17 A My sister, Chrissy.

18 Q Chrissy. Who is this letter addressed to?

19 A The same person, Chrissy.

20 Q All right.

21 THE COURT: Ma'am, you're going to need to speak up a
22 little bit.

23 Say that again. Speak up a little bit and into that
24 microphone, please.

25 A My sister, Chrissy.

Erica Gray
Redirect examination by Mr. Barnette

1 Q So both of these letters, State's Exhibit 10 and
2 State's Exhibit 12, are addressed to Chrissy.

3 A Yes, sir.

4 Q Okay. State's Exhibit 11?

5 A To my daughter, Ieshia.

6 Q Okay.

7 MR. SCHULTZ: Your Honor, I would object to these, the
8 introduction of these, letters because these letters are
9 not written to Erica Gray. They're written to two other
10 people who have not yet testified.

11 THE COURT: Is that the only grounds for your
12 objection?

13 MR. SCHULTZ: That's the only grounds.

14 THE COURT: Overruled.

15 MR. SCHULTZ: That's all I have.

16 REDIRECT EXAMINATION

17 BY MR. BARNETTE

18 Q One follow-up question real quick. Ma'am, when they
19 received these letters did they turn them over to the
20 police?

21 A She called me at work. I went straight and got them
22 and took them to the police.

23 Q So y'all voluntarily gave them to the police.

24 A Yes.

25 Q And how old was Ieshia at that time?

Mary Gray
Direct examination by Mr. Stalvey

1 A How old?

2 Q Uh-huh.

3 A Sixteen.

4 Q Thank you.

5 MR. SCHULTZ: Nothing from the defense, Your Honor.

6 THE COURT: Thank you. You may step down.

7 MR. STAVLEY: Your Honor, the state would call Mary

8 Gray to the stand, please.

9 MARY GRAY, having been first

10 duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. STALVEY

12 Q How are you doing, Ms. Gray?

13 A All right.

14 Q Could you please give your full name for the record?

15 A Mary M. Gray.

16 Q And do you live here in Spartanburg?

17 A Yes.

18 Q Do you work anywhere?

19 A Detroit Farms.

20 Q Ma'am?

21 A Detroit Farming.

22 Q Okay. How long have you worked there?

23 A Thirty-two years.

24 Q And were you living here in Spartanburg on

25 February the 2nd of 2006?

Mary Gray
Direct examination by Mr. Stalvey

- 1 A Yes.
- 2 Q And who did you live there with?
- 3 A My daughter, Erica Gray, and my son, Donald Martin
- 4 and --
- 5 Q And I'm sorry. Where were you living on February the
- 6 2nd of 2006? What's the address?
- 7 A [REDACTED]
- 8 Q And you said you lived there with Donald Martin and
- 9 Erica Gray and Javanica [REDACTED]
- 10 A Yes.
- 11 Q Okay. What's your relationship to Erica Gray?
- 12 A She's my daughter.
- 13 Q And Javanica [REDACTED] would be your granddaughter.
- 14 A Grandbaby, yes.
- 15 Q And how about Donald Martin?
- 16 A My son.
- 17 Q Okay. Is Donald Martin known by any other names?
- 18 A Yes.
- 19 Q What?
- 20 A Duke.
- 21 Q Duke?
- 22 A Duke.
- 23 Q Okay. How about Erica Gray?
- 24 A Yeah. Pooh-Pooh.
- 25 Q Okay. If you could, tell this jury what you had been

Mary Gray
Direct examination by Mr. Stalvey

1 doing the day of February the 2nd of 2006.

2 A I had went to work and I had just got off work. I
3 went home to cook. And I laid -- when I got through
4 cooking I went and laid on the bed, and I always do puzzle
5 books.

6 Q Was that around 11:00 p.m. that night?

7 A Yes. I do that. I do my --

8 MR. SCHULTZ: Objection, Your Honor. Leading.

9 THE COURT: Don't lead her.

10 MR. STALVEY: Yes, sir, Your Honor.

11 Q Go ahead.

12 A I do my puzzle books until I get to sleep, until I can
13 go to sleep.

14 Q Okay. Do you remember what happened around 11:00 p.m.
15 that night?

16 A Yes.

17 Q Can you tell this jury what happened?

18 A Little Charlie knocked on our door, and my son opened
19 the door and let him in. And he said his name was Murda
20 and that he -- I heard him in there arguing with my son.
21 And when he got through arguing with my son he came in my
22 bedroom. And he put a gun to me. And I heard him. He
23 told my son and them to give it up or he's going to shoot
24 their mama. And that was, that was it. And then the
25 police came.

Mary Gray
Direct examination by Mr. Stalvey

- 1 Q Okay. Who called the police?
- 2 A My daughter, Pooh-Pooh, Erica.
- 3 Q Okay. You said it was Little Charlie that broke into
- 4 your house. Do you know what his full name is, or what his
- 5 first and last name?
- 6 A Charlie Teamer.
- 7 Q Is he in the courtroom today?
- 8 A Yes.
- 9 Q Would you point him out?
- 10 A Right there.
- 11 Q What's he wearing?
- 12 A Is that a light green shirt?
- 13 Q Like a light tan shirt.
- 14 A Yeah.
- 15 Q Is that what you see?
- 16 A Yes.
- 17 Q Okay. Ma'am, now, had you ever seen the defendant,
- 18 Charles Teamer, before that night?
- 19 A Yeah. He had just left from my house because I had
- 20 cooked, because I always feeds 'm. And he, they, he came
- 21 back to get some liquor he had left in my refrigerator.
- 22 Q Okay. Do you know where he lived?
- 23 A About three doors down from me.
- 24 Q How long had he lived down there?
- 25 A He, they been living there a long time.

Mary Gray
Direct examination by Mr. Stalvey

- 1 Q And how long had you known him up until
2 February 2nd of 2006?
- 3 A I been knowing him for a long time.
- 4 Q Okay. And how did you know it was the defendant when
5 he broke into your house that night?
- 6 A I knowed him by his voice.
- 7 Q You knew him by his voice?
- 8 A Uh-huh.
- 9 Q And you said when he came to the door, you testified
10 that he said his nickname.
- 11 A Yeah. He said Murda.
- 12 Q Had you ever heard him called that before?
- 13 A Not me. The only thing I ever heard him is Little C
14 or Charlie.
- 15 Q Okay. But you have known this defendant since he was
16 a little boy, right?
- 17 A Yes.
- 18 Q And there's no doubt. You recognized his voice when
19 he came in there.
- 20 A Yes. I been knowing him for a long time.
- 21 Q Ms. Gray, let's go back to when the defendant came
22 into your room. Tell this jury exactly what he did to you
23 when he came in that room.
- 24 A He put the gun at me.
- 25 Q Okay. Did he do anything to your granddaughter

Mary Gray
Direct examination by Mr. Stalvey

1 Javanica?

2 A He pulled her hair.

3 Q Did he point the gun at her?

4 A Yeah. She was right there next to me.

5 Q Was Erica in the room?

6 A She came in the room.

7 Q Did he point the gun at her?

8 A At all of us.

9 Q Okay. Did he -- was he saying anything when he was
10 pointing the gun at y'all?

11 A He was just -- the only thing I heard him say was I'm
12 going to shoot your mama.

13 Q Okay. Did you see him doing anything to Donald
14 Martin?

15 A No, because he was in the living room.

16 Q Okay.

17 A And I was in the bedroom.

18 Q Did you hear him yelling at Donald Martin?

19 A Yeah, when he come in the door telling him to give it
20 up.

21 Q Okay.

22 MR. STALVEY: Beg the Court's indulgence.

23 (Pause.)

24 Q Ms. Gray, you said the defendant was at your house
25 earlier that day, correct?

Mary Gray
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q Do you remember what he was wearing?
- 3 A I don't know. He had on something black. That's the
- 4 only thing I --
- 5 Q Okay. All right. Ms. Gray, I know you said that you
- 6 heard the defendant come through the door and tell Donald
- 7 to give it up. What did Donald do after the defendant went
- 8 to your room?
- 9 A Ran out the door.
- 10 Q He ran out the door?
- 11 A Uh-huh.
- 12 Q Okay. Can you tell us what happened after Donald ran
- 13 out the door?
- 14 A We heard a shot out there.
- 15 Q Okay. Did the defendant follow him out?
- 16 A Yeah. He ran out the door too.
- 17 Q And you heard a shot?
- 18 A Uh-huh.
- 19 Q Okay. And then what happened?
- 20 A The police came.
- 21 Q Please answer any questions this defense attorney may
- 22 have for you.
- 23 CROSS-EXAMINATION
- 24 BY MR. SCHULTZ
- 25 Q Ms. Gray, you are 53 years old?

Mary Gray
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q All right. Now, according to your statement you said
- 3 that a man came in and said give me your money, correct?
- 4 A He said give it up.
- 5 Q But you said in your statement a man came in, correct?
- 6 You've got to say yes or no.
- 7 A Oh, yes.
- 8 Q And you said he had a big gun.
- 9 A Yes.
- 10 Q Okay. Was it a shotgun?
- 11 A I don't know what kind of gun it was. I know it was a
- 12 big gun. That's all I know.
- 13 Q It was a big gun. So was it a rifle?
- 14 A I don't know, I don't know, I don't know no guns. All
- 15 I know is he had a big gun. I mean, it was a big shotgun.
- 16 Q A big shotgun.
- 17 A A big gun.
- 18 Q Okay. And in your statement did you tell the police
- 19 how tall he was?
- 20 A I don't -- I can't remember if I said how tall he was.
- 21 Q Okay. Now, you said in your testimony that he was
- 22 wearing black.
- 23 A Yes. He had on black.
- 24 Q Okay. Was he wearing a black coat?
- 25 A I don't know. All I know is he had on black. I can't

Mary Gray
Cross-examination by Mr. Schultz

- 1 remember if it was a coat or what.
- 2 Q Okay. Was the intruder wearing black pants?
- 3 A Black. I don't know if they were black pants or
- 4 shorts. They were black. I know he had on all black.
- 5 Q Okay. And according to your statement he was wearing
- 6 a mask, correct?
- 7 A Yeah. He had something over his face.
- 8 Q Okay. So just by looking at him, the intruder, you
- 9 could not identify him, correct?
- 10 A Not with the black mask. I could just identify him by
- 11 their voice, his voice. I know his voice.
- 12 Q Now, you don't say in your statement whether it's a
- 13 ski mask or not, right?
- 14 A I just say he had on a mask.
- 15 Q Say he had on a mask.
- 16 A A mask.
- 17 Q And all you say in your statement is that he went out
- 18 the door.
- 19 A Yeah, yes, sir.
- 20 Q And you don't know. According to your testimony you
- 21 said that the intruder pulled your granddaughter's hair,
- 22 correct?
- 23 A Yes, sir.
- 24 Q You said the intruder pointed a gun at you.
- 25 A Yes, sir.

Mary Gray
Cross-examination by Mr. Schultz

1 Q You don't mention anything about this in your
2 statement. You've got to say yes or no.

3 MR. STAVLEY: Objection, Your Honor. He hasn't asked
4 a question.

5 THE COURT: Rephrase the form of the question.

6 Q You don't say any of that in your statement, correct?

7 A Well, I thought I did.

8 Q Okay. This is a witness interview form. Is that your
9 name?

10 A Yes, sir.

11 Q Do you live at [REDACTED]

12 A Yes, sir.

13 Q Okay. Is that your phone number?

14 A Yes, sir.

15 Q Is that your social security number?

16 A Yes, sir.

17 Q And what is the date there?

18 A The 2nd, the 2nd of '06. 2/2/06.

19 Q So February the 2nd of 2006.

20 A Yes, sir.

21 Q Is there a time there?

22 A 11:45.

23 Q Is this your signature there?

24 A Yes, sir.

25 Q Is this your writing?

Mary Gray
Cross-examination by Mr. Schultz

- 1 A Yes, sir.
- 2 MR. SCHULTZ: Your Honor, I would like to enter this
- 3 as Defense Exhibit 2 premarked.
- 4 MR. STAVLEY: Objection, Your Honor.
- 5 THE COURT: Sustained.
- 6 Q Now, is this statement the truth?
- 7 A Yes, sir.
- 8 Q It's the whole truth?
- 9 A Yes, sir.
- 10 Q And nothing but the truth?
- 11 A Nothing but the truth.
- 12 Q And isn't it a fact in this statement that you do not
- 13 mention anywhere --
- 14 A Huh?
- 15 Q You do not mention anywhere in this statement at
- 16 11:45 at night nothing about Charlie Teamer, correct?
- 17 A No, yes. I guess.
- 18 Q Speak up.
- 19 A Yes, sir.
- 20 Q You do not mention anything about Charlie Teamer.
- 21 A I told the police.
- 22 Q Yet this is a police statement, excuse me, a witness
- 23 interview form.
- 24 A Oh, well, I talked to the police.
- 25 Q That was summation by a police officer.

Mary Gray
Cross-examination by Mr. Schultz

1 MR. STAVLEY: Your Honor, is there a question here?

2 Objection.

3 THE COURT: Is that an objection?

4 MR. STAVLEY: Yes, sir. Objection. He's not asking
5 any question.

6 THE COURT: Put it in the form of a question.

7 MR. SCHULTZ: Thank you, Your Honor.

8 Q Yet this is a witness interview form, correct?

9 A Yes, sir.

10 Q And this is used by the Public Safety Department of
11 the City of Spartanburg.

12 A Yes, sir.

13 Q This is a police document that police use in the
14 investigation of their cases.

15 All right. Now, you stated that on February 2nd,
16 according to your testimony, that Charlie Teamer left the
17 house previous to this intruder breaking in, correct?

18 A I don't understand that, what you say.

19 Q Was Charlie Teamer there that day on February 2nd of
20 2006?

21 A Yes, sir.

22 Q How many times was he there?

23 A He had been there earlier when I, after I had got off
24 work and he --

25 Q He was there earlier.

Mary Gray
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q What time was that?
- 3 A I get off at 3:30. I get home about 4:00 o'clock.
- 4 Q What do you mean, get off?
- 5 A Off work.
- 6 Q Off work.
- 7 A Yes.
- 8 Q What time was that?
- 9 A 3:30.
- 10 Q 3:30. And what was Charlie doing there that day at
- 11 3:30?
- 12 A I guess -- he always be there. So he was just there,
- 13 I guess.
- 14 Q And you've known Charlie for a long time, correct?
- 15 A Yes.
- 16 Q You said he got something from the refrigerator.
- 17 A Yeah. He had some liquor that he had left in there,
- 18 that he had came back to get his liquor he had left in the
- 19 refrigerator, so and he left.
- 20 Q Did you act as a mother figure for Charlie in his
- 21 life?
- 22 A Yes.
- 23 Q So you've known him for a long time.
- 24 A A long time.
- 25 Q And according to your testimony today you've never

Mary Gray
Cross-examination by Mr. Schultz

- 1 ever heard him referred to as Murda.
- 2 A Nope.
- 3 Q Yet according to Erica's testimony she heard someone
- 4 at the door say Murda. And according to your testimony you
- 5 said that you heard --
- 6 A Murda.
- 7 Q -- Teamer's voice, correct? But you didn't know --
- 8 A I heard him say --
- 9 Q -- it was Teamer, correct?
- 10 A I heard him say Murda.
- 11 Q You didn't know. You heard him say Murda. But you
- 12 never heard Mr. Teamer referred to as Murda, correct?
- 13 A Yes, sir.
- 14 Q So this intruder could have been anybody, correct? It
- 15 could have been anybody. You don't know.
- 16 A I know it was him because he came in.
- 17 Q It was him. But initially it could have been anybody,
- 18 correct?
- 19 A I know it was him.
- 20 Q You knew it was him.
- 21 A I knew it was Little Charlie.
- 22 Q Now, you said, you said that this intruder pointed a
- 23 gun at you.
- 24 A Yeah. He came in my room after he left out of the
- 25 living room.

Mary Gray
Cross-examination by Mr. Schultz

- 1 Q And where was your room?
- 2 A Right next to the living room. Time you come out of
- 3 the living room, my room is right next to it. I can --
- 4 Q Where in relation is your room to the front door?
- 5 A I could peep around the corner. It's right, it's
- 6 right to the living room.
- 7 Q Okay. And you stated in your testimony that the
- 8 intruder pulled your granddaughter Javanica's hair.
- 9 A Yes.
- 10 Q And yet you've not mentioned any of these rather
- 11 important details in your statement, correct?
- 12 A I don't know. I told the police. I thought I had put
- 13 it on there.
- 14 Q But you do not mention it in your statement, correct?
- 15 A Yeah.
- 16 Q Won't you agree that it would be important to give a
- 17 description or a name to the police?
- 18 A Yes.
- 19 Q Yes, it would. Because the police are trying to solve
- 20 crimes, correct?
- 21 A Yes, sir.
- 22 Q And when you give statements that are not completely
- 23 and totally accurate the police don't solve crimes,
- 24 correct?
- 25 A Yes, sir.

Mary Gray
Cross-examination by Mr. Schultz

1 Q Because they need good information, and you didn't
2 give good information on this witness interview form, did
3 you?

4 A No, no, sir.

5 Q Even when it was freshest in your mind at 11:45 p.m.
6 that night.

7 A Yes, sir.

8 Q Now, you stated according to your testimony that you
9 heard a shot.

10 A Yes, sir.

11 Q Do you hear shooting a lot in that neighborhood?

12 A Oh, yes, yes, sir.

13 Q Really? How would you classify that neighborhood that
14 you live in?

15 A It's a bad neighborhood.

16 Q Bad neighborhood.

17 A Yes, sir.

18 Q And you hear shots a lot.

19 A All the time.

20 Q Okay. Do you know of people that have been shot?

21 A Do I know peoples that have?

22 Q Yes.

23 A No.

24 Q But it's a bad section of town, you say.

25 A Yes, sir.

Mary Gray
Cross-examination by Mr. Schultz

1 Q Okay. All right. So that shot could have come from
2 anywhere is what you're saying.

3 A That shot was so close you could hear it.

4 Q Did you see the shot go off?

5 A No. I was laying in the bed. I didn't even get up.

6 Q Okay. You were laying in the bed?

7 A When the police come I was still in the bed, laying
8 right there on the bed.

9 Q Laying right there in the bed. But that's my
10 question. When did the shot happen?

11 A Right after he ran out the door behind my son.

12 Q Right after the intruder ran out the door. Okay. And
13 then the police came.

14 A The police came, yeah.

15 Q Okay. How long was the intruder there in your house?

16 A Not long.

17 Q Not long.

18 A No.

19 Q In fact, Erica said it seemed like a couple of
20 seconds. And in her testimony she said that the intruder
21 knocked over a T. V.

22 MR. STALVEY: Objection, Your Honor. He is pitting
23 witnesses.

24 THE COURT: Don't pit the witnesses' testimony.

25 MR. SCHULTZ: Thank you. Beg the Court's patience.

Mary Gray
Cross-examination by Mr. Schultz

1 (Pause.)

2 Q Let's go back to your prior testimony today on my
3 cross. You stated that you've heard shots before, correct?

4 A Yes, sir.

5 Q In that neighborhood?

6 A Yes, sir.

7 Q And you don't know anybody that has been shot.

8 A No, no, sir, nobody but my son. That's a long time
9 ago.

10 Q Oh, nobody but your son. Okay. Where was he shot?

11 A In the mouth.

12 Q Do you know why he was shot?

13 A I don't know. Somebody had shot him. I don't know,
14 because they, somebody, had came in and robbed us before,
15 came in our house and broke in once before. And they shot
16 him in his mouth.

17 Q Did they ever catch the person that did this?

18 A No. I don't know. I ain't, I ain't heard from them.

19 Q Okay. So this was during a robbery, correct?

20 A Yes, sir.

21 Q Okay. So is it your testimony to the Court that you
22 have been robbed before?

23 A Not me. My son.

24 Q Pardon?

25 A Yeah. They came up in my house when I lived at the

Mary Gray
Redirect examination by Mr. Stalvey

1 next house that I lived in before I moved where I'm at.

2 Q The house that you lived in. Where was this robbery?

3 A Right in Park Hills, on the other side of Park Hills.

4 Q Okay. So it wasn't at [REDACTED] Circle.

5 A No.

6 Q Okay. So you were a victim of a robbery.

7 A Yes, sir.

8 Q Okay. So you know that when the police arrive you
9 should be truthful with them in giving descriptions of the
10 suspect.

11 A Yes, sir.

12 Q Nevertheless, and my one final question. You never
13 mentioned Charlie Teamer at any time in your statement at
14 11:45 that night, correct? Yes or no?

15 A Did I mention his name?

16 Q Did you mention his name in your first statement, in
17 your initial statement, the only statement that you gave.

18 A Yeah. I told the police. That's all.

19 Q Did you mention it in this statement?

20 A Oh, no.

21 Q Thank you. That's all I have.

22 MR. STALVEY: Brief redirect, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. STALVEY

25 Q Ms. Gray, I know you said this probably about five

Mary Gray

Redirect examination by Mr. Stalvey

1 times already, but you told the police who broke into your
2 house that night, did you not?

3 A Yes, sir.

4 Q Did you tell them how you knew them?

5 A Yes, sir.

6 Q Did you have any doubt that night who broke into your
7 house?

8 A Yes, sir.

9 Q Did you explain that to the police?

10 A Yes, sir.

11 MR. SCHULTZ: Excuse me. The question is did you have
12 any doubt, and she said yes.

13 MR. BARNETTE: Wait a minute.

14 THE COURT: Well, he asked the question and she gave
15 an answer.

16 Is that an objection to that?

17 MR. SCHULTZ: No. It's not an objection, Your Honor.

18 THE COURT: Okay.

19 MR. SCHULTZ: I was just trying to understand what she
20 was saying.

21 THE COURT: Okay. You may continue.

22 Q Ms. Gray, you said when the police came into, came to
23 your house you were laying in the bed.

24 A Yes, sir.

25 Q Was anybody in the bed with you when they got there?

Donald Martin, Jr.
Direct examination by Mr. Barnette

- 1 A My grandbaby.
2 Q And why was she in the bed with you?
3 A She sleeps with me.
4 Q Okay. When did she get in the bed with you?
5 A We was already in the bed.
6 Q Okay. Did you have any doubt who broke into your
7 house that night?
8 A Yes, sir.
9 Q Wait. I'm saying -- do you know who broke into your
10 house that night?
11 A Yes.
12 Q Who was it?
13 A Little Charlie.
14 Q Thank you, ma'am.
15 THE COURT: You may step down.
16 MR. BARNETTE: The state would like to call Donald
17 Martin to the stand, please.
18 DONALD MARTIN, JR., having
19 been first duly sworn, testified as follows:
20 DIRECT EXAMINATION BY MR. BARNETTE
21 Q Mr. Martin, if you would, state your full name for the
22 record, please.
23 A Donald Martin, Jr.
24 Q And, Mr. Martin, where did you live back on
25 February the 2nd of 2006?

Donald Martin, Jr.
Direct examination by Mr. Barnette

- 1 A 109-B Overbrook Circle.
- 2 Q And who did you live with there, sir?
- 3 A With my mom, my sister and my little niece.
- 4 Q And that night was you at that residence?
- 5 A Yeah. I was looking at the football game.
- 6 Q Okay. So you was looking at the football game that
- 7 night?
- 8 A Yeah.
- 9 Q And where was you at in the house?
- 10 A In the living room.
- 11 Q And about what time was it?
- 12 A About 11:00, 11:00 something.
- 13 Q And what did you hear?
- 14 A I heard a knock at the door. Well, at first acted
- 15 like they wanted to get in the door. So I said who is it,
- 16 and he didn't say nothing at first. I said who is it
- 17 again. He was like Murda. So I cracked the door.
- 18 Q Who do you know as Murda?
- 19 A This dude here.
- 20 Q Okay. Is that Little Charlie?
- 21 A Yeah..
- 22 Q And did you know him before this?
- 23 A Yeah.
- 24 Q And is that who you thought was at the door?
- 25 A Yeah. I knowed that's who was at the door when he

Donald Martin, Jr.
Direct examination by Mr. Barnette

1 said that.

2 Q And what did you do?

3 A I cracked the door. When I cracked the door he pushed
4 the door open. And he had a big shotgun in my face. I get
5 on the floor. Take your clothes, well, take your shoes,
6 your boots and your pants off. So I did that. Got my
7 little money. He went back to the back. I picked my
8 clothes back up off the floor and went to the back. And I
9 ran out the door.

10 Q Now, did he take anything off of you?

11 A Yeah, my little money what I had.

12 Q And where did you have your money at?

13 A In my pocket.

14 Q How much did you have?

15 A About five hundred.

16 Q And once he -- so you had to take your pants and shoes
17 off?

18 A Yeah.

19 Q And what did he do next after that?

20 A He went back to the back. That's when my mama and
21 them -- went back there. I went out the door and run down
22 the street. I heard a shot go off. So I came back up the
23 street because I thought he had done shot my mama or
24 somebody.

25 Q And did you have your pants on at that time?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 A I put my pants back on then.

2 Q When you came back or --

3 A Yeah. I came back up the street. The police was up
4 there when I got there.

5 Q So you don't know what happened with your mother and
6 your grandmother.

7 A I don't know nothing else after that.

8 Q And how soon did the police arrive after that?

9 A Huh?

10 Q How soon did the police arrive after that?

11 A They came in probably about five minutes after I went
12 down the street.

13 Q And you came back when they got up there.

14 A Yeah.

15 Q If you would, answer any.

16 MR. BARNETTE: One second, Your Honor.

17 (Pause.)

18 Q Please answer any questions Mr. Schultz has for you,
19 sir.

20 CROSS-EXAMINATION

21 BY MR. SCHULTZ

22 Q Mr. Martin, what football game were you watching?

23 A Football game. I don't know which one it was, little
24 minute. I was just watching a football game. I watch all
25 the games.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 Q Was this February 2nd of 2006?
- 2 A Yeah.
- 3 Q Okay. What -- you don't know what football game that
- 4 you were watching?
- 5 A No.
- 6 Q Okay.
- 7 A It was a N. F. L. game. I know that much.
- 8 Q It was a N. F. L. game?
- 9 A Yeah.
- 10 Q And what night of the week was this?
- 11 A I couldn't even really tell you.
- 12 Q You couldn't really say?
- 13 A I couldn't even really tell. My memory all mixed up.
- 14 Q February the 2nd was a Thursday night.
- 15 A Huh?
- 16 Q February the 2nd's a Thursday night.
- 17 A All right. That's what night it was then.
- 18 Q Okay. Now, isn't it true that there aren't football
- 19 games after -- the only football games that there are is
- 20 during the playoffs in January, correct?
- 21 A The football game is on.
- 22 Q Football? Yeah. Football is over. So how could you
- 23 be watching the N. F. L. if --
- 24 A I said it was on.
- 25 Q Pardon?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 A Football game or N. B. A. either one. I watch all the
2 games.

3 Q So it couldn't have been a football game. It could
4 have been a basketball game.

5 A Yeah.

6 Q N. B. A. It could have been anything.

7 A I believe it was the N. F. L., yeah.

8 Q Now, you said in your testimony that someone was at
9 the door and knocked on the door, correct?

10 A First they acted like they wanted to come through the
11 door and then --

12 Q Come through the door?

13 A Yeah. Like, like the door was open. So I was like
14 who is it, and they didn't say nothing. I had said it
15 again. He's like Murda. So I opened the door.

16 Q According to your testimony you said Murda. You just
17 said Murda.

18 A Huh?

19 Q You just said Murda.

20 A Yeah.

21 Q Okay. Is this your statement here? That's your name?

22 A Yeah.

23 Q That's, is that your address there, [REDACTED]

24 Circle?

25 A Yeah.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 Q Is that your telephone number?

2 A Yeah.

3 Q That's the time that the statement -- 2345, 11:45. Is
4 that your signature?

5 A Yeah, that's my signature.

6 Q Okay. I'm going to leave this here with you.

7 Now, according to your testimony you said that someone
8 opened the door and said that it was Murda.

9 A Yeah.

10 Q Now, according to that statement what do you say? You
11 say Murda Rich.

12 A Huh?

13 Q You said in your statement that it's Murda Rich.

14 A Yeah. That's what he said his name.

15 Q Read.

16 MR. SCHULTZ: Your Honor, I'd like to enter this as
17 Defense Exhibit 1 premarked.

18 MR. BARNETTE: Your Honor, I would object at this time
19 unless he lays the foundation for it.

20 MR. SCHULTZ: I think I have laid a proper foundation
21 for it.

22 THE COURT: He's identified it as the statement.

23 Let me, let me address one matter. Let me ask the
24 jury to please go to your jury room. I'll address this
25 issue and bring you right back.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: Before these statements can be introduced
4 themselves they have to be properly identified. They have
5 to be shown to the witness.

6 If the witness does not deny that he made the
7 statement -- in other words, you understand the way these
8 statements are made is, and I assume this is the case here.
9 I'm not certain. But frequently, more often than not, the
10 police write the statement. A witness signs it. Sometimes
11 the witness signs or writes the statement himself or
12 herself. I don't know how that was done here. Nobody has
13 asked.

14 Nevertheless, you can show it to the witness and ask
15 them if that is the statement that they gave to law
16 enforcement on whatever date is reflected on the statement.
17 You can ask them if they told the police either outside of
18 the statement or within the statement a certain fact.

19 If they deny having made a statement that's contained
20 in that written document, then you can introduce it to
21 rebut that testimony once you lay the foundation for it.

22 But you can't just introduce the statement because
23 something is not in there that the witness has testified to
24 because they have a right to explain why it's in or why
25 it's not in there.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 But if they deny -- if there's something in the
2 statement they deny, or they deny it or they claim they
3 made the statement that's not in there, but they deny it
4 after looking at it, then it might be admissible for the
5 purpose of rebutting their testimony as a prior
6 inconsistent statement. But that's not been established
7 here.

8 You can show it to him. You can ask him to use it to
9 refresh his memory. You can ask him if he told the police
10 a certain fact or didn't tell the police a certain fact.

11 And if that written document will impeach or rebut
12 that testimony, it might be admissible. Otherwise, they're
13 not admissible because there's nothing inconsistent about
14 it until you've established the inconsistency. Okay?

15 MR. SCHULTZ: Thank you, Your Honor.

16 MR. BARNETTE: Your Honor, just one matter.

17 Before the next witness I was going to ask permission
18 of the Court to be able to sit in a chair. It's a
19 nine-year-old girl -- to be able to sit in that area right
20 there in a chair: I was going to ask the Court's
21 permission to do that when she's testifying.

22 THE COURT: Do you mean as a witness to sit up there?

23 MR. BARNETTE: No, no. That I could sit there while
24 questioning the witness.

25 THE COURT: Where is she going to be?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 MR. BARNETTE: She's going to be on the witness stand.

2 THE COURT: Why do you need to sit in that chair?

3 MR. BARNETTE: I don't know. I just think it will
4 make her more comfortable. I think it's hard sometimes.

5 THE COURT: Okay, well.

6 MR. SCHULTZ: Your Honor, I don't have any objection
7 to that as long as I can sit in the chair.

8 THE COURT: Well, sure.

9 Is that a witness examination technique that has been
10 learned recently?

11 MR. BARNETTE: As a matter of fact --

12 THE COURT: Is she going to be able to see you while
13 you're sitting in that chair?

14 MR. BARNETTE: Yes, sir. I think so.

15 THE COURT: All right. We'll allow it.

16 Bring the jury back.

17 MR. BARNETTE: Thank you.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: All right. Mr. Schultz.

21 MR. SCHULTZ: Thank you, Your Honor.

22 BY MR. SCHULTZ

23 Q Again, I'm going to leave this statement right here in
24 case you need to refer to it.

25 Prior to all of this you knew Mr. Teamer, didn't you?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 A Yeah.
- 2 Q Yes?
- 3 A Yes.
- 4 Q In fact, you knew who his cousin, right?
- 5 A Huh?
- 6 Q You knew his cousin.
- 7 A I know all of them.
- 8 Q And who was that?
- 9 A Everybody, everybody sitting right there.
- 10 Q You've got to identify them. Who?
- 11 A Everybody sitting behind him.
- 12 Q And who is that?
- 13 A Cousins, mama.
- 14 Q So you knew the family.
- 15 A I know everybody.
- 16 Q Okay. Is one of the cousins your niece?
- 17 A Yeah.
- 18 Q And who is that?
- 19 A Ieshia.
- 20 Q Is she sitting here today?
- 21 A Na.
- 22 Q Okay. What's her last name?
- 23 A [REDACTED]
- 24 Q Ieshia [REDACTED]. Now, did you have a relationship with
- 25 Ieshia?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 A Na.
- 2 Q No?
- 3 A Na.
- 4 Q No D. S. S. hearings involving Ieshia with you?
- 5 MR. BARNETTE: Objection, Your Honor.
- 6 A Well, they say I had said some words to her.
- 7 THE COURT: Sustained.
- 8 Q Now, going back to your statement, when the suspect
- 9 walked in you asked who it was.
- 10 A Huh?
- 11 Q You asked who it was, correct?
- 12 A Yeah. I asked who was at my door.
- 13 Q And the suspect said Murda.
- 14 A Murda Rich. That's what he said. He said it real
- 15 low, it's Murda.
- 16 THE COURT: Excuse me. You'll have to repeat that
- 17 answer. We're going to need for you to speak up.
- 18 A I said he said it real low and I just heard it. He
- 19 said. That's why I opened the door.
- 20 Q That's why you opened the door --
- 21 A Yeah.
- 22 Q -- because he said it really low.
- 23 A Low. He said his name.
- 24 Q He said his name?
- 25 A Yeah. Supposed to been my peoples.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 THE COURT: Repeat that, please.
- 2 A I said he's supposed to been my peoples. He be up
3 there with me every day.
- 4 Q What does that mean?
- 5 A He said the name. I opened the door for him.
- 6 Q No. Your prior.
- 7 A My peoples.
- 8 Q Your peoples.
- 9 A Yeah.
- 10 Q What does that mean?
- 11 A We chill every day.
- 12 Q What do you mean, you chill every day?
- 13 A We be around each other every day. He come to see me
14 every day.
- 15 Q Okay. Now, this man was wearing all black clothing,
16 correct?
- 17 A Yeah, with a black or blue ski mask, one or the other.
- 18 Q So a black or blue ski mask.
- 19 A It was black or blue.
- 20 Q You don't know.
- 21 A Na-hu.
- 22 Q Okay. And he had a pump gun.
- 23 A Yeah. A big shotgun.
- 24 Q Okay. A shotgun. Then he made you give your money.
- 25 A Yeah. He made me take my clothes off. Well, my pants

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 and my shoes.

2 Q No. When did he make you, quote, unquote, give it up?

3 A When he made me take my stuff off.

4 Q And how much money did you, did you give the intruder?

5 A Told you I had about \$500.

6 Q About \$500?

7 A Yeah.

8 Q And that's not in your statement, correct?

9 A Huh?

10 Q That's not in your statement, correct?

11 A Yeah. Should be, know what I'm saying?

12 Q Is that your name?

13 A Yeah.

14 Q Speak up.

15 A Yes, sir.

16 MR. SCHULTZ: I'm sorry. Your Honor, permission to
17 approach the witness?

18 THE COURT: Yes.

19 MR. SCHULTZ: Thank you.

20 Q Is that your name?

21 A Yeah.

22 Q Is that your pertinent information, [REDACTED]

23 Circle? Is that your address?

24 A Yeah.

25 Q Is that your signature?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 A Yeah.

2 Q Is this your handwriting?

3 A Yeah.

4 MR. SCHULTZ: Your Honor, because of the contradiction
5 in the statement and my question, I'd like to introduce
6 this as a defense exhibit premarked No. 1.

7 THE COURT: You haven't established that inconsistency
8 yet.

9 MR. SCHULTZ: Okay. I'll still leave this here.

10 Q And then according to your statement you followed the
11 man back to the back room.

12 A Na. I didn't go back to no back room. I ran out the
13 door.

14 Q Could you read that right there, that line
15 starting with the quote there?

16 MR. BARNETTE: Your Honor, I think he can ask the
17 question, and then I think he needs to set the foundation.

18 THE COURT: Why don't we do this? Why don't you allow
19 the witness to read that document if it'll assist him in
20 refreshing his memory. And then you can ask him questions
21 about it.

22 MR. SCHULTZ: That's fine. Okay.

23 THE COURT: And about any prior statement he might
24 have made to law enforcement.

25 Q I'm going to let you read this -- this is your

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 statement -- to refresh your memory. Would you read that?

2 MR. SCHULTZ: Is that okay, Your Honor?

3 THE COURT: Yes, sir.

4 MR. SCHULTZ: Okay.

5 Q Those three lines right there starting with "he".

6 THE COURT: Read it to yourself.

7 MR. SCHULTZ: Pardon me, Your Honor?

8 THE COURT: I'm directing him to read that portion to
9 himself.

10 MR. SCHULTZ: Okay.

11 Q Does that refresh your memory?

12 A Yeah.

13 Q Okay. Now, your testimony today is that you did not
14 go in the back room, correct?

15 A Na. I didn't go back there. I didn't get back there.

16 Q Didn't go in the back room. But yet in your statement
17 you said you did go in the back room.

18 A Na. I said I tried to go back there to see what's
19 going on.

20 THE COURT: You're going to need to get a little bit
21 closer to that microphone and speak up.

22 A I said I tried to go back there.

23 THE COURT: Let me finish.

24 You have a tendency when you answer questions, you
25 lean back which is defeating the purpose of the microphone.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 So stay right there where you are and answer the questions
2 into the microphone. Okay?

3 THE WITNESS: All right.

4 Q So your testimony today is that he tried to make you
5 go in the back room.

6 A Yeah. He was going back there. So when he went back
7 there I went out the door.

8 Q Okay. But your statement says, "He made me give him
9 all of my money." Is that when he --

10 A Yeah. He did that first.

11 Q Okay. And how much money did he take?

12 A Total's about five hundred.

13 Q Five hundred. Okay. Were you aware that Erica Gray
14 had approximately \$5,000?

15 A She told me she did. She bought the car with it.

16 Q Okay. And at this point the intruder made you go back
17 to the living room, which is where you were before.

18 A I was already in the living room.

19 Q So you never left the living room.

20 A Na.

21 Q You never left the living room that night.

22 A I ran out the door.

23 Q You ran out the door.

24 A Yeah.

25 Q Without your pants.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 A I had grabbed my pants. I had my pants, put them on.
- 2 Q You grabbed your pants?
- 3 A Yeah.
- 4 Q I thought he took the pants.
- 5 A Na. He made me take my pants off.
- 6 Q And then he gave it back to you?
- 7 A He didn't take them. He left them right there in the
- 8 floor.
- 9 Q Okay. And then you're telling the jury that you were
- 10 able to escape after this.
- 11 A Yeah. I ran out the door, ran down the street.
- 12 Q You ran out the door with a man with a gun in your
- 13 face and you're --
- 14 A He had a gun to my face. He went back there to mess
- 15 with my mama and them, and I ran out the door.
- 16 Q And your first reaction was to run?
- 17 A Yeah.
- 18 Q Knowing that a man, the intruder, was back there with
- 19 your parents, with your --
- 20 A I didn't go nowhere but three houses down.
- 21 Q Pardon?
- 22 A I didn't go nowhere but three houses down.
- 23 Q Why three houses down?
- 24 A Yeah.
- 25 Q You were going three houses down?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 A Yeah.
- 2 Q For what purpose?
- 3 A Because I did it.
- 4 Q For what purpose?
- 5 A He was -- I heard a shot. I went down the street.
- 6 Q Okay.
- 7 A When I heard the shot I came back up the street.
- 8 Q Just one more question. In your statement you never
- 9 once mentioned after an half hour after the incident, you
- 10 never once mentioned Charlie Teamer in your statement,
- 11 correct?
- 12 A Huh?
- 13 Q You never once mentioned Charlie Teamer in your
- 14 statement, correct?
- 15 A Na. You didn't ask me nothing about Charlie Teamer.
- 16 You said nickname. Murda. I gave the nickname.
- 17 Q But you never mentioned Charlie Teamer, the name
- 18 Charlie Teamer.
- 19 A What about?
- 20 Q In your statement.
- 21 A Talking about what I wrote?
- 22 Q What you wrote.
- 23 A I don't really know. I might have did.
- 24 MR. SCHULTZ: I am going to refresh the witness'
- 25 memory, Your Honor.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 THE COURT: Yes, sir.

2 MR. SCHULTZ: Thank you.

3 Q Do you want to read that again? Not out loud. Just
4 read that.

5 THE COURT: While he's looking at that, let me see
6 y'all just a minute.

7 (Bench conference held off the record in the presence
8 of the jury but out of the hearing of the jury.)

9 MR. SCHULTZ: Your Honor, if I may.

10 THE COURT: Yes, sir.

11 Q Did that refresh your memory?

12 A Yes. I don't see it.

13 Q You don't see it.

14 A Na-uh.

15 Q You don't see where you mention Charlie Teamer.

16 A Na.

17 Q And when was that statement you signed?

18 A Huh?

19 Q When was that statement signed?

20 A When's it signed?

21 Q You signed this here.

22 A Yeah.

23 Q This statement was completed at this time, correct?

24 A I don't know what that time is there.

25 Q You don't know what the time is?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 THE COURT: You'll -- excuse me. You'll have to
2 repeat the answer. Nobody can hear you.

3 THE WITNESS: Huh?

4 THE COURT: You need to repeat your answer because no
5 one can hear what you are saying.

6 A Oh, I say, I say I don't know what that zero is, man,
7 the time that it.

8 Q Okay. Your interview began with the police at 2345.
9 That's 11:45, correct?

10 A Yeah.

11 Q Okay. You may just want to lean forward.

12 A I am.

13 Q Okay. But all the time.

14 All right. And the time the statement was completed
15 was 12:00 o'clock, correct?

16 A I don't know. I couldn't even tell you that line.

17 Q This is military time, correct?

18 A Yeah.

19 Q 2345 is 11:45, correct?

20 A Huh?

21 Q And four zeroes right in a row is 12:00 o'clock a.m.

22 A Okay.

23 Q So that would be 15 minutes, right?

24 A Yeah. You could say that.

25 Q Well, I can say that. But that's true, correct?

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 A Som'n like that. Mighta been, mighta been a little
2 longer.

3 Q Might have been a little longer. Okay. So you had
4 time to give a statement to the police in 15 minutes or a
5 little longer. And you never once mentioned Charlie
6 Teamer, correct?

7 A I don't know. I don't -- it ain't on there.

8 Q No, you didn't. And it's your testimony today that
9 you ran out of the house leaving your mother and your
10 sister and Javanica, the nine-year-old, eight-year-old
11 girl, with the intruder, correct?

12 A Yeah.

13 Q Yeah. This was a traumatic event for you, correct?

14 A I don't know.

15 Q You don't know -- being.

16 A I guess so.

17 Q So you're saying that being robbed wasn't a traumatic
18 event?

19 A Yeah.

20 Q It was a disturbing event.

21 A Yeah.

22 Q Because you've been robbed before, correct? You've
23 been shot in the mouth, haven't you?

24 A Yeah.

25 Q Did at any time the intruder demand \$5,000, the exact

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 amount, \$5,000?
- 2 A Na, he ain't.
- 3 Q No. He took how much money from you?
- 4 A Five hundred.
- 5 Q \$500. Now, your testimony is that you heard shots
- 6 fired, correct?
- 7 A I heard a shot.
- 8 Q You heard one shot fired.
- 9 A Yeah.
- 10 Q Okay. And the kind of neighborhood that you live in,
- 11 was this the first time you heard shots fired?
- 12 A Na.
- 13 Q Or a shot fired.
- 14 A No.
- 15 Q No. Because you have been shot before, correct?
- 16 A Yeah. Same neighborhood.
- 17 Q Same neighborhood. Okay. Kind of a rough
- 18 neighborhood, wouldn't you say?
- 19 A Yeah.
- 20 Q Yet there's no reference to a shot fired in your
- 21 police report, in your statement.
- 22 A Huh? It is, I didn't say a shot was fired and I ran,
- 23 I went down the street.
- 24 Q But you never said it in your statement, correct?
- 25 A Yeah.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

1 Q I'm going to ask you again. Read this statement again
2 to yourself.

3 A Yes, yeah. "There was no shot fired."

4 Q Pardon me? You've got to speak up.

5 A I said I told you it was a shot fired.

6 Q Okay. But read your statement again. Do you say that
7 anywhere?

8 (Pause.)

9 THE COURT: Do you have another question?

10 Q Are you done refreshing your memory?

11 MR. SCHULTZ: I apologize, Your Honor. Thank you.

12 Q Again let me ask you a question. Your testimony today
13 is that a shot was fired.

14 A Yeah.

15 Q And, now, and this is how many months after this
16 happened?

17 A Huh?

18 Q How many months after this happened? This is more
19 than a year. This is almost two years after, correct?

20 A Yeah.

21 Q Okay. And nowhere in your statement when it was
22 freshest in your mind did you say shots were fired.

23 A (Inaudible.)

24 Q What?

25 A I, you say I didn't. I said it though.

Donald Martin, Jr.
Cross-examination by Mr. Schultz

- 1 Q Okay. But nowhere in your statement do you say this.
- 2 A I, it ain't on there.
- 3 Q What did you say?
- 4 A I say it ain't on there.
- 5 Q It ain't on there.
- 6 A It ain't on there.
- 7 Q It ain't on there. All right. Where do you work?
- 8 A I work with my pops.
- 9 Q What do you do for your pops?
- 10 A Work on houses, build decks and stuff.
- 11 Q Okay. Now, you've been robbed before, correct?
- 12 A Yeah.
- 13 Q How many times?
- 14 A One.
- 15 MR. BARNETTE: Objection, Your Honor. I don't know
- 16 what the relevance of this is.
- 17 THE COURT: Sustained.
- 18 MR. SCHULTZ: Beg the Court's patience, Your Honor.
- 19 (Pause.)
- 20 Q Just one more question. Were you convicted in 2002 of
- 21 a drug offense, distribution?
- 22 A Yeah.
- 23 MR. SCHULTZ: That's all I have.
- 24 MR. BARNETTE: May it please the Court, Your Honor. I
- 25 have a couple of redirect.

Donald Martin, Jr.
Redirect examination by Mr. Barnette

1 THE COURT: Yes.

2 MR. BARNETTE: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. BARNETTE

5 Q Mr. Martin, you was -- everybody was known by their
6 nicknames, a lot of folks are, in your neighbor, is that
7 right?

8 A Huh?

9 Q You knew the defendant like a nickname like Murda or
10 Murda Rich, is that right?

11 A Yeah.

12 Q And you had a nickname also, right?

13 A Yeah.

14 Q And what was that nickname?

15 A Duke.

16 Q And what was your sister's nickname?

17 A Pooh-Pooh.

18 Q And going back --

19 MR. SCHULTZ: Your Honor, I didn't understand that
20 question with all due respect.

21 Q If you would --

22 THE COURT: Did he answer?

23 MR. BARNETTE: I'll repeat the question.

24 THE COURT: Repeat your answer, please.

25 Q What's your sister's nickname?

Javanica [REDACTED]
Direct examination by Mr. Barnette

1 A Pooh-Pooh.

2 Q And talking about ballgames, do you watch the N. F. L.
3 network too?

4 A Yeah.

5 Q Don't they have games all the year round?

6 A Yeah.

7 MR. BARNETTE: Thank you, Your Honor. That's all the
8 questions.

9 THE COURT: You may step down. Mr. Martin, you can
10 step down.

11 MR. BARNETTE: I would like to call Ms. Jeter if I
12 could step out and get her for a second, Your Honor.

13 (Pause.)

14 THE COURT: Let me see all just a minute please.

15 (Bench conference held off the record in the presence
16 of the jury but out of the hearing of the jury.)

17 JAVANICA [REDACTED] having
18 been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would look at me, would you give us your full
21 name, please?

22 A Javanica [REDACTED]

23 Q Pull that microphone close because this gentleman back
24 here will have to hear you, back here. Okay? Can you do
25 that for me?

Javanica [REDACTED]
Direct examination by Mr. Barnette

- 1 A Javanica [REDACTED]
2 Q Okay. Thank you. Javanica, who do you live with?
3 A Mama.
4 Q And where do you go to school at?
5 A Park Hills Elementary.
6 Q And what grade are you there?
7 A Fourth.
8 Q And was you supposed to be in school today?
9 A Yes.
10 Q And you had to be here today?
11 A Yes.
12 Q Do you know the difference between a truth and a lie?
13 A Yes.
14 Q If I said the sun was green, is that the truth or is
15 that a lie?
16 A A lie.
17 Q If I said the sun was yellow, is that the truth or a
18 lie?
19 A The truth.
20 Q Back on February 2nd of 2006 who was you living with
21 back then?
22 A My mama and my grandma.
23 Q And that night, do you remember at night something
24 happened?
25 A Yes.

Javanica [REDACTED]
Direct examination by Mr. Barnette

- 1 Q What room was you in that night?
- 2 A My grandma's.
- 3 Q And what was you doing in your grandmother's room?
- 4 A Sleeping.
- 5 Q Would you tell the jury what woke you up? You can
- 6 tell me. What woke you up?
- 7 A What do you mean by that?
- 8 Q When you was asleep, what, what woke you up that
- 9 night, or what happened that night when you was on your, on
- 10 the bed?
- 11 A Somebody came in the room and pulled my hair.
- 12 Q And what happened when he pulled your hair?
- 13 A I jumped to the top of the bed.
- 14 Q And who did you go to?
- 15 A My grandma.
- 16 Q And this man, what did he have in his hand?
- 17 A A gun.
- 18 Q What kind of gun was it?
- 19 A It was long.
- 20 Q And was he yelling or talking to y'all?
- 21 A Yes.
- 22 Q And did you recognize the voice?
- 23 A Yes.
- 24 Q Who was it?
- 25 A Little Charlie.

Javanica [REDACTED]
Direct examination by Mr. Barnette

1 Q Do you see him in the courtroom here today?

2 A Yes.

3 Q Can you point at him for me? Can you describe the
4 shirt he's wearing?

5 A It's tan.

6 Q What happened after that?

7 A I don't know.

8 Q Did you stay with your grandmother?

9 A Yes.

10 Q Did the police come?

11 A Yes.

12 Q Did y'all talk to the police?

13 A Yes.

14 Q And did y'all tell them who did this?

15 A Yes.

16 Q And who was that person's voice you heard that night?

17 A Little Charlie's.

18 Q Was it dark outside?

19 A Yes.

20 MR. BARNETTE: One moment, Your Honor, please.

21 (Pause.)

22 Q Please answer any questions Mr. Schultz may have for
23 you. Okay?

24 MR. SCHULTZ: Beg the Court's patience Your Honor.

25 (Pause.)

Javanica [REDACTED]
Cross-examination by Mr. Schultz

1 MR. SCHULTZ: I am going to sit in this chair too,
2 Your Honor.

3 THE COURT: All right.

4 CROSS-EXAMINATION

5 BY MR. SCHULTZ

6 Q Now, your name is Javanica?

7 A Yes.

8 Q Okay. [REDACTED]

9 A Yes.

10 Q Okay. Do you still live in Park Hills?

11 A Yes.

12 Q And you were sleeping on February the 2nd of 2006?

13 A Yes.

14 Q Okay. Did you ever give a written statement to the
15 police?

16 A No.

17 Q Now, what you just said today, you said somebody came
18 in the room. Is that true? Okay. But you didn't know who
19 it was, right?

20 A I did.

21 Q But you said somebody came in the room, right?

22 A Yes.

23 Q Okay. And this intruder had a gun.

24 A Yes.

25 Q And was it a long or short gun?

Javanica [REDACTED]
Cross-examination by Mr. Schultz

- 1 A Long.
- 2 Q Okay. And he had all black on, right?
- 3 A Yes.
- 4 Q Did he have a black ski mask?
- 5 A Yes.
- 6 Q Do you know what a ski mask looks like?
- 7 A Kinda.
- 8 Q Pardon?
- 9 A Kinda.
- 10 Q Kind of. Okay. Did he have gloves on?
- 11 A I don't remember.
- 12 Q Okay. You don't remember. Okay. Did he have black
- 13 clothing on?
- 14 A Yes.
- 15 Q Okay. But you don't remember everything that he had
- 16 on.
- 17 A I don't remember what gloves he had on.
- 18 Q Okay. But he did have gloves?
- 19 A Yes.
- 20 Q Okay. And then the police came in after somebody
- 21 broke in?
- 22 A Yes. I guess.
- 23 Q You guess or you don't know?
- 24 A What do you mean?
- 25 Q After the man came in, the intruder, and robbed y'all,

Javanica [REDACTED]
Cross-examination by Mr. Schultz

- 1 he left, right?
- 2 A Yes.
- 3 Q Okay. And when did the police show up?
- 4 A When he left.
- 5 Q Okay. Was it dark that night?
- 6 A Yes.
- 7 Q Okay. And he had on, the intruder had on, dark
- 8 clothing, correct?
- 9 A Yes.
- 10 Q Okay. And you couldn't identify him just by looking
- 11 at him, correct?
- 12 A What do you mean?
- 13 Q If I had on dark clothing and I had a ski mask and I
- 14 had gloves, could you identify me?
- 15 A No.
- 16 Q Okay. Did you hear a shot or anything?
- 17 A Yes.
- 18 Q Okay. And you never gave a statement to the police,
- 19 correct?
- 20 A Yes.
- 21 Q Yes, you never gave a statement?
- 22 A I never gave a statement.
- 23 Q Okay.
- 24 A What do you mean by a statement?
- 25 Q I mean did you write down. Well, a statement, I'm

Javanica [REDACTED]
Cross-examination by Mr. Schultz

1 not, I'm the one doing the questioning here. I'm sorry.

2 THE COURT: She needs for you to clarify it so she can
3 answer the question.

4 Q The, this, a statement would be, for instance, that
5 the police asked you to write down what happened that
6 night, okay, on a police form. Okay. And you never filled
7 out a police form that night.

8 A No.

9 MR. SCHULTZ: Your Honor, that's -- beg the Court's
10 patience.

11 (Pause.)

12 MR. SCHULTZ: That's all I have, Your Honor. Thank
13 you.

14 MR. BARNETTE: No further questions. We would like
15 this witness to be excused, Your Honor.

16 THE COURT: She may be. Thank you.

17 (Whereupon, the witness was excused.)

18 THE COURT: All right. Ladies and gentlemen, we're
19 going to take a short break before we go further. So I'll
20 ask you to please go to your jury room.

21 Remember you can't discuss the case. We'll bring you
22 back after a short break.

23 (The following takes place outside the presence of the
24 jury.)

25 THE COURT: Court is in recess for 15 minutes.

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 (Whereupon, a recess was taken.)

2 THE COURT: Are we ready for the jury? Bring them in.

3 (The following takes place in the presence of the
4 jury.)

5 THE COURT: All right. Mr. Barnette.

6 MR. BARNETTE: Your Honor, I would like to call Office
7 Patton to the stand, please.

8 ADRIAN TERRELL PATTON, Having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE

11 Q Officer Patton, if you would, state your full name for
12 the record, please.

13 A Adrian Terrell Patton.

14 Q And where do you work at, sir?

15 A Spartanburg City Police Department.

16 Q And how long have you worked there, sir?

17 A Been working for approximately five and a half years.

18 Q Going back to February the 2nd of 2006, was you
19 working that evening?

20 A Yes.

21 Q And did you receive a call on Overbrook Circle?

22 A Yes, I did.

23 Q And about what time did you receive the call?

24 A At approximately 11:16 p.m.

25 Q And obviously it was dark outside.

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 A Yes.

2 Q If you would, tell the jury what happened as you went
3 to respond to that call.

4 A Sure. It was dispatched as an armed robbery in
5 progress. As I rode -- as I approached the intersection of
6 Elliott Street and Overbrook Circle, which is just above
7 the house, I heard one gunshot.

8 I pulled around looking for the suspect, looking for
9 anyone running. I stopped a couple of houses above the
10 house, the [REDACTED].

11 I approached the house and saw the front door standing
12 open. Lights were on on the inside. I did not hear anyone
13 yelling or screaming.

14 I went ahead and cleared the house, went through the
15 house. And in the back bedroom I found three black females
16 kind of over on the bed or over in one corner, all of them
17 noticeably scared, kind of holding onto each other. Their
18 names were Mary Gray, Erica Gray and a young girl, Javanica
19 [REDACTED]

20 At that time I started speaking to them. They stated
21 there was -- this description of a person that had came
22 into their house with a -- as their statement, was a big
23 pump gun. Was dressed in all black wearing a black mask;
24 and that the person's voice sounded like Charlie Teamer's
25 voice.

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 I gave that information out to the other officers
2 responding to the scene so they could look for anyone
3 fitting that description maybe in the area. They were
4 unable to find anyone fitting that description outside the
5 area, so.

6 Q And this is in the city of Spartanburg, right?

7 A Yes, it is, yes.

8 Q And it's in the county of Spartanburg also.

9 A Yes.

10 Q Let me show you what's been marked as State's Exhibits
11 1 and 1-A.

12 MR. SCHULTZ: No objection, Your Honor.

13 (Map marked State's Exhibit No. 1; photograph marked
14 State's Exhibit No. 1-A.)

15 Q Let me let you look at these maps, showing State's
16 Exhibit No. 1. Is that the map of the Overbrook Circle
17 area?

18 A Yes, it is.

19 Q And that shows the area around it. What's the main
20 road near there or very close by?

21 A John B. White. A lot of people call it Reidville
22 Road.

23 MR. BARNETTE: If you would, Your Honor, I'd like to
24 publish this at this time.

25 THE COURT: You may.

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 Q If you would, Officer, just step down. I want to be
2 able to ask you.

3 (Whereupon, the witness left the stand.)

4 Q If you would, just show them. And I'll try to come
5 down to both sides so everybody can see.

6 MR. SCHULTZ: Your Honor, if it pleases the Court, the
7 solicitor may want to use the dry erasing board with the
8 map of Spartanburg because that will be easier.

9 MR. BARNETTE: That'll be fine, Your Honor, too if we
10 can do it he either way.

11 THE COURT: Well, I'll let y'all handle that.

12 Q Let me show you this map real quick too. Okay. If
13 you would, show them where John B. Boulevard (sic) is.

14 A John B. White, Sr. Boulevard is, runs right along here
15 in the city of Spartanburg.

16 Q They need to see it, sir.

17 A I'm sorry. Okay. I'm going follow along with my
18 finger. John B. White Boulevard starts from West Main and
19 goes all the way through the city to the other side of the
20 city.

21 THE COURT: All right. Excuse me just a minute.

22 Now, you're not near the microphone. You're away from
23 the witness stand. The court reporter has to hear
24 everything that you say, in addition to the jury. So
25 you're going to have to speak up louder so she can hear

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 what you have to say.

2 THE WITNESS: Yes, sir. Would you like for me to
3 state it again?

4 THE COURT: Please.

5 A Yes, sir. John B. White is, starts right here at West
6 Main Street.

7 Q Let me do this since this isn't working out. Let me
8 put it up on the screen. Let me show you State's Exhibit
9 No. 1, and publish it to the jury.

10 (Whereupon, the witness returned to the stand.)

11 Q If you would, tell the jury what road this is.

12 A It's John B. White, Sr. Boulevard.

13 Q Is that also known as Reidville Road?

14 A Yes, sir.

15 Q And can you tell where this location is right here?

16 A That is Overbrook Circle, and that is the area you
17 just circled was approximately where the house is.

18 Q Here. I'll let you point it out for us so you can
19 show the jury exactly where it's at.

20 A Okay, okay.

21 THE COURT: Be careful of the microphone, please.

22 THE WITNESS: Sorry about that, sir.

23 A Yes, sir. Elliott Street and Overbrook Circle is
24 right here. As I stopped at this stop sign is where I
25 heard the shots. The house is approximately right here on

Adrian Terrell Patton
Direct examination by Mr. Barnette

1 Overbrook Circle.

2 Q And where was you at when the shot was fired?

3 A I was right here at this stop sign and had my windows
4 down.

5 Q And how many shots did you hear, again?

6 A I heard one.

7 Q And when you, when you got there, obviously it was
8 dark.

9 A Yes.

10 Q You said what about the front door, again?

11 A The front door was standing open. Lights were on, but
12 I did not hear anybody inside.

13 Q And afterwards did the living, in the living room
14 there or whatever, did you see anything in the living room?

15 A Things thrown around, a broken lamp. I want to say
16 the T. V. was turned around, just a lot of things just out
17 of place.

18 Q And later on did you see Donald Martin?

19 A Yes. As I was speaking to the three females inside
20 the house Donald Martin walked up or actually kind of ran
21 up to the inside of the house in the living room breathing
22 hard, was not wearing any pants. And he at that time, he
23 was, he began to tell me what happened, along with the
24 other three females.

25 Q And whose voice did they tell you it was, again?

Adrian Terrell Patton
Direct examination by Mr. Barnette

- 1 A Charlie Teamer's.
- 2 Q And you did indicate that in your police report.
- 3 A Yes.
- 4 Q And later as y'all was searching, let me show you
- 5 what's been marked as State's Exhibit 24. Showing you
- 6 State's Exhibit No. 24, did y'all find anything or was
- 7 anything found?
- 8 A Yes, sir. As the other officers were walking around a
- 9 shotgun shell was found.
- 10 Q And where was that shotgun shell found at?
- 11 A It was found on, in the driveway beside the house.
- 12 Q So it was on the driveway beside that house.
- 13 A Yes.
- 14 Q And that was [REDACTED] Circle?
- 15 A The house was [REDACTED] Circle. I believe the
- 16 driveway it was found was in [REDACTED] which was
- 17 right beside it.
- 18 Q And that was secured and that was put into evidence,
- 19 isn't that right?
- 20 A Yes, sir.
- 21 Q And what does that appear to be?
- 22 A That's a shotgun shell.
- 23 Q Okay.
- 24 MR. BARNETTE: Your Honor, I would like to move this
- 25 into evidence at this time.

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 MR. SCHULTZ: No objection.

2 THE COURT: It's admitted.

3 (Shotgun shell found in the driveway marked State's
4 Exhibit No. 24.)

5 MR. BARNETTE: One moment, Your Honor, please.

6 (Pause.)

7 Q Please answer any questions Mr. Schultz may have for
8 you, sir. Thank you.

9 MR. SCHULTZ: Beg the Court's patience, Your Honor.

10 (Pause.)

11 CROSS-EXAMINATION

12 BY MR. SCHULTZ

13 Q Now, Officer Patton --

14 A Yes, sir.

15 Q -- now, according to your incident report you were on
16 West Main Street when the call came in, correct?

17 A Yes, sir.

18 Q Could you point that out for me and the jury?

19 A W. O. Ezell turns into West Main Street right where
20 John -- John B. White runs into it. It's not actually on
21 this map. John B. White continues up, and it'll be able to
22 continue up. When it meets there it's West Main Street.

23 Q All right. Does this map show John B. White
24 Boulevard?

25 A Yes, sir. It's down here on the bottom right here.

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 Q Okay. And where were you on John B. White Boulevard
2 when you received this call?

3 A Can you slide the map over just a little bit? I
4 believe it's not -- it had -- right there. Okay.

5 Q There?

6 A Yes, sir.

7 Q Okay. Were you off the map there?

8 A No, sir. I was approximately right in this area right
9 here on West Main Street.

10 Q Okay. So you responded to that call. Okay. So you
11 responded to this call, but you weren't far away, were you,
12 from [REDACTED] Circle, right?

13 A No, sir. It's not very far at all.

14 Q About how many miles is it?

15 A I'm not exactly for sure, maybe a mile or two. I
16 mean, I'm not exactly sure. I just can't tell you for
17 sure.

18 Q And how did you get from John B. White Boulevard to
19 Overbrook Circle?

20 A Yes, sir. This is West Main Street.

21 Q Actually --

22 A It's going to be either --

23 MR. SCHULTZ: Your Honor, can we use this map here?

24 THE COURT: Sure.

25 Q Do you want to come up here?

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 A Yes, sir. I'll speak loud.

2 THE COURT: You have got to speak up a lot louder.

3 THE WITNESS: Yes, sir.

4 (Whereupon, the witness left the stand.)

5 THE COURT: Let him be on your side and you take the
6 other side.

7 MR. SCHULTZ: Yes, sir.

8 Q Okay. Just state. Where were you when you received
9 the call?

10 A Okay. I was approximately right here on West Main
11 Street close to South High Point Road.

12 Q Okay. And what route did you take to get to Overbrook
13 Circle?

14 A South High Point Road drives and cuts straight between
15 West Main Street and goes straight to John B. White, which
16 I took South High Point Road to John B. White and took a
17 right which is -- here is Evans Street right here just up
18 the street from -- or South High Point Road.

19 I went and took a right on John B. White and up to
20 Elliott Street, took a left onto Elliott Street. And at
21 the intersection there at the stop sign and Overbrook
22 Circle is where I heard the shot.

23 Q So you can go sit down.

24 (Whereupon, the witness returned to the stand.)

25 Q So if the robbery was in progress when you got the

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 call and then you traveled that distance and then when you
2 got to Elliott Street -- this is all according to your
3 report -- you heard shot.

4 A Yes, sir.

5 Q Okay. So that, the home invasion when the intruder
6 busted in the house, that that took probably the
7 approximate time that it took for you to get to where you
8 were before, correct?

9 A From the time I got the call.

10 Q Okay. And you received this call at 2316.

11 A Yes, sir.

12 Q Okay. Now, we've heard testimony today that the home
13 invasion happened at 11:00 o'clock. And you received this
14 call at 2316, which is 11:16, correct?

15 A Yes, sir. That's when the call came over the radio.

16 Q Okay. So you would have to assume that this, that
17 this home invasion took approximately 15 minutes.

18 A I can't assume, sir. I got the call at 11:16.

19 Q Wouldn't that be a reasonable assumption to make?

20 MR. BARNETTE: Objection, Your Honor. He's asking the
21 witness to speculate.

22 THE COURT: Sustained.

23 Q Now, when you received the call an armed robbery was
24 in progress, correct?

25 A Yes, sir. That's what was dispatched.

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 Q And you arrived at Elliott and Overbrook, and you
2 heard a gunshot, correct?

3 A Yes, sir.

4 Q Okay. Now, Officer, do you, do you know this
5 neighborhood?

6 A Yes, sir, I do.

7 Q Okay. Have you patrolled this neighborhood before in
8 the past?

9 A Yes, sir, I have for approximately a year and a half
10 on third shift. This was the neighborhood I patrolled.

11 Q Okay. Is this -- what kind of neighborhood is this in
12 your description? Is it sort of a bad neighborhood?

13 A I mean, by bad neighborhood, I mean, what do you mean?

14 Q I mean is there a lot of crime committed in this
15 neighborhood.

16 MR. BARNETTE: Your Honor, I'm going to object. I
17 don't know what the relevancy is of this.

18 THE COURT: Sustained.

19 Q Have you been to this area before on calls?

20 A Yes, sir.

21 Q You were dispatched to this area before.

22 A Yes, sir.

23 Q The Park Hills section.

24 A Yes, sir.

25 Q Do you know how many times?

Adrian Terrell Patton
Cross-examination by Mr. Schultz

- 1 A No, sir. I can't tell you how many times.
- 2 Q Okay. So this was one of them, correct?
- 3 A Yes, sir.
- 4 Q And you were at Elliott and Overbrook. Could you
5 point that out again on this?
- 6 A Elliott Street and Overbrook Circle is right here.
7 There's a stop sign.
- 8 Q And approximately where is [REDACTED]
- 9 A [REDACTED] is approximately right here.
- 10 Q That's a pretty big house. Is it -- can you?
- 11 A Well, there's about three or four houses from the stop
12 sign. If you take a right, there's two, three.
- 13 Q If you take a right on Elliott Street.
- 14 A Yes, sir. If you take a right off of Elliott Street
15 onto Overbrook Circle.
- 16 Q Okay.
- 17 A There's approximately four houses. I'm just, it's not
18 far from the stop sign.
- 19 Q Okay. It's not far from the stop sign.
- 20 A No, sir. It's about -- I'm just guessing on this. I
21 don't have any. There's no, it's not telling you where
22 each house is.
- 23 Q And you heard shot. And so you were dispatched at, at
24 2316. And you heard a shot. And when did you hear that
25 shot, what time?

Adrian Terrell Patton
Cross-examination by Mr. Schultz

- 1 A I arrived on the scene at 2318.
- 2 Q 2318. So two minutes later you heard a shot.
- 3 A Yes, sir.
- 4 Q Okay. Have you heard shots in that area before?
- 5 A Not in this area.
- 6 Q What about Park Hills?
- 7 A Not far away from it. I've heard it, not in that,
- 8 that immediate area.
- 9 Q I realize that on Overbrook Circle. But in the Park
- 10 Hills area have you heard shot before?
- 11 A In Crescent Hills which is right here I have.
- 12 Q Okay. All right. And at this point you're at Elliott
- 13 Street now. You began looking around, correct?
- 14 A Yes, sir.
- 15 Q Okay. Did you see anything or anybody at that point?
- 16 A No, sir.
- 17 Q Okay. You didn't see anybody running away.
- 18 A No, sir. It was dark. I didn't see anyone running.
- 19 Q Okay. So it was dark. Okay. And you went down,
- 20 according to your testimony, three or four houses.
- 21 A I, I was stopped approximately two or three houses
- 22 above 109 and walked to the house.
- 23 Q Walked to what house?
- 24 A 109.
- 25 Q [REDACTED] And you walked through the house, and

Adrian Terrell Patton
Cross-examination by Mr. Schultz

- 1 you found three females in the back room.
- 2 A Yes, sir.
- 3 Q Was it the back room or the front room?
- 4 A It was the back room, the back bedroom area.
- 5 Q The back bedroom area. Is that where the robbery
- 6 supposedly happened, in the back room?
- 7 A Part of it, part of it was, yes, sir.
- 8 Q Part of it was. Okay. And according to your
- 9 testimony, according to your police statement, you said
- 10 that Mr. Martin came in soon thereafter, right?
- 11 A Yes, sir.
- 12 Q About what time is that?
- 13 A A couple of minutes after I began to speak to the
- 14 females.
- 15 Q Okay. Mr. Martin said that the suspect took all of
- 16 his money.
- 17 A Yes, sir. Made him take his pants off and took all of
- 18 his money.
- 19 Q Okay. And how much money was that?
- 20 A He couldn't tell me exactly. He said he had at that
- 21 time, he said he had around \$500.
- 22 Q \$500. Okay. He said \$500?
- 23 A Yes, sir.
- 24 Q Okay. And Mr. Martin also said he followed the
- 25 suspect back into the room?

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 A I can't recall that.

2 Q Would you like to look at your police report there?

3 A Yes, sir. He tried to follow him back.

4 Q Okay. Wouldn't you think that was a little odd,
5 following a guy that broke into your house?

6 MR. BARNETTE: Your Honor, I'm going to object.

7 THE COURT: Sustained.

8 Q Now, according to your testimony you did not hear
9 anyone running or screaming, correct, when you arrived on
10 the scene?

11 A Correct.

12 Q Okay. Now, when you went into the living room you
13 said you saw the T. V. turned around.

14 A Yes, sir.

15 Q You did not see the T. V. on its side or broken or
16 anything. You did not see the T. V.

17 A The T. V. was out of place. That's what I can
18 remember.

19 Q It was out of place.

20 A Yes.

21 Q But it was turned around.

22 A I can, I can remember it being out of place.

23 Q And Donald Martin arrived soon thereafter with no
24 pants, or with pants on?

25 A With no pants.

Adrian Terrell Patton
Cross-examination by Mr. Schultz

- 1 Q With no pants. Okay. And did you or Officer
2 Tillotson find the shell there?
- 3 A Officer Tillotson.
- 4 Q Officer Tillotson?
- 5 A Yes, sir.
- 6 Q Okay. And was that an unspent or spent shell? Was it
7 fired?
- 8 A I can't recall.
- 9 Q Okay. And that shell, was that ever tested for
10 fingerprints?
- 11 A I can't say. I don't know if it was or not.
- 12 Q That's fine. But you knew that the suspect at this
13 point was armed with a long shotgun, correct?
- 14 A Yes, sir. They stated that it was a big pump gun.
- 15 Q A big pump gun. And you found a shotgun shell there,
16 and you never sent that back to be tested, correct, for
17 fingerprints?
- 18 A No. Well, I didn't place it into evidence.
- 19 Q Okay. And you secured the area soon thereafter.
- 20 A Yes, sir. There was officers responding to try to set
21 up a perimeter.
- 22 Q Okay. Now, let's go back to when you heard that shot.
23 You heard that shot at 2318, you said.
- 24 A Yes, sir. That's when I arrived and called out.
- 25 Q All right. 2318. So you heard shots. So there had

Adrian Terrell Patton
Cross-examination by Mr. Schultz

1 to be logically some kind of shell there, correct, from
2 that shot?

3 A There has to be a spent shell somewhere. I don't,
4 wouldn't say there at the scene.

5 Q Okay. Now, according to your statement you never
6 found a shell, a spent sheel, right?

7 A No, sir.

8 Q Did you scour the area looking for that?

9 A I looked around the back yard and was dealing with the
10 females, the victims. And the other officers were looking
11 in the area.

12 Q Okay. So you weren't looking in the front yard.

13 A Not personally, personally not me myself. There was
14 other officers that were assisting, sir.

15 Q Okay. So those officers were assisting you. Do you
16 know if anybody found a spent shotgun shell?

17 A There was a shotgun shell found.

18 Q Okay. Was it spent or unspent?

19 A The one placed in --

20 Q Yes.

21 A Yes. It's unspent.

22 Q It's an unspent shotgun shell.

23 A Yes, sir.

24 Q Okay.

25 MR. SCHULTZ: Beg the Court's patience, Your Honor.

Adrian Terrell Patton
Redirect examination by Mr. Barnette

1 (Pause.)

2 Q Did you take a statement from Donald Martin, Jr.?

3 A I know a statement was taken. There was several of us
4 there.

5 Q This is Donald Martin's statement. Is that your
6 signature right there, Officer?

7 A Yes, sir.

8 Q Okay. Did you take this statement?

9 A Yes, sir, I took that one.

10 Q Okay. Did Mr. Martin ever once mention the name
11 Charlie Teamer in this statement?

12 A Mr. Martin didn't.

13 Q Thank you. That's all I have.

14 MR. BARNETTE: May it please the Court, Your Honor.

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. BARNETTE

18 Q They told you who was the person that did this.

19 A Yes, sir. The Mary Gray and Erica Gray and Javanica

20 [REDACTED]

21 Q And who did they tell you did this?

22 A Charlie Teamer.

23 Q And you wrote it in your report.

24 A I most certainly did, yes, sir.

25 Q Thank you, sir.

Adrian Terrell Patton
Recross-examination by Mr. Schultz

1 MR. SCHULTZ: Just one further, a couple of questions,
2 Your Honor.

3 RECROSS-EXAMINATION

4 BY MR. SCHULTZ

5 Q This statement that I just referred to, it's by Donald
6 Martin, correct?

7 MR. BARNETTE: Your Honor, I'm going to object at this
8 time. I don't know that's proper redirect or recross.

9 THE COURT: Be sure it's recross.

10 MR. SCHULTZ: I'm just going to get into it. The
11 solicitor went into the investigation of the case. I'm
12 getting to the investigation of the case with the witness
13 interview form, so.

14 THE COURT: Go ahead.

15 MR. SCHULTZ: Thank you.

16 Q You interviewed Donald Martin at 2345, 11:45, correct?

17 A If -- did I place the time on there?

18 Q Yes.

19 A I can't -- I don't have it in front of me. So I can't
20 say for sure.

21 Q That's fine. I'll give you --

22 A Yes, sir.

23 Q All right. And you wrote in your statement that the
24 suspect said, or the suspect was Charlie Teamer, which
25 Donald Martin never put that in the statement, correct?

Adrian Terrell Patton
Redirect examination by Mr. Barnette

1 A No, sir. He never stated it.

2 Q And when you're investigating crimes -- and you're an
3 experienced officer, correct?

4 A Yes, sir.

5 Q Okay. And you have training at the police academy.
6 You've attended classes, correct?

7 A Yes, sir.

8 Q Okay. And when you're collecting information from
9 potential witnesses you want to make sure that they put
10 everything that's pertinent in their statement, correct?

11 A Yes, sir.

12 Q Okay. And you did not put anywhere, Donald Martin did
13 not put anywhere, that he said the voice sounded like
14 Charlie Teamer. He did not mention Charlie Teamer at all,
15 correct?

16 A Donald Martin did not state Charlie Teamer.

17 MR. SCHULTZ: That's all. That's all I have. Thank
18 you.

19 MR. BARNETTE: Your Honor, if I can ask one question
20 after that.

21 THE COURT: Okay.

22 REDIRECT EXAMINATION

23 BY MR. BARNETTE

24 Q I thought Mr. Schultz showed you this. You don't have
25 it in front of you.

Adrian Terrell Patton
Recross-examination by Mr. Schultz

1 A Thank you, sir.

2 Q Who did he identify the person as?

3 A Murda. That's what's in the statement, says Murda.

4 Q That's how he identified the person that robbed him.

5 A Yes, sir.

6 Q Thank you.

7 MR. SCHULTZ: Just one more, Your Honor.

8 THE COURT: All right. This is going to be the last
9 one.

10 MR. SCHULTZ: Yes, sir.

11 RECROSS-EXAMINATION

12 BY MR. SCHULTZ

13 Q Did he say Murda or Murda Rich?

14 A It says Murda Rich.

15 Q Okay. Thank you.

16 THE COURT: You may step down.

17 THE WITNESS: Thank you, sir.

18 MR. BARNETTE: We would ask this witness be excused
19 Your Honor.

20 THE COURT: You may.

21 MR. SCHULTZ: No objection, Your Honor.

22 (Whereupon, the witness was excused.)

23 MR. BARNETTE: Your Honor, we are going to call Gail
24 Heath next.

25

Gail Heath
Direct examination by Mr. Barnette

- 1 GAIL HEATH, having been first
2 duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BARNETTE
4 Q Ms. Heath, if you would, give your full name for the
5 record, please.
6 A My name Brenda Gail Heath, H-E-A-T-H.
7 Q And where do you work at, ma'am?
8 A I work at the South Carolina Law Enforcement Division,
9 commonly known as SLED.
10 Q And what is that, ma'am, if you could tell the jury?
11 A Well, I work in the -- it's the law enforcement agency
12 that serves the entire state of South Carolina with
13 forensics and with investigative services.
14 Q And what's your position there, ma'am?
15 A I am the supervisor of the question document
16 laboratory and the photography department.
17 Q Is that commonly known as handwriting analysis?
18 A That is correct, yes, sir.
19 Q And do you compare handwriting samples to see if the
20 same person wrote those items?
21 A That is correct.
22 Q And how long have you been in that position, ma'am?
23 A Approximately 23 years.
24 Q And how many -- what kind of education or training did
25 you receive concerning this type of work?

Gail Heath
Direct examination by Mr. Barnette

1 A I have two undergraduate degrees from the University
2 of South Carolina. Then I completed a 2-year internship at
3 the SLED laboratory. I've also completed courses by the
4 United States Secret Service and the Federal Bureau of
5 Investigation.

6 Q And how many times have you been qualified in
7 handwriting analysis?

8 A Today will be 149.

9 Q And that's in state court?

10 A State and federal.

11 MR. BARNETTE: Your Honor, I would move her as an
12 expert in handwriting analysis at this time or question
13 document analysis.

14 MR. SCHULTZ: No objection, Your Honor.

15 THE COURT: She is so qualified.

16 Q Let me show you some items, ma'am. Did you receive
17 some items in this case?

18 A Yes, sir, I did.

19 Q Let me show you what's been marked as -- show you
20 what's been marked as State's Exhibit 12, 11 and 10.

21 A Yes, sir.

22 Q And did you examine those documents?

23 A Yes, sir. They contain my item number and my
24 initials.

25 Q And did you receive some known samples from the

Gail Heath
Direct examination by Mr. Barnette

1 defendant, Charles Nathan Teamer -- Nathaniel Charles
2 Teamer?

3 A Yes, sir, I did.

4 Q And did you compare those items to the handwriting of
5 the known samples?

6 A Yes, I did.

7 Q And what was your results of that?

8 A That Mr. Teamer wrote each of the questioned items
9 with the exception of a portion that was written as a
10 response comment back to him on something he had submitted.

11 Q Okay. And did you take some of these items and put
12 them on a board marked as State's Exhibit 26?

13 A Yes, sir, I did.

14 Q And on that board was that pages from the known sample
15 as well as from one of the letters?

16 A Yes, sir, that's correct.

17 MR. BARNETTE: Your Honor, at this time I'd like to
18 move State's Exhibit 11, State's Exhibit 12 into evidence
19 at this time, State's Exhibit 10 just for I. D. purposes,
20 and move State's Exhibit No. 26 into evidence at this time.

21 MR. SCHULTZ: Your Honor, may I see those?

22 (Pause.)

23 MR. SCHULTZ: Your Honor, again, I object to some of
24 the relevancy. I don't know if I have any objection to
25 State's Exhibit 26, but my objections are to State's

Gail Heath
Direct examination by Mr. Barnette

1 Exhibit 10, State's Exhibit 12 and State's Exhibit 11 as
2 irrelevant.

3 THE COURT: Well, let me ask you this.

4 MR. SCHULTZ: Yes, sir.

5 THE COURT: Isn't Exhibit 26 that you don't object to
6 what makes those other documents relevant?

7 MR. SCHULTZ: Yes, sir, Your Honor. I do see your
8 point, but it's my understanding that State's Exhibit 26 is
9 only to be used for handwriting purposes only.

10 THE COURT: Well, he has just offered to introduce it.
11 You said you didn't object. Have you rethought your
12 objection?

13 MR. SCHULTZ: I do want to challenge it. Well, I can
14 see the relevancy of it, I guess.

15 THE COURT: No. 10 is being offered for identification
16 purposes only. The witness will be referring to it, but it
17 will not come in as an exhibit for the benefit of the jury.

18 MR. SCHULTZ: State's Exhibit 10?

19 THE COURT: Right.

20 MR. SCHULTZ: That's fine, Your Honor. I withdraw my
21 objection.

22 THE COURT: Ten is for identification only. Eleven,
23 12 and 26 are admitted without objection.

24 MR. SCHULTZ: That's fine.

25 (Letter marked State's Exhibit No. 10 for

Gail Heath

Direct examination by Mr. Barnette

1 Identification; letter marked State's Exhibit No. 11;
2 envelope marked State's Exhibit No. 12; handwriting
3 comparison marked State's Exhibit No. 26.)

4 Q Ms. Heath, if you would come down for a second, and
5 I'd like to show State's Exhibit 26.

6 MR. BARNETTE: May I publish State's Exhibit 26 to the
7 jury, Your Honor?

8 THE COURT: You may.

9 Q If we can, if we can just show this where -- can
10 everybody see this? If you would, show them how you do
11 your analysis.

12 A Okay. I microscopically examine a question document
13 first looking for any natural that's in it, pen stops, pen
14 lifts, any hesitations in it. Then I examine the known
15 writing that's given to me of an individual looking for
16 those same --

17 THE COURT: Excuse me just me just a minute. You're
18 going to have to slow down a little bit so the court
19 reporter can pick it all up.

20 THE WITNESS: I'm sorry.

21 Q Go ahead, ma'am.

22 A Looking for those same characteristics in the
23 handwriting.

24 I look at height ratios; I look at how a letter is
25 formed; I look at connecting strokes between letters. I

Gail Heath
Direct examination by Mr. Barnette

1 look at how somebody places something on the base line or
2 underneath the base line.

3 In this particular case I noticed that the writer of
4 the question in this "R" was the same as the writer in the
5 known writing from Nathaniel Teamer. Again, I noticed --

6 Q Let me let you move back just a little bit because I
7 think the gentleman there is having a hard time seeing.

8 A Okay.

9 Q I'll move back here.

10 A The light is in my eyes.

11 Q I'm sorry.

12 A One of the uniquenesses I found in this writing was
13 with the "W" and the question. It almost, the second part
14 of the "W" encloses --

15 Q Excuse me. Let's go down here.

16 A I'm sorry.

17 Q Okay.

18 A The second stroke of the "W" forms what almost looks
19 like a zero for an "O". And I also found that "O" right
20 here in the known writing with the word "with".

21 Also, another uniqueness of this particular writer is
22 you'll the "S" formation almost looks like the number
23 eight. And all throughout the questioned and the known
24 writing I found similarities between both the questioned
25 and the known writing of Mr. Teamer which led me to my

Gail Heath
Direct examination by Mr. Barnette

1 conclusion that Mr. Teamer had written all of the
2 questioned items on the questioned letters.

3 Q Let me try to make sure everybody understands and I
4 understand. This is the known sample.

5 A That's --

6 Q That is what we knew he wrote.

7 A Yes, sir.

8 Q And this is one of the documents from the letters that
9 you looked at.

10 A Yes, sir. That is correct.

11 Q And you compared where the red spots was to known, to
12 the known sample, to this sample, when you compared it as
13 the same person wrote it.

14 A Well, I not only compared the red spots. I looked at
15 each and every letter on this, and each and every word and
16 each and every letter formation. I just put a red mark on
17 some of them that I was going to point out to the jury
18 today, but I looked at each and every letter on the
19 documents.

20 Q Let me do this one more time. If you can, just point
21 to a couple of things there. And I'm going down to the
22 bottom so y'all can see down there too.

23 A You see here this is a "W" with the word "with". And
24 this is the same "W" with the word "with". It looks like,
25 almost like, a zero or an "O".

Gail Heath
Direct examination by Mr. Barnette

1 If you'll see the "R" formation over here with the
2 flat top on the "R", you also have a flat top on the "R"
3 formation here.

4 The "F" formation comes back and touches the staff in
5 the "F". You get that right over here in the "F" formation
6 over here.

7 And the "S" formation that I was talking about that
8 looked like a figure eight you have right here. And I
9 can't see it sideways here. Let's see. Oh, the "S"
10 formation right here.

11 Also, if you'll notice, a circle at the end of
12 punctuation on the exclamation point right here and again
13 over here in the known writing of Mr. Teamer.

14 Q If you would, let's go down and let the jury see on
15 this end also.

16 A Okay. Here we're looking at the flat top on the
17 capital "R" formation. This is the "W" that looks like the
18 second stroke of the "W". It looks like a zero.

19 We have that same formation right here. And we have
20 the "S" that looks like a figure eight, the "S" that looks
21 like a figure eight. The circle "I" dot in the
22 punctuation. This is on question mark and this is on the
23 exclamation point. But it's a total circle for the "I" dot
24 on it.

25 Q So the same person wrote these documents.

Gail Heath

Direct examination by Mr. Barnette

- 1 A That is correct.
- 2 Q And bear with me for a second.
- 3 (Pause.)
- 4 Q Let me let you look at State's Exhibit No. 11. That
- 5 was a document you examined on the outside, is that right?
- 6 A Yes, sir. That is correct.
- 7 MR. BARNETTE: Your Honor, I would like to publish
- 8 this to the jury at this time.
- 9 THE COURT: You may.
- 10 Q If you would, did you examine this handwriting?
- 11 A Yes, sir, I did.
- 12 Q And whose handwriting was it?
- 13 A This was Nathaniel Teamer's.
- 14 Q And can you read that for the jury, the top part, the
- 15 return address, as well as the address?
- 16 A 950 California Avenue, Murda Rich. It's the
- 17 abbreviation for Spartanburg, SC, 29303. It's addressed to
- 18 Natalie Gray, [REDACTED],
- 19 Spartanburg, South Carolina 29306.
- 20 Q I noticed when you was telling the jury or whatever,
- 21 is this a common feature of his writing?
- 22 A Yes, sir, it is. I found that throughout.
- 23 Q And what is that there?
- 24 A That is an exclamation point or mark.
- 25 Q Okay.

Gail Heath
Direct examination by Mr. Barnette

1 MR. BARNETTE: And, Your Honor --

2 Q State's Exhibit No. 11, did you examine that envelope
3 as well as the letter that was inside of it?

4 A Yes, sir, that is correct.

5 MR. BARNETTE: And, Your Honor, I'd like to publish
6 No. 11, State's Exhibit No. 11, at this time.

7 THE COURT: You may.

8 Q And this is another envelope. Whose handwriting is
9 that, ma'am?

10 A Nathaniel Teamer.

11 Q And did you examine the letter that's inside that
12 also?

13 A Yes, sir, I did.

14 Q I will separate this. Okay. Did you examine this
15 handwriting sample also, ma'am?

16 A Yes, sir, I did.

17 Q Okay. And do you see some common features on this
18 also?

19 A Yes, sir. We still have the "G's", the "W's".

20 Q Do you want to use the laser pointer?

21 A Let's see. Here's one of the "F's" where the "F"
22 comes to the staff line.

23 MR. SCHULTZ: Your Honor, just for clarification
24 purposes, this is the same letter that is contained on the
25 board, right?

Gail Heath
Direct examination by Mr. Barnette

1 MR. BARNETTE: Yes. That was page three of that.

2 That's page one.

3 A That's page one. Okay.

4 Q Go ahead, ma'am.

5 A The writer also had a tendency to make a lower case
6 "I" within a word. They would use a capital "I" at the
7 beginning of a sentence. But if they referred to
8 themselves within a sentence they used the lower case
9 formation of the "I".

10 Again, we have the punctuation here with the circle
11 dots on it. Probably further down, I don't see an "S" at
12 this point. It comes all the way back around, but probably
13 there were several throughout.

14 Q And you was talking about the "F's" earlier, how that
15 affects --

16 A Yes. How the "F's" come back around almost like a
17 shepherd's hook. And here's one down here in the "F".

18 Here's an "S" that's starting to come back up and make
19 that eight formation. And here's another one right here
20 that's coming up a little bit. There's another one of the
21 "F's" right here.

22 Q What I'm going to do, ma'am, if you would, can you
23 read this to the jury?

24 A Okay. "Please give Ieshia her mail. Gone. Ask her
25 did she get it. Ieshia, what's up Big-E? How my baby

Gail Heath

Direct examination by Mr. Barnette

1 doing? Fine I hope. For me just chilling, maintaining,
2 waiting on the feds to leave Spartanburg before I get out
3 so I can finish my duty. How's school? Have you been
4 being good? Better what they say talking about with
5 that" --

6 Q Let me move this a little bit more.

7 A "Talking about with that."

8 Q Is that court?

9 A Oh, "court." Okay. I'm looking at seeing something
10 on the back side of it. "Thang. Is they going to try to
11 send you down the road? If so, Uncle Charlie's not having
12 it. I'll hide you until you're 18 years old and they can
13 do nothing. Get you a tutor or something so you can finish
14 your education or put you in school under a false name. I
15 love you, Ieshia, and I refuse to see you go down the road
16 for your punk uncle Duke's stuff. They should of finish
17 that no good bastard. He got you mess up in all of them
18 situations and probably won't give you a dollar. But he'll
19 pay. I swear he will, every piece of pain he caused you.
20 I don't want you around that nigga, period, Ieshia. You
21 can go stay with me'ma or Zelda if you want to. Okay?
22 I'll be home soon tho and hopefully Chrissy will let you
23 choose who you want to be with. I know you don't want to
24 go down the road. So it's up to you. Every time I see you
25 around Duke I'm going to flip. Let them know that. They

Gail Heath

Direct examination by Mr. Barnette

1 shouldn't want you around that dog and B. C. what he did to
2 you when you was little. He got you thinking that sex is
3 okay, but it's not, Ieshia. You ain't grown yet. Okay?
4 Wait until you get grown and get you a boyfriend. It's
5 okay to talk on the phone or whatever to tell them but no
6 sex. You need to be something in life. Mook. Don't turn
7 out like the looth sides," or "both, both sides of your
8 family. Us and them. Be something. We need you in the
9 future because we ain't going to be nothing. We'll they,
10 ain't I pray for you, mook, because I know you been through
11 a lot and it's gone to get better. I got a lot of love to
12 give you and show you. Forget about the past and think
13 future. Okay. I been through a lot too baby. You're
14 smart and beautiful to be something. Call my little friend
15 lady Osia, Osia, if you need anything or something's wrong.
16 She do dance practice with Terrance and them. So you can
17 ask her can you go so you'll have something to do. Her
18 number is 542-██████ Cell number is 237-██████ Call her
19 when you need someone to talk to or anything. Do you want
20 to come see me? Write me back and let me know. Okay. But
21 if, I know you in good hands with Chrisy. She won't, gone
22 take of you and Mag, but, but I don't want you around Duke.
23 He should give you the world. I'm glad you told them
24 people about what he did because it's his fault and they
25 bet not touch you or nothing because it's true. If they do

Gail Heath

Direct examination by Mr. Barnette

1 call" --

2 Q Let's back up a little.

3 A Okay.

4 Q Okay.

5 A "Morlon and we gone flip real talk. You was my first
6 baby and I'll kill for you, Ieshia. You got's to be a good
7 girl though and pray. Start going to church with your
8 teacher and Pearl somebody and get to know God. Your life
9 will be a whole lot better and easy. Try to pray every
10 night and every morning, every time you think about it if
11 you want to. It can be a silent prayer at school or
12 wherever. God is real mook. Look at me. Been thru it all
13 and is still here. I supposed to be in prison for the rest
14 of my life or dead. I'm still here with you and going to
15 be here. Get to know Osia because that's who you're going
16 to be staying with if you decide to move with me. That's
17 going to be my new girlfriend. Don't beat her up either.
18 Okay. Smile. I know everybody's talking bad about me and
19 putting dirt on my name. Tell them to do something and
20 keep the police out of it and everybody will come up
21 missing. I'm ready to leave the burg mook before I catch a
22 hundred years. They say I do everythang when I do nothing.
23 So now I got to do something. To everybody or anyone who
24 has ever did something to any of my people and including me
25 is going to pay. For everybody who put dirt on my name

Gail Heath

Direct examination by Mr. Barnette

1 going to pay. Pimp, Duke, Pooh-P nobody can't do shit to
2 your uncle. If you feel mistreated call me'ma, morlon or
3 Osia. I love you baby and I'll be home sooner than you
4 think. Before I left I was going to get that old phone in
5 your mama's name on for you but I'll get you one. Okay? I
6 won't be long. Pray for me. Give me a month, not even
7 that long unless they come up with more charges. And if I
8 get a bond I'm going to still get out. We'll talk. Love
9 you, baby. W/B soon. Tell Gaun I said what's up and be
10 good mook too. Sorry so long and sloppy. W/B Nathaniel
11 Teamer, Pod Four, 950 California Avenue, Spartanburg, South
12 Carolina 29303. Love ya."

13 Q If you would, just go back up on the stand. Thank
14 you.

15 (Whereupon, the witness returned to the stand.)

16 Q Ma'am, on State's Exhibit No. 10 marked for I. D.
17 purposes, you also compared that handwriting.

18 A Yes, sir, I did.

19 Q And was that his handwriting?

20 A Yes, sir, it was.

21 Q And if you would, read the yellow parts on the first
22 page and the second page, ma'am.

23 A Okay. "I had a car wreck on Mount Zion Road at
24 1:00 a.m. Totaled the car. Jump."

25 Q Okay. And if you would, read what was on page two.

Jim Gardner
Direct examination by Mr. Barnette

1 A "Real talk. Now it's like this. Duke a rapist, a
2 bitch and can't get caught in P. Hills or Kenington no
3 more."

4 Q Thank you, ma'am.

5 MR. BARNETTE: One moment, Your Honor, please.

6 (Pause.)

7 Q Please answer any questions Mr. Schultz may have for
8 you?

9 MR. SCHULTZ: Nothing from the defense, Your Honor.

10 THE COURT: You may step down.

11 THE WITNESS: Thank you, sir.

12 MR. BARNETTE: Your Honor, we would like to call
13 Officer Gardner next.

14 Your Honor, can we excuse Ms. Heath to go back to
15 Columbia?

16 THE COURT: She's already gone.

17 (Whereupon, the witness was excused.)

18 JAY GARDNER, having been first
19 duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q If you would, sir, state your full name for the
22 record, please.

23 A Jim Gardner.

24 Q Where do you work at, sir?

25 A I'm an investigator for the City of Spartanburg Public

Jim Gardner
Direct examination by Mr. Barnette

1 Safety Department.

2 Q And how long have you been there, sir?

3 A I'm in my tenth year now.

4 Q Did y'all do a search warrant on [REDACTED] Circle
5 in Spartanburg, South Carolina?

6 A Yes, sir, we did.

7 Q And let me show you what's been marked as State's
8 Exhibits 2, 3, and 4, or 2 and 3. Was that the front of
9 the residence where y'all did the search warrant?

10 A Yes, sir. I believe so, [REDACTED].

11 Q Yes, sir.

12 MR. BARNETTE: Your Honor, we'd like to move these
13 into evidence at this time.

14 MR. SCHULTZ: No objection, Your Honor.

15 THE COURT: They are admitted.

16 (Photograph marked State's Exhibit No. 2; photograph
17 marked State's Exhibit No. 3.)

18 MR. BARNETTE: May I publish these to the jury, Your
19 Honor?

20 THE COURT: You may.

21 Q And this is the front of the residence, is that right,
22 Investigator Gardner?

23 A Yes, sir.

24 Q Let me show a closeup. That was State's Exhibit 2 I
25 just published to the jury. This is State's Exhibit No. 3.

Jim Gardner
Direct examination by Mr. Barnette

1 Is that just a closeup?

2 A Yes, sir.

3 Q And it shows the front and the number on the front of
4 the house, is that right?

5 A 159, yes, sir.

6 Q And was that the residence of a Mary Teamer or
7 Ms. Teamer?

8 A Yes, sir, it was.

9 Q And in the search warrant did y'all find -- let me
10 show you what's marked as State's Exhibits 4 and 23. Did
11 y'all find a letter addressed to Murda in the house?

12 A Yes, sir, we did.

13 Q And is that a picture of it, No. 4?

14 A This is a photo made, yes, sir, of the envelope that
15 we found, the letter.

16 Q And State's Exhibit 23 is the actual letter that y'all
17 found, or the actual envelope I should say.

18 A Yes, sir. This, this is the actual envelope. I
19 believe there was a letter in it. We found it in a room
20 that we were told was Mr. Teamer's, her son.

21 MR. BARNETTE: Your Honor, I'd move State's Exhibit 4
22 and 23 into evidence at this time.

23 MR. SCHULTZ: No objection, Your Honor.

24 THE COURT: They are admitted.

25 (Photograph marked State's Exhibit No. 4; envelope

Jim Gardner
Direct examination by Mr. Barnette

1 marked State's Exhibit No. 23.)

2 MR. BARNETTE: Your Honor, may I publish State's
3 Exhibit 23 to the jury at this time?

4 THE COURT: You may.

5 Q Was this the envelope that y'all received at that
6 address, sir?

7 A Yes, sir, it's the envelope we found in the room.

8 Q And it was addressed to Murda at [REDACTED] Circle
9 there in Spartanburg, South Carolina 29306?

10 A Yes, sir, it was.

11 Q And y'all collected that and took that into evidence,
12 is that right?

13 A We did, yes, sir.

14 Q And State's Exhibit 4 is just a picture of that letter
15 that y'all took that day, is that right?

16 A It is.

17 Q And this is just -- the home invasion occurred at 109
18 Overbrook Circle, is that right?

19 A I believe so, yes, sir.

20 Q And you wasn't part of that investigation from the
21 stand. You was just helping on the search warrant, is that
22 right?

23 A Yes, sir. I was, I was assigned other cases. And
24 when we do a search warrant we collectively -- I believe
25 Investigation Forrester was the one that sought the

Jim Gardner
Cross-examination by Mr. Schultz

1 warrant. And it's common practice for another investigator
2 to actually do the, do the return, actually collect the
3 evidence and place it into evidence at city hall.

4 Q Thank you, sir. If you would, please answer any
5 questions that Mr. Schultz may have for you.

6 CROSS-EXAMINATION

7 BY MR. SCHULTZ

8 Q Were you there when the search warrant was executed?

9 A Yes, sir, I was.

10 Q Okay. And that search warrant was executed at 159
11 Overbrook Circle?

12 A It was.

13 Q And who did you leave the warrant with?

14 A I believe we left a copy both -- I believe Ms. Teamer
15 or the mother, and I believe her husband. And I want to
16 say her daughter showed up during the, during the execution
17 of the search. So I believe all three of them were there.

18 We left it with them in their possession. I don't
19 know exactly whose hand we put it in. But they were all
20 three present at the time.

21 Q Okay. Did you walk inside the house?

22 A I did.

23 Q Okay. How many rooms were in the house?

24 A If I remember correctly I come in -- I want to say
25 there was a living room there at the entrance where we came

Jim Gardner
Cross-examination by Mr. Schultz

1 into.

2 There was a little hallway I think to the left. And
3 to the back was the mother's room if I remember correctly.
4 I want to say there was a bathroom across from the little
5 hallway area between the living room. And if I remember
6 correctly there was a second bedroom, and then there was a
7 kitchen area.

8 I think specifically I searched the mother's room and
9 I believe the room she identified as her son's where the
10 letter was found.

11 Q So you -- so it's your testimony today that you
12 searched two rooms.

13 A Well, there was five of us total. It wasn't just
14 myself.

15 Q Oh, I understand that. But you individually. It's
16 your testimony here that you searched two rooms.

17 A Yes, sir. I believe I did.

18 Q Okay. Did you ever find a black ski mask?

19 A Without actually seeing the return, I can't say
20 offhand that if I personally found one.

21 Anything collected that day I put into evidence. So
22 it was my duty to notate it and turn it into city hall.
23 Specifically the individual items, I'd have to look at the
24 return.

25 Q Isn't it correct that you never found any kind of pump

Jim Gardner
Cross-examination by Mr. Schultz

1 gun?

2 A I personally did not find any gun, period.

3 Q Isn't it true that you never found a shotgun either?

4 A No, sir. Once again, I didn't find any weapons
5 personally.

6 Q Okay. Did you ever find any kind of black pants?

7 A There were, I believe there were, some clothing that
8 was located at the house. Like I say, once again, I'd have
9 to see the return.

10 Q But you're not sure.

11 A But offhand. But the one thing I do remember was the
12 actual letters addressed to Murda. That one was
13 particular.

14 Q And you searched Ms. Teamer's bedroom, correct?

15 A I did. I remember specifically in there there was
16 a -- I would have to describe it. It was like a bag that
17 was full of personal items, personal letters, bills. I
18 remember there was a cell phone I think bill specifically
19 that I recovered in her room. But, you know, most folks
20 have those type of articles, collections.

21 MR. SCHULTZ: Beg the Court's patience.

22 (Pause.)

23 MR. SCHULTZ: That's all I have.

24 MR. BARNETTE: No further questions, Your Honor. We
25 would ask the witness be excused.

George Edward Nicholson
Direct examination by Mr. Barnette

1 THE COURT: You may step down.

2 THE WITNESS: Thank you, Your Honor.

3 (Whereupon, the witness was excused.)

4 MR. BARNETTE: Your Honor, I would like to call George
5 Nicholson to the stand.

6 GEORGE EDWARD NICHOLSON,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q If you would, sir, state your full name for the
10 record, please.

11 A George Edward Nicholson.

12 Q And where do you work at, sir?

13 A A T & T.

14 Q And what's your position there, sir?

15 A I'm an area manager of asset protection for South
16 Carolina.

17 Q Is part of your duties maintaining phone records, I
18 believe -- well, A T & T it was originally. How long have
19 you worked for the company?

20 A For A T & T since their merger which was in the
21 beginning of this year.

22 Prior to that it was called BellSouth. Prior to that
23 it was called Southern Bell. I started with Southern Bell
24 in 1972.

25 Q And in your position are you in charge of maintaining

George Edward Nicholson
Direct examination by Mr. Barnette

1 phone records on cell phones, home phones, things like
2 that's through the, I guess, A T & T system now but it was
3 BellSouth back when this occurred?

4 A At the present time the merger has not brought in cell
5 phone records that are Singular, or now A T & T Wireless.
6 Right now I have access to BellSouth wire line records.

7 Q Okay. Or home phones or land lines.

8 A Yes, sir; yes, sir.

9 Q Okay. And let me show you what's been marked as
10 State's Exhibit 25. Are you familiar with these records,
11 sir?

12 A Yes, I am.

13 Q Okay. I believe you've seen them before, is that
14 right, sir?

15 A That's correct.

16 Q And what are these records, sir?

17 A This is in response to a subpoena from I believe your
18 office asking for information on a telephone number and on
19 the incoming-outgoing calls for a specified period of time
20 in early 2006 for that number.

21 Q And what number is it, sir, we're asking?

22 A The telephone you were asking about was area code
23 (864) 542-██████

24 MR. BARNETTE: Your Honor, I'd like to move State's
25 Exhibit 25 into evidence at this time.

George Edward Nicholson
Direct examination by Mr. Barnette

1 MR. SCHULTZ: Your Honor, could we approach?

2 THE COURT: Yes.

3 (Bench conference held off the record in the presence
4 of the jury but out of the hearing of the jury.)

5 MR. BARNETTE: Your Honor, I am going to move one set
6 out of it, State's Exhibit 25 and just modify that.

7 THE COURT: That one sheet will be State's Exhibit 25?

8 MR. BARNETTE: Yes, sir.

9 THE COURT: Any objection?

10 MR. SCHULTZ: No objection, Your Honor.

11 THE COURT: All right. It's admitted.

12 (Phone records marked State's Exhibit No. 25.)

13 Q If you would, what phone number again was that, sir?

14 A It's area code (864) 542- [REDACTED]

15 Q And what residence is that, sir?

16 A The subscriber for the service is Plummie Feaster.

17 The address is [REDACTED] Street, Spartanburg 29301,

18 as the building is the same as the listing, which is also

19 Plummie Feaster. And the billing address is the same as

20 the listed address, the one on Center Street, South Center

21 Street. And it's a residential type telephone service.

22 Q That's a land line.

23 A Land line, correct.

24 Q Yes, sir. Okay. Thank you. Please answer any

25 questions Mr. Schultz has for you.

George Edward Nicholson
Direct examination by Mr. Barnette

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

2 THE COURT: You may step down. Thank you.

3 THE WITNESS: Thank you.

4 MR. BARNETTE: Your Honor, we would ask for this
5 witness to be excused.

6 THE COURT: He may be.

7 (Whereupon, the witness was excused.)

8 MR. BARNETTE: Your Honor, may we approach at this
9 time?

10 THE COURT: Yes.

11 (Bench conference held off the record in the presence
12 of the jury but out of the hearing of the jury.)

13 THE COURT: All right. Ladies and gentlemen, we're
14 going to recess for lunch.

15 Keep in mind the caution. Don't discuss the case;
16 don't conduct any research; don't allow yourselves to be
17 exposed to any type of media coverage.

18 Do have a good lunch however. And please report back
19 to your jury room at 2:15, at 2:15 this afternoon. Have a
20 good lunch.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court's in recess until 2:15.

24 (Whereupon, a recess was taken.)

25 (Toxicology report marked State's Exhibit No. 20 for

Dwayne Darity
Direct examination by Mr. Barnette

1 Identification; blood marked State's Exhibit No. 28 for
2 Identification; urine marked State's Exhibit 29 for
3 Identification.)

4 MR. BARNETTE: We will call a witness out of order.

5 THE COURT: All right. Bring the jury in, please.

6 (The following takes place in the presence of the
7 jury.)

8 THE COURT: Good afternoon, ladies and gentlemen.

9 We're going to continue with the state's presentation
10 of evidence.

11 MR. BARNETTE: Thank you, Your Honor. I would like to
12 call Dwayne Darity to the stand, please.

13 DWAYNE DARITY, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE

16 Q If you would, sir, please give your full name for the
17 record.

18 A Dwayne Darity.

19 Q And how long did you work for the highway patrol, sir?

20 A Seventeen years.

21 Q And what was your position back on February the 3rd of
22 2006?

23 A Lance corporal, trooper, patrol officer.

24 Q And was you called to the scene of an accident back on
25 the early morning hours of February the 3rd of 2006?

Dwayne Darity
Direct examination by Mr. Barnette

- 1 A Yes, I was.
- 2 Q And where, where did this wreck occur at?
- 3 A The intersection of Mount Zion Road, Spartanburg
- 4 County.
- 5 Q And when you got there, what two vehicles did you
- 6 find, sir?
- 7 A One blue Chevy Caprice and a black pickup truck.
- 8 Q Who was driving the blue Caprice?
- 9 A A Nathaniel Teamer.
- 10 Q Do you see him in the courtroom here today?
- 11 A Yes, sir. He's sitting to my, my right.
- 12 Q Could you tell the jury what he's wearing, sir?
- 13 A He's wearing a like khaki shirt looks like and dark
- 14 colored pants.
- 15 Q And whose vehicle was he driving that night?
- 16 A I believe it was his girlfriend, Ms. Feamer or
- 17 Feaster.
- 18 Q Do you have the accident report, sir?
- 19 A Yes, sir.
- 20 Q Would that help refresh your memory?
- 21 A Osia Feaster.
- 22 Q And who -- the other car, what kind of car was it?
- 23 A A 1988 Dodge pickup truck, black in color.
- 24 Q And who was driving that, sir?
- 25 A James Young.

Dwayne Darity
Direct examination by Mr. Barnette

1 Q And through your investigation what did you discover?

2 What was the cause of the accident?

3 A Mr. Teamer was traveling northbound on Mount Zion
4 Road. He crossed the center line striking Mr. Young
5 driving a 1988 Ford, I'm sorry, Dodge pickup truck.

6 Q Was there a sheriff's deputy following behind him at
7 the time also?

8 A Yes. He was.

9 Q And after you went to the scene did you go to the
10 hospital, sir?

11 A Yes, I did.

12 Q And did you see Mr. Teamer there?

13 A Yes, I did.

14 Q And if you would, tell the jury what observations you
15 made of him.

16 A While talking with Mr. Teamer he appeared to be under
17 the influence of alcohol, and I smelled alcohol coming from
18 his mouth and face area.

19 He wasn't very cooperative with the investigation. He
20 was very combative. We had several nurses and technicians
21 come in and try to calm him down so that we could proceed
22 on with the investigation. It was very difficult working
23 with him trying to obtain any information.

24 Q Did you charge him with felony D. U. I.?

25 A Yes, I did.

Dwayne Darity
Direct examination by Mr. Barnette

1 Q Did you obtain a blood sample as well as urine sample?

2 A Yes, sir.

3 Q Who was the -- and did Brandi Gentry collect that
4 blood sample?

5 A Yes.

6 Q And that was after you gave him his implied consent
7 rights and explained that to him.

8 A Yes, sir, yes.

9 Q And then did you also -- Joe -- I may not have
10 pronounced this right -- Kleman? Did he collect the urine
11 sample?

12 A Yes, he did.

13 Q And when they collect those samples did they hand them
14 to you? Were they sealed?

15 A Yes, sir, they were.

16 Q And is there a box that they use for these samples or
17 whatever at SLED?

18 A Yes. It says authorized SLED evidence box.

19 Q And was those samples, once they're sealed, were they
20 put inside that box?

21 A Yes, sir.

22 Q And did you sign the outside of that box?

23 A Yes, sir.

24 Q And did you -- what did you do with that sealed box
25 afterwards?

Dwayne Darity
Direct examination by Mr. Barnette

1 A After I had possession of the box, I took them back to
2 the Spartanburg County holding facility where he stage all
3 evidence before we transport them down to SLED
4 headquarters.

5 Q And who transported that box down to SLED?

6 A I did.

7 Q And did you turn it over to SLED once you got to SLED
8 for lockup?

9 A Yes, sir.

10 Q And was that still sealed when you left it in
11 Columbia?

12 A Yes, sir.

13 Q Had anybody opened those seals or done anything to
14 that box?

15 A It was not tampered with at all.

16 Q And you left it at SLED, is that right?

17 A Yes, sir.

18 Q Based on your observations and -- did you feel like he
19 was under the influence of alcohol or drugs or both at the
20 time?

21 A Yes. He was.

22 Q And have you seen other people under the influence of
23 alcohol or drugs before?

24 A Yes, sir.

25 Q And how many people have you seen over your career?

Dwayne Darity
Cross-examination by Mr. Schultz

1 A A lot. If you want to give me a number, maybe 250 or
2 300 people at the most.

3 MR. BARNETTE: One moment, Your Honor, please.

4 (Pause.)

5 Q If you would, please answer any questions Mr. Schultz
6 may have for you please.

7 CROSS-EXAMINATION

8 BY MR. SCHULTZ

9 Q Officer, you responded to this accident on
10 February the 3rd of 2006, correct?

11 A Yes, I did.

12 Q Okay. And the writing is kind of fuzzy here. Do you
13 recognize this as your report?

14 A Yes. It is.

15 Q All right. Thank you. Now, you never saw the
16 accident, correct?

17 A No. I did not.

18 Q Okay. About how many minutes after the accident
19 happened did you respond to the scene?

20 A I arrived on the scene based on the incident report at
21 0116.

22 Q 0116.

23 A Yes, 0116.

24 Q Okay. And according to the other officers there when
25 did the accident occur?

Dwayne Darity
Cross-examination by Mr. Schultz

- 1 A I'm not sure what time of the day.
- 2 Q So you're not sure. So according to the statement you
- 3 smelled a strong odor of alcohol coming from Mr. Teamer, is
- 4 that correct?
- 5 A That's correct.
- 6 Q Okay. And you've seen people such as Mr. Teamer.
- 7 You've seen people that you think are under the influence.
- 8 Do you think you have a pretty good indication of when
- 9 someone is under the influence or not?
- 10 A Yes, sir.
- 11 Q Okay. Now, was Mr. Teamer asked to provide any field
- 12 sobriety tests at that time?
- 13 A No, he wasn't.
- 14 Q And why was that?
- 15 A He was injured. He was suspected of being injured in
- 16 the accident.
- 17 Q Okay. He was suspected of being injured?
- 18 A Right.
- 19 Q Now, let me go back to what you said before. You
- 20 never saw the accident.
- 21 A No. I didn't.
- 22 Q Nevertheless, you determined it to be caused by
- 23 Mr. Teamer, correct?
- 24 A Yes.
- 25 Q Okay. And you reached that determination because

Dwayne Darity
Cross-examination by Mr. Schultz

- 1 another officer told you about this, right?
- 2 A Based on the investigation, yes.
- 3 Q Based on the investigation.
- 4 A Right.
- 5 Q Okay. Was there any marks on the road?
- 6 A Yes, there were.
- 7 Q There were. Okay. Did you note this in your incident
- 8 report? I could show you again.
- 9 A No. I have a copy of it.
- 10 Q Okay.
- 11 A No. That information is not in the accident report.
- 12 Q Nevertheless, you feel that that's, that was
- 13 determinative of the cause of the accident.
- 14 A Right. That was the cause.
- 15 Q Nevertheless, you failed to put that in your incident
- 16 report, correct?
- 17 A I failed to put that in the incident report, yes, I
- 18 did.
- 19 Q All right. And according to your testimony a blood
- 20 and urine analysis was requested.
- 21 A Yes, it was.
- 22 Q Okay. Now, you don't know the results of that,
- 23 correct?
- 24 A I don't know.
- 25 Q You don't know the results. Okay. Now, when you say

Dwayne Darity
Cross-examination by Mr. Schultz

1 in your incident report it was determined by a witness that
2 the defendant was traveling north on Mount Zion Road trying
3 to evade a sheriff's deputy, what witness are you talking
4 about?

5 A The actual deputy.

6 Q The actual deputy.

7 A Right.

8 Q That's Deputy Evett, correct?

9 A Right.

10 Q Now, did you transport Mr. Teamer to the hospital that
11 night?

12 A The deputy did.

13 Q The deputy did.

14 A Yes, sir.

15 Q So all of your involvement of the accident was that
16 you responded to it approximately 16 minutes afterwards,
17 you looked around, you said it was Mr. Teamer's fault and
18 then you left.

19 A I don't think it's that easy to do. We gathered
20 information on the scene, and based on that information we
21 came to a determination that Mr. Teamer did cross the
22 center line, and that's when we made other --

23 Q Nevertheless, your incident report is very vague. You
24 don't talk about any marks found on the center line. You
25 don't, you don't do anything of that, correct?

Dwayne Darity
Cross-examination by Mr. Schultz

1 A Right. We do if it's -- if there's a serious bodily
2 injury. We didn't know the extent of the injuries of
3 Mr. -- the other individual. In viewing number one, we
4 didn't know the extent of the injuries. So we did not take
5 any photos at that time.

6 Q Nevertheless, you were on the scene, correct?

7 A Yes. We were.

8 Q And you looked in the other car. You couldn't tell
9 that he had serious bodily injury?

10 A He was transported by the time I arrived on the scene.

11 Q He was transported to where?

12 A Spartanburg Regional.

13 Q Spartanburg Regional?

14 A Right.

15 Q So your logic is that if there's not serious bodily
16 injury you don't report everything that's needed to be
17 reported.

18 A Well, we report everything.

19 Q You report everything?

20 A Yes, we do.

21 Q Nevertheless, you didn't put him crossing over the
22 center line, no nothing of that extent in your police
23 report, correct?

24 A It's not in my police report, correct.

25 MR. SCHULTZ: Beg the Court's patience, Your Honor.

Dwayne Darity
Cross-examination by Mr. Schultz

- 1 (Pause.)
- 2 Q Again, you weren't present at the accident, were you?
- 3 A No, I wasn't. I did not witness the accident.
- 4 Q But you were the second officer on the scene, correct?
- 5 A Yes.
- 6 Q And the only really investigation that you did was you
- 7 found marks over the center line. Okay. Did you match
- 8 them up with Charlie Teamer, the car that was being driven
- 9 by Charlie Teamer on that night? What I'm asking you is
- 10 did you do an accident reconstruction.
- 11 A No, we did not.
- 12 Q Okay. So no accident reconstruction. What about any
- 13 photographs?
- 14 A Photographs were taken.
- 15 Q Okay. What about measurements?
- 16 A Measurements were not taken.
- 17 Q Okay. Was Charlie transported by E. M. S.?
- 18 A You're saying Charlie. Who is --
- 19 Q Mr. Teamer.
- 20 A He was transported by Spartanburg County.
- 21 Q He was transported by Spartanburg County.
- 22 A Right.
- 23 Q What?
- 24 A Sheriff's office.
- 25 Q Sheriff's office.

Dwayne Darity
Cross-examination by Mr. Schultz

- 1 A Right.
- 2 Q But he had serious injuries, correct?
- 3 A He was suspected of having serious injuries.
- 4 Q Suspected --
- 5 A Right.
- 6 Q -- of having serious injuries?
- 7 A Right.
- 8 A But --
- 9 A That was not determined by myself. That was
- 10 determined by the personnel at the Spartanburg Regional.
- 11 Q But he wasn't given, according to your testimony he
- 12 wasn't given, a field sobriety test --
- 13 A Right.
- 14 Q -- because you're saying he didn't have serious
- 15 injuries. Now you're saying he was suspected of having
- 16 serious injuries.
- 17 A If he's suspected of having injuries, why would I give
- 18 him a field sobriety test?
- 19 Q Nevertheless, he was transported by E. M. S., correct?
- 20 A He was.
- 21 Q Or?
- 22 A Or Spartanburg County Sheriff's Office.
- 23 Q Or Spartanburg County Sheriff's Office. Okay.
- 24 MR. SCHULTZ: Beg the Court's patience again.
- 25 (Pause.)

Dwayne Darity
Redirect examination by Mr. Barnette

1 Q Your involvement with Mr. Teamer that night, when you
2 responded was Mr. Teamer already gone?

3 A He was already gone.

4 Q He was already gone?

5 A Right.

6 Q So you really had no connection with Mr. Teamer that
7 night.

8 A Until I got to the emergency room.

9 Q Okay.

10 MR. SCHULTZ: That's all I have, Your Honor.

11 MR. BARNETTE: Just a few questions on redirect, Your
12 Honor.

13 REDIRECT EXAMINATION

14 BY MR. BARNETTE

15 Q Trooper Darity, this man has just -- was fleeing from
16 a sheriff's deputy, right?

17 A Correct.

18 Q Wouldn't it be normal to make sure you secure that
19 individual when he's fleeing from you?

20 A Correct.

21 Q And at the time they was determining who was going to
22 do the investigation at that point, weren't they, the
23 sheriff's department or the highway patrol?

24 A Yes, sir.

25 Q Is it customarily once it decides that there's another

Dwayne Darity
Redirect examination by Mr. Barnette

1 police agency involved in the chase or whatever, they call
2 another agency in?

3 A Yes, sir.

4 Q And then you were called in to that accident scene.

5 A Yes, sir.

6 Q And you was trying to find out what happened after
7 that because the sheriff's department was initially
8 involved with it. And before that was the city even
9 involved in the chase of the defendant?

10 A Two other agencies, yes, sir.

11 Q And he was asking about the blood and urine test.

12 State's Exhibits 20 and 29, was those labels on the boxes
13 that you took down to SLED?

14 A Yes, sir.

15 Q And those was turned over to SLED and tested by them,
16 is that right?

17 A Yes, sir.

18 Q And was Brandon Landrum the person that tested that
19 sample?

20 A Yes, sir.

21 MR. BARNETTE: Your Honor, I'd like to move State's
22 Exhibits 28 and 29 into evidence at this time.

23 MR. SCHULTZ: Without objection, Your Honor.

24 THE COURT: They're admitted.

25 (Blood marked State's Exhibit No. 28; urine marked

Dwayne Darity
Recross-examination by Mr. Schultz

1 State's Exhibit No. 29.)

2 Q And on your accident report you have that also. You
3 showed him crossing the center line, didn't you?

4 A Yes, sir, I did.

5 Q Was that based off observations that you was told
6 about?

7 A Based on observations from the deputy.

8 Q And was --

9 A And --

10 Q Go ahead. I'm sorry.

11 A And placement of the vehicles, yes, sir.

12 Q Placement of the vehicles that showed that he'd
13 crossed the center line also?

14 A Yes, sir.

15 Q And please answer any questions Mr. Schultz may have
16 for you.

17 RECROSS-EXAMINATION

18 BY MR. SCHULTZ

19 Q Just one more question. How long did you stay at the
20 scene when you arrived there and seen the accident?

21 A I can't recall.

22 Q Can't recall?

23 A I can't recall.

24 Q And during this time you never had any contact with
25 Charlie Teamer, correct?

Brandi Nicole Gentry
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q You didn't?

3 A No. I did not at the scene. I didn't.

4 Q Thank you.

5 A Thank you.

6 THE COURT: You may step down.

7 MR. BARNETTE: We ask this witness be excused, Your
8 Honor.

9 THE COURT: He may be.

10 (Whereupon, the witness was excused.)

11 MR. BARNETTE: I would like to call Brandi Gentry to
12 the stand, please.

13 BRANDI NICOLE GENTRY, having
14 been first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE

16 Q Ms. Gentry, if you would, give your full name for the
17 record, please.

18 A Brandi Nicole Gentry.

19 Q And where do you work at, ma'am?

20 A I work at Dr. Gandi's office now.

21 Q And where did you work back on February 3rd?

22 A Spartanburg Regional.

23 Q And what was your position there, ma'am?

24 A A lab tech.

25 Q And how long had you been there at that point?

Brandi Nicole Gentry
Direct examination by Mr. Barnette

- 1 A For about five years.
- 2 Q And one of the duties that you did, did you draw blood
- 3 samples?
- 4 A Yes.
- 5 Q And how many blood samples had you drawn up to that
- 6 point?
- 7 A Probably over a thousand.
- 8 Q Did Trooper Darity request a blood draw on a fellow
- 9 named Nathan Teamer?
- 10 A Yes.
- 11 Q And did you -- when you do a blood draw, can you tell
- 12 the jury what you do?
- 13 A We take the kit and then we wipe the arm with iodine,
- 14 Betadine, and stick the needle in, draw the blood, pull it
- 15 out, label it in front of the patient. And then I sealed
- 16 it and handed it to him.
- 17 Q If you would explain to the jury when you do the blood
- 18 with the Betadine, you don't use alcohol.
- 19 A Uh-uh.
- 20 Q You use Betadine.
- 21 A Betadine.
- 22 Q And why is that?
- 23 A Because alcohol will show up in blood.
- 24 Q And did -- and you sealed the blood once it was drawn.
- 25 A Yes.

Brandi Nicole Gentry
Cross-examination by Mr. Schultz

1 Q And did y'all -- was it placed in a box and sealed
2 with a urine sample also?

3 A Yes.

4 Q And was that given to Trooper Darity?

5 A Yes.

6 Q And was that sealed when it left your -- the last time
7 you saw it?

8 A Yes.

9 Q Do you remember anything about Mr. Teamer?

10 A Uh-uh.

11 Q How many people did you draw blood from?

12 A We usually draw about 40 a day.

13 Q And you're basing this off your notes and everything
14 that you had from the blood draw.

15 A Yes.

16 Q Please answer any questions Mr. Schultz may have for
17 you.

18 CROSS-EXAMINATION

19 BY MR. SCHULTZ

20 Q Do you remember what time of the morning that you took
21 the blood from Mr. Teamer?

22 A Let me pull this a second. It was about 2:30.

23 Q 2:30. And Mr. Teamer was involved in the accident at
24 approximately 1:00 o'clock to your information?

25 A I guess.

Brandi Nicole Gentry
Redirect examination by Mr. Barnette

- 1 Q But you don't know, correct?
- 2 A Uh-uh.
- 3 Q Okay. You don't remember anything about Mr. Teamer
- 4 that night?
- 5 A Uh-huh.
- 6 Q Okay. You don't remember if he was combative.
- 7 A No.
- 8 Q So as far as you know he was a model patient.
- 9 A Yeah.
- 10 Q That's fine. Thank you.
- 11 MR. BARNETTE: One question on followup, Your Honor.
- 12 REDIRECT EXAMINATION
- 13 BY MR. BARNETTE
- 14 Q You don't remember if he was unruly or uncooperative
- 15 either, do you?
- 16 A I'm sorry?
- 17 Q You don't remember if he was uncooperative or
- 18 anything, do you?
- 19 A Uh-uh.
- 20 THE COURT: You may step down.
- 21 MR. BARNETTE: We would ask this witness be excused
- 22 Your Honor.
- 23 THE COURT: She may be.
- 24 (Whereupon, the witness was excused.)
- 25 MR. BARNETTE: Your Honor, I would like to call Joe

Joseph Kleman
Direct examination by Mr. Barnette

1 Kleman to the stand.

2 JOSEPH KLEMAN, having been
3 first duly sworn, testified as follows:

4 DIRECT EXAMINATION BY MR. BARNETTE

5 Q If you would, sir, state your full name for the
6 record, please.

7 A I'm sorry?

8 Q Would you state your name for the record, please?

9 A Joseph Kleman.

10 Q And where do you work at, sir?

11 A Spartanburg Regional Emergency Center.

12 Q And what's your position there, sir?

13 A Registered nurse.

14 Q And how long have you been at Regional, sir?

15 A About four and a half years.

16 Q Back on February 3rd of 2006, early that morning, was
17 you working that night or that morning?

18 A I was.

19 Q And did you take a urine sample from a Charles Nathan
20 Teamer?

21 A Yes, I did.

22 Q And was Trooper Darity the trooper that was there that
23 requested the urine?

24 A Yes.

25 Q And did you obtain that sample from Mr. Teamer?

Joseph Kleman
Cross-examination by Mr. Schultz

- 1 A Yes, sir.
- 2 Q And once it was obtained did you seal that sample?
- 3 A Yes, sir.
- 4 Q And was it sealed in what we call a SLED box?
- 5 A Yes, sir.
- 6 Q And was that given to Trooper Darity?
- 7 A Directly, yes, sir.
- 8 Q And did you -- was it sealed when it left your
- 9 possession, the last time you saw it?
- 10 A Correct, yes, sir.
- 11 Q Did -- do you remember anything about Mr. Teamer?
- 12 A I do not.
- 13 Q How many people do you treat in the E. R.?
- 14 A Do I treat in the E. R.?
- 15 Q Yes, sir. Or people y'all see in the E. R.
- 16 A We see several hundred a day.
- 17 Q And please answer any questions Mr. Schultz may have
- 18 for you, sir.
- 19 A Sure.
- 20 CROSS-EXAMINATION
- 21 BY MR. SCHULTZ
- 22 Q Briefly. Do you remember anything about Mr. Teamer
- 23 that night?
- 24 A No, sir. I don't.
- 25 Q Okay. So you don't recall if he was combative or --

Brandon Landrum
Direct examination by Mr. Barnette

1 A I do not.

2 Q Okay. In your role as a nurse at the emergency center
3 you sort of remember people that treat you bad, right?

4 A Yes, sir.

5 Q Okay. And did Mr. Teamer cause you any trouble that
6 night?

7 A I can't even recall. No. I don't remember.

8 Q Okay. All right.

9 MR. SCHULTZ: Beg the Court's patience.

10 (Pause.)

11 MR. SCHULTZ: That's all, Your Honor. Thank you.

12 THE COURT: You may step down.

13 MR. BARNETTE: We ask this witness be excused.

14 THE COURT: He may.

15 (Whereupon, the witness was excused.)

16 MR. BARNETTE: I would like to call Brandon Landrum to
17 the stand.

18 BRANDON LANDRUM, having been
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION BY MR. BARNETTE

21 Q If you would, sir, please state your full name for the
22 record.

23 A Brandon Jermell Landrum.

24 Q Where do you work at, sir?

25 A I'm employed at SLED, also known as the South Carolina

Brandon Landrum
Direct examination by Mr. Barnette

1 Law Enforcement Division.

2 Q And what is your position there, sir?

3 A I'm a forensic toxicologist.

4 Q And how long have you worked there, sir?

5 A Approximately three years.

6 Q And in your position as a forensic toxicologist did
7 you receive training and education concerning that?

8 A Yes. I originally started, received my bachelor's
9 degree with a -- in biology with a minor in chemistry from
10 Winthrop University.

11 I then went to Carolina's College for Health Sciences
12 where I received my degree as a medical technologist. I
13 then worked in a hospital lab in Columbia for roughly a
14 year where I did drug screens and alcohol analysis.

15 I then got hired on at SLED and went through their
16 in-house training where I -- part of the training is to --
17 we run a thousand blood alcohol results that have been
18 previously reported out by other analysts. And our results
19 have to be within five percent of that before we can pass
20 that.

21 We also have oral and written exams that we have to
22 take both dealing with alcohol and drugs. And then part of
23 my training also is to interpret the results that we do get
24 for courts of law -- courts of law, coroners and different
25 venues.

Brandon Landrum
Direct examination by Mr. Barnette

1 Q And how many blood tests have you done? I mean, how
2 many drug and urine tests have you done in blood alcohol?

3 A It's got to be over a thousand just for different C.
4 -- C. S. E. and D. U. I. cases.

5 Q And how many times have you been qualified in state
6 court as a forensic toxicologist?

7 A Going on seven times now.

8 MR. BARNETTE: Your Honor, I would move him as an
9 expert in forensic toxicology at this time.

10 MR. SCHULTZ: No objection, Your Honor.

11 THE COURT: He is so qualified.

12 Q Sir, did you receive a sample? Let me show you
13 State's Exhibit No. 20, a copy of your report. Did you
14 receive a blood and urine sample of Nathaniel Teamer?

15 A Yes, sir, I did.

16 Q And when you received that was that item sealed?

17 A Yes. Everything that we get has to be -- comes in a
18 heat-sealed pouch. And we inspect it for any tampering or
19 any evidence of tampering. And if there's any evidence of
20 tampering we have to notify our supervisor. And then
21 there's an investigation based off of it. But with this
22 case there was no tampering with the heat-sealed pouch once
23 I received it.

24 Q So when you received it did you open the seal on this?

25 A Yes, I did.

Brandon Landrum
Direct examination by Mr. Barnette

1 Q And did you open the seal on the blood and urine
2 samples?

3 A Yes, I did.

4 Q And did you do an analysis on both of those?

5 A Yes, I did.

6 Q Did you do blood alcohol and drug analysis on both of
7 those?

8 A Yes. I did both alcohol analysis and drug analysis on
9 both samples.

10 MR. BARNETTE: Your Honor, I'd like to move State's
11 Exhibit No. 20.

12 Q And this is a copy of your results, is that right?

13 A Yes, sir.

14 MR. BARNETTE: Your Honor, I'd live to move State's
15 Exhibit No. 20 into evidence at this time.

16 MR. SCHULTZ: Without objection, Your Honor.

17 THE COURT: It is admitted.

18 (SLED toxicology report marked State's Exhibit No.
19 20.)

20 MR. BARNETTE: Your Honor, may the witness step down?

21 THE COURT: Yes, sir. You need to speak up louder
22 though because you'll be away from the microphone.

23 THE WITNESS: Yes, sir.

24 (Whereupon, the witness left the stand.)

25 Q You may just want to stand right there, just as long

Brandon Landrum
Direct examination by Mr. Barnette

1 as you can see it.

2 Okay. Publishing the copy of the report that you did,
3 sir. On your blood, on the blood test, the blood
4 toxicology, would you tell the jury what the results were?

5 A In the blood testing it was a 0.022 percent weight per
6 volume blood alcohol result.

7 Q And what was the drug results?

8 A The drug results screened positive for cannabinoids,
9 which is active components in marijuana, and was negative
10 for amphetamines, barbiturates, benzodiazepines,
11 methamphetamine and oxycodone.

12 Q Going on, did you do another test specifically on the
13 blood concerning the marijuana and the other drugs in the
14 system?

15 A Yes, sir.

16 Q And what kind of testing did you do?

17 A We did -- once we have a positive drug screen we have
18 to go on and confirm that positive to identify what it is
19 that screened positive to make sure that there's not any
20 false positives.

21 And with this, with the cannabinoids-positive screen,
22 I did a marijuana extraction on the blood and found
23 tetrahydrocannabinol, or T. H. C., which is the parent
24 component of marijuana, at 3.9 micrograms per liter. And
25 then there's 11 hydroxy tetrahydrocannabinol and 11 carboxy

Brandon Landrum
Direct examination by Mr. Barnette

1 tetrahydrocannabinol, which are the metabolites of the T.
2 H. C. or the tetrahydrocannabinol. And each of those, the
3 11 hydroxy, was a 1.4 micrograms per liter, and the carboxy
4 was at 54 micrograms per liter.

5 Also, in felony D. U. I. cases if a blood alcohol
6 result is below a certain limit we go ahead and do a
7 general analysis on the G. C. gas chromatography/mass
8 spectrometry. And what that sort of looks for, anything
9 that our drug screen will not screen for. And with this I
10 found diphenhydramine which was below 0.5 milligrams per
11 liter. And it's just one of the active ingredients in
12 Benadryl and different things like that, over-the-counter
13 drugs.

14 Q Now, the marijuana, this result here, would that be
15 enough to put somebody under the influence or --

16 A Yes.

17 Q -- affect their ability to drive?

18 A Yes. Actually with the tetrahydrocannabinol or the T.
19 H. C., it's a fairly, has a very short half-life as far as
20 how long it's in the blood. And so this 3.9 micrograms per
21 liter, it shows that this person would have had, along with
22 having the 11 hydroxy tetrahydrocannabinol, both of those
23 are fast. They metabolize very quickly and get out to the
24 blood stream very quickly.

25 So for those to be present in the blood at the time of

Brandon Landrum
Direct examination by Mr. Barnette

1 the test it shows that person would have had to have
2 recently smoked marijuana prior to the test, anywhere from
3 within an hour to three hours before that. And also
4 showing -- when you have the parent along with the hydroxy
5 and the carboxy, it also shows that the person would be
6 directly under the influence of this drug.

7 Q And if you add the alcohol to that, would that also
8 have an affect by the marijuana?

9 A Yes, sir. Normally at a level of a 0.022 ethanol by
10 itself, you don't see a whole lot of impairing effects.
11 You see, start to see, your fine motor skills start to be
12 affected.

13 But when you combine it with the marijuana or some
14 other different types of drugs you get the one-plus-one
15 effect where then you now have twice the impairing effects.

16 So it's basically you have the T. H. C. or the
17 marijuana which is going to cause impairment. And then
18 since you have ethanol on board, then it's going to cause
19 your impairment to be even more.

20 Q Can a person safely drive their vehicle with these
21 substances in their blood system?

22 A No, sir, they cannot.

23 Q And you also did a test on the urine, is that also
24 correct?

25 A Yes, sir.

Brandon Landrum
Direct examination by Mr. Barnette

1 Q And looking at the urine test, what was the results of
2 that?

3 A It was positive for ethanol in the urine and a zero
4 point -- I believe that's a 030 for sample weight in the
5 volume, and then it screened for cannabinoids in the urine,
6 and it was negative for amphetamines and methamphetamines,
7 barbiturates, benzodiazepines, cocaine metabolite and
8 opiates.

9 And then upon -- just like in the blood, we also have
10 to confirm anything that screens positive. So I confirmed
11 and found 11 carboxy tetrahydrocannabinol in the urine.
12 And we only look for that metabolite in the urine due to it
13 being a metabolite. And the urine is basically what your
14 body's not using and that's going to be waste, so.

15 Q Thank you, sir. Now, if -- let's say, and you can
16 please have a seat.

17 (Whereupon, the witness returned to the stand.)

18 Q Let's say this wreck occurred at 1:00 o'clock in the
19 morning --

20 A Yes, sir.

21 Q -- and the blood test wasn't drawn until 2:30.

22 A Yes, sir.

23 Q Based off that, how fast does a person metabolize the
24 alcohol in the blood?

25 A And average 150-pound person metabolizes ethanol at

Brandon Landrum
Direct examination by Mr. Barnette

1 0.015 percent weight per volume per hour. So basically
2 every hour, considering that this person has not had
3 anything to drink since the time of the accident to the
4 time the blood was drawn, and they're in the elimination
5 phase, then you would have 0.015 percent of that ethanol
6 being metabolized in, out the blood per hour.

7 So roughly an hour, an hour and a half afterwards
8 you'd be looking at, what was it, .02 and add 1.037.
9 Around that range would be what you'd see an hour after,
10 and a little bit more for an hour and a half.

11 Q And looking at the marijuana, is that the same thing
12 as metabolizing it the same time?

13 A The marijuana metabolizes at different, different
14 rates, different depending on different people's metabolism
15 and how often they use the drug.

16 But, at the same time, it has that same quick-acting
17 half life. Mari -- the parent pixy is metabolized fairly
18 quickly and you reach your peak levels during your, during
19 the smoking of the marijuana. And then the hydroxy T. H.
20 C., actually it reaches its peak levels nine to 23 minutes
21 after the last time you have smoked marijuana.

22 So therefore you see less than one nanogram per mil or
23 less than one microgram per liter in average people.
24 Studies have shown that you see less than one at three
25 hours.

Brandon Landrum
Direct examination by Mr. Barnette

1 Q So these results would probably be higher at
2 1:00 o'clock than they were at 2:30.

3 A Yes, sir.

4 Q And obviously these affect your ability to drive a
5 vehicle.

6 A Yes, sir. Mari, mari -- well, ethanol is a central
7 nervous system depressant. So basically what it's going,
8 it's going to have impairment effects as far as your
9 reaction time. You're going to have decreased reaction
10 time. Your information process is going to be decreased.

11 Driving a car is a multitasking job. You're trying to
12 keep the car in between the two lines, watching your
13 side-view mirrors and your rear-view mirror, trying to keep
14 an equal distance between cars in front of you, trying to
15 keep your car at a constant speed, amongst other things.

16 So when you add all of that in with the central
17 nervous system depressant it's going to cause everything to
18 be slowed down and take longer for you to perceive a,
19 perceive a threat or perceive a, someone jumping out in
20 front of the road and then you having to react and avoid
21 that.

22 At higher levels of ethanol you'll also see swerving.
23 Marijuana has some of the same effects. You see
24 drowsiness, sedation. You're going to have the information
25 processing, and it's going to take longer for you to see

Brandon Landrum
Cross-examination by Mr. Schultz

1 something and to react to that. It's going to take you
2 longer for that with the marijuana also.

3 Q Thank you.

4 MR. BARNETTE: One moment, Your Honor, please.

5 Q Please answer any questions Mr. Schultz may have for
6 you, sir. Thank you.

7 CROSS-EXAMINATION

8 BY MR. SCHULTZ

9 Q Looking at the toxicology report here, let's start
10 with the blood here.

11 Now, you tested the ethanol in the blood using a
12 headspace gas chromatography. Could you explain a little
13 bit how that works?

14 A Yes. The headspace gas chromatography, that's the
15 gold standard in the forensic field as far as testing
16 ethanol or alcoholic, not just ethanol but other alcohols.

17 Basically, you take the sample. You take a 200
18 microliter sample. You place it into a vial. You put your
19 internal standard into that vial. You seal it. And then
20 it goes. It's then set onto the instrument, and the
21 instrument then heats up the vial.

22 And it uses the Henry's law, which basically states
23 that you're going to have an equal amount of, of a
24 substance in the headspace or the air space of a sealed
25 vial that you do in the actual liquid. So what Henry's law

Brandon Landrum
Cross-examination by Mr. Schultz

1 uses is once you heat up that liquid, then it's going to
2 have the equal amount of that substance or the particles in
3 that headspace.

4 The GC/mass spec then takes and injects a needle
5 through that sealed septum and takes an air sample of that.
6 And it puts it onto the column. The column separates
7 whatever might be in the air space based off of polarities
8 and different laws of chemistry and physics.

9 It then comes off onto the other end and it gives you
10 a reading of -- basically it separates ethanol -- ethanol,
11 the drugs that -- the alcohols we look for are ethanol,
12 isopropanol, methanol and acetone. And so it separates
13 each one of those alcohols.

14 They have a certain retention time because of the way
15 they react with the column causes them to separate on the
16 column. And then they come off the instrument at certain
17 specified times.

18 And then once each anolyte comes off the detec --
19 comes off the instrument it hits a detector which then
20 gives a reading in relationship to the internal standards.
21 And that's where we get our results from.

22 Q All right. So that's a very accurate cycle of the
23 test that you run.

24 A Yes, sir.

25 Q Okay. And, in fact, it's more accurate than maybe a

Brandon Landrum
Cross-examination by Mr. Schultz

1 urine test would be.

2 A A urine test is basically -- urine basically gives us
3 a history.

4 Q Well, no. I mean, if could you answer my question.
5 Is it more accurate than a urine test -- testing ethanol?

6 A It's going to be, it's going to be just as accurate as
7 the -- because we use the same instrument for the urine
8 that we do for the blood. They both use -- we use the same
9 instrumentation so you're going to have the same accuracy.

10 The only difference is, is that with the urine, the
11 urine gives you a history. The result for urine doesn't
12 really give you an impairing level. It just tells you
13 depending on when that person -- depending on how often
14 that person urinates and the last time they urinated, you
15 can have varying degrees, and how much they had to drink as
16 far as water or alcoholic beverages.

17 The urine just gives you a history of what that person
18 had at a spec -- at a time, time window.

19 Q All right. And Mr. Teamer -- the results of the
20 ethanol analysis for the blood using the gas chromatography
21 revealed that his result was .022, correct?

22 A Yes, sir.

23 Q All right. Now, the legal limit in South Carolina for
24 D. U. I. is .08, correct?

25 A Correct.

Brandon Landrum
Cross-examination by Mr. Schultz

- 1 Q Okay. And .02 is below .08.
- 2 A Correct.
- 3 Q All right. Now, I'm looking over at the first line
- 4 there, the threshold part. Could you explain what .01
- 5 means?
- 6 A That's basically our cutoff. Anything that reads --
- 7 Q If you would just come down.
- 8 THE COURT: Please be mindful of the microphone there.
- 9 THE WITNESS: I'm sorry.
- 10 A But basically the .01, anything that reads below a
- 11 .01.
- 12 Q Actually that's the -- I need for you to look at the
- 13 first page.
- 14 A The threshold would be the same for both the urine and
- 15 the blood.
- 16 Q All right.
- 17 A But basically that's our cutoff. Anything that reads,
- 18 say something reads a .009 or .00 --
- 19 Q I don't want to cut you off. I'm sorry.
- 20 A Okay.
- 21 Q What you are looking at there so --
- 22 A The threshold, the 0.001.
- 23 Q Okay. That's fine.
- 24 A Yes. So basically anything that reads a .008, a .009
- 25 we consider negative. And we don't even report it. We

Brandon Landrum
Cross-examination by Mr. Schultz

1 call it negative and send it out the door. That's what the
2 threshold means.

3 Q Okay. So, so .001 is a threshold. If Mr. Teamer's
4 blood registered below that, you would say that he was
5 negative for ethanol.

6 A We would call it negative, yes.

7 Q Negative. Okay. Correct. So the result there, the
8 actual result, that says .02, correct?

9 A Yes, sir.

10 Q So what you're saying in your testimony is that he
11 tested just above the threshold level, correct?

12 A Yes, sir.

13 Q All right. And it's below the, what the D. U. I.
14 statute says, which is .08, correct?

15 MR. BARNETTE: Your Honor, I'm going to object at this
16 point because that's a matter of law I know the Court will
17 address them about.

18 THE COURT: Well, it's really a matter of common
19 sense, I guess. But it's not, it's not an improper
20 question.

21 He can't give any opinions about the law, but he can
22 tell you two is less than eight if that's what you're
23 looking for.

24 MR. BARNETTE: Yes, sir.

25 MR. SCHULTZ: Yes, sir.

Brandon Landrum
Cross-examination by Mr. Schultz

1 Q Now, going back to the enzyme linked immunosorbant
2 assay of, I guess, let's, I'm probably pronouncing that
3 wrong, could you tell me a little bit about that test?

4 A Basically, with the enzo -- enzyme linked
5 immunosorbant assay, it's basically you take a certain
6 amount of the sample. You place it on a well. And it's
7 used it, based off competitive binding. You have a --

8 Q What is a well? I'm sorry to interrupt again.

9 A It's basically the plate that is labeled with -- it's,
10 has a tagged antibody to the -- you have your -- so you
11 have a, your drug that you're looking for, and you have a
12 antibody. And then you have your antigen that, that
13 they're going to be com -- competing with.

14 So you have your -- you place your sample. You go
15 through a period of washes and adding different, adding
16 different reagents and stuff to the, uh, to the well. And
17 so basically what happens is if you have the drug there
18 that's more than the enzyme linked antibody, then it will
19 combine to the antigene that's already present on the well.

20 And then you look for a color, the instrument looks
21 for a color, change or absorbency reading. And basically
22 if you have more, if you have, if you don't have any drug
23 there, then the enzyme-linked antibody will attach to that
24 antigene and it won't cause a color change. So that's how
25 you -- that's basically what that does.

Brandon Landrum
Cross-examination by Mr. Schultz

1 And each, each drug that's, each screen is specific
2 for that drug and its metabolites and those classes of
3 drugs.

4 So basically with cannabinoids we look for the, the
5 carboxy T. H. C., or-and are different types of
6 cannabinoids.

7 So basically if you have in this case T. H. C.,
8 hydroxy or carboxy T. H. C. present, what's going to happen
9 is that's going to attach to the antigene and leave what is
10 already in the well as far as the enzyme-linked antibody.
11 It won't be able to attach to that anti -- attach to that
12 antigene due to the drug that's in that person's sample
13 attaching to it.

14 So therefore you -- it's going to -- with the enzyme
15 linked immunosorbant assay basically it gives off a
16 florescence, or it causes a color change. And then the
17 instrument has certain wave lengths that are set up due to
18 the color spectrum. And that's how -- or the light
19 spectrum. And that's how it, it knows if something screens
20 positive or not. And then that's why we also go and do one
21 more step further and we do a confirmation with the gas
22 chromatography/mass spectormetry.

23 Q And that's on the second page, correct?

24 A I believe so, yes, sir.

25 Q All right. Now, let me refer you to the line there

Brandon Landrum
Cross-examination by Mr. Schultz

1 with the cannabinoids. Okay. The result's positive.

2 A Yes, sir.

3 Q And the threshold is .03.

4 A Yes, sir.

5 Q Okay. Could you explain to me what the, what that
6 threshold means in that context?

7 A Basically, the thresholds that you'll see on all of
8 these is just like these, just like with the ethanol.

9 If the result comes out as a .029, .025, .01, point,
10 yes, .01, then we consider that screen negative and we
11 don't go any further with looking trying to confirm
12 anything because it's, we consider that negative.

13 Q All right.

14 A We run controls and different things like that to make
15 sure that these thresholds are actually what is current and
16 what we can actually see down to, if not even further.

17 Q That's fine. What is the actual amount that you had
18 here? It just says positive. That's what I'm trying to
19 understand.

20 A That's we only report positive because for us we don't
21 consider these numbers to be meaningful as far as impairing
22 levels or anything like that. That just gives us an
23 indication of saying it was present, we need to go further
24 one more step and confirm that it was there.

25 Q So you don't consider that meaningful?

Brandon Landrum
Cross-examination by Mr. Schultz

1 A It's mean -- the number that we get lets us know that
2 we need to go further and confirm it.

3 As far as saying if the result was a .06 or a point,
4 or a 1.0, then that tells us, okay, there's something in
5 this sample that we need to go and confirm.

6 As far as saying it screened positive would I -- if
7 that's all I had, if I was not able to confirm the
8 marijuana, if I didn't have the GC/mass spec stuff, I would
9 basically be here saying that it indicates the presence of
10 marijuana, I was not able to confirm whether it was there
11 or not. And that would basically be my testimony.

12 But due to the, me having the GC/mass spec information
13 I can say that this is the level that we have and this is
14 my expert opinion as to the interpretation of this result
15 and would the person be under the influence of this drug at
16 that time.

17 Q Nevertheless, at the same time, Mr. Teamer tested
18 negative for amphetamine, correct?

19 A Yes.

20 Q And Mr. Teamer tested negative for barbiturates,
21 correct?

22 A Yes.

23 Q And Mr. Teamer tested negative for benzodiazepine.

24 A Yes.

25 Q Mr. Teamer tested negative for methamphetamine.

Brandon Landrum
Cross-examination by Mr. Schultz

- 1 A Yes.
- 2 Q And Mr. Teamer tested negative for oxycodone.
- 3 A Yes.
- 4 Q All right. And going back, going up to the second
- 5 page, looking at the F. P. I. A.
- 6 A Yes.
- 7 Q Did Mr. Teamer test negative or positive for cocaine?
- 8 A He tested negative for cocaine.
- 9 Q And for opiates he tested negative, correct?
- 10 A Correct.
- 11 Q Okay. And now this is a more exact result of the, of
- 12 the Gavinoist (sic) test there, the gas chromatography,
- 13 correct?
- 14 A Yes, sir.
- 15 Q That's the next section of this. Okay. Now, let's go
- 16 back to the threshold amount.
- 17 A Okay.
- 18 Q Okay. You said the threshold was .03, correct?
- 19 A That is for that screen of instrument that we use to
- 20 screen. The instrument we use to screen for the different,
- 21 for the cannabinoids in this case, what we consider the
- 22 cutoff limit for that instrument itself is a 0.03.
- 23 What the gas chromatography/mass spec, what we do is
- 24 we set up a calibration curve. And then our cutoff is
- 25 going to be what our lowest calibrator was.

Brandon Landrum
Cross-examination by Mr. Schultz

1 In this instance our lowest calibrator was a one. So
2 anything below a one be would have been negative.

3 Q All right. Let me go back to the first page here.
4 And you tested the cannabinoids positive. And the unit
5 that you used to test this was milligrams per liter,
6 correct?

7 A Correct.

8 Q All right. And the threshold amount was .03, correct?

9 A Correct.

10 Q Okay. I'm looking at the more detailed gas
11 chromatography section here. Did you test the cannabinoids
12 using the same unit of measurement?

13 A We actually used micrograms per liter due to that's
14 what the normal studies have shown through our own testing
15 and things like that. That's what we -- those are our
16 normal. That's what you normally see T. H. C. or
17 marijuana. It's in the micrograms per liter.

18 Q Right.

19 A And any -- go ahead?

20 Q But you did not test the cannabinoids using the same
21 unit that you used in the previous test. So you did two
22 tests with different units of measurement, correct?

23 A Correct.

24 Q All right.

25 A The unit for the drug screen --

Brandon Landrum
Cross-examination by Mr. Schultz

1 Q Okay.

2 MR. BARNETTE: Your Honor, I'm going to object. He
3 keeps interrupting him when he's answering a question.

4 THE COURT: Let him finish his answer.

5 MR. SCHULTZ: All right.

6 A The units for the drug screens, it's milligrams per
7 liter. Milligrams per liter, it's a larger unit than
8 micrograms per liter.

9 So basically we do our drug screens on a higher scale.
10 If they screen positive, then there's a fair amount there
11 or there's milligrams per liter, it's a, it's a thousand
12 more. It takes a thousand micro, micrograms to equal one
13 milligram. So we use micrograms per liter when we do our
14 confirmation for marijuana.

15 Q So you're using micrograms per liter. And then the
16 other three things under there, these, what are these?

17 A The hydroxy and the carboxy tetrahydrocannabinol, both
18 of those are micrograms per liter. So the diphenhydramine,
19 it's in milligrams per liter. That's just because the
20 different, different drugs have the different amounts that
21 you see as far as therapeutic levels and things like that.

22 Some drugs you see therapeutic levels are in the
23 milligrams per liter. Some drugs you see, what you see as
24 far as the units that are used are going to be micrograms
25 per liter or either it might be even nanograms per liter

Brandon Landrum
Cross-examination by Mr. Schultz

1 depending on that type of drug because of the different --
2 you can have, for instance you can have, cocaine in
3 milligrams per liter. You have one milligram per liter of
4 cocaine and it can kill you. You can have one milligram
5 per liter of diphenhydramine and it probably won't kill
6 you. So different drugs at different concentrations have
7 different, have different effects on you.

8 And with the marijuana we use micrograms per liter
9 because we know those, that, that, that, those units
10 identify impairment levels. And we can actually see down
11 to those limits with these othrogas -- gas
12 chromatography/mass spectrometry, which is why we use it,
13 because it's more sensitive and more accurate than our drug
14 screens, which is why we confirm everything on the gas
15 chromo, chromatography/mass specs instead of just going by
16 the drug screens, because the gas chromoto -- gas
17 chromatography/mass specs are more accurate, more precise
18 and are able to, are more sensitive than the drug screens
19 are.

20 Q Now, isn't it true that there are many factors, going
21 back to the cannabinoids, that would allow those, that
22 cannabinoid, those cannabinoids, to stay in a system,
23 correct?

24 A As far as you have to --

25 Q Factors that I, I would be referring to would be age,

Brandon Landrum
Cross-examination by Mr. Schultz

1 weight, height of somebody, correct?

2 A Actually, once again, studies have shown that
3 within -- there's some, you know, if you have an older
4 person whose metabolism is slow, then they might not
5 metabolize the marijuana as quickly as a young person who
6 would metabolize the drug quicker than the older person, if
7 that's what you're asking.

8 Q All right. If a person had byanethanol cannabinoids
9 would that affect the metabolism rate?

10 A No, it would not.

11 Q Okay. Now, do you know how long cannabinoids can stay
12 in somebody's blood, or do you know how long cannabinoids
13 can stay in somebody's blood?

14 A Like I stated earlier, studies have shown that at
15 three hours you see less than one nanogram per mil or less
16 than one microgram per liter after three hours of the
17 parent pixy and the hydroxy T. H. C.

18 Q So but isn't it true that it can stay for as long as a
19 month in the blood?

20 A You are looking at -- no, sir. You're looking at the
21 carboxy or the metabolite, and that's because it's stored
22 in the fat tissues. And that would only -- our screens are
23 set.

24 The federal guidelines for drug screens for
25 cannabinoids for drug -- for employee screens is that you

Brandon Landrum
Cross-examination by Mr. Schultz

1 get random drug screenings at your, at your job or things,
2 are set up 50. We set ours twice as high because we're not
3 concerned too much about history. We're looking more
4 towards impairment. So we set our levels twice as high as
5 the federal guidelines. So they set theirs at 50 and we
6 set ours at a hundred as far as our cutoffs.

7 Q All right. But what about urine? Can cannabinoids
8 stay in the urine for a significant amount of time?

9 A You can see urine. You see cannabinoids in the urine.
10 It depends on how, if the person's a chronic smoker, they
11 smoke. And to me a chronic smoker is someone who smokes
12 every day. If they smoke every day, then it's possible for
13 you to see it up to 30 days out.

14 If they're an infrequent user, if they use, this is
15 their first time smoking or if they smoke once every two or
16 three months, then you might not see it past 12 hours, 24
17 hours.

18 Q Okay. So you never did any studies and you never did
19 tests on Mr. Teamer to see if he was a chronic smoker or
20 infrequent smoker, correct?

21 A Correct. I did not do anything. You know, once
22 again, if he was a chronic smoker then, you know, well, I'm
23 not going to get into that. But basically if you have a
24 chronic smoker, what I consider a chronic smoker is someone
25 who smokes every day.

Brandon Landrum
Cross-examination by Mr. Schultz

1 If you're an infrequent smoker, if you're a novice
2 smoker, than that's going to be very rare. And if that's
3 the case, then we would not see these levels if you're an
4 infrequent or a first-time user at I believe an hour and a
5 half after the accident.

6 Q Now, you said in your, according to your testimony you
7 said, that the ethanol was taken, this blood draw was
8 taken, approximately an hour and 30 minutes after.

9 A I believe that's what was referred to me was that the
10 accident happened at 1:00 and the blood was drawn at 2:30.
11 And that's roughly an hour and a half.

12 Q And according to your testimony, which I believe is
13 called retrograde extrapolation -- have you heard of this?

14 A Yes, sir.

15 Q Could you retrograde extrapolation?

16 A Basically retrograde extrapolation takes in several
17 factors in account.

18 If the person is on an empty stomach, you have to
19 assume the person's on an empty stomach. You have to
20 assume that the person's in the elimination phase. And
21 roughly a person goes to elimination phase half an hour to
22 an hour after their last drink. That's where the zero
23 point -- 0.015 percent per hour comes, it comes from.
24 That's the average.

25 Studies have shown anywhere from a 0.12 all the way up

Brandon Landrum
Cross-examination by Mr. Schultz

1 to a 0.21 as, as the range. But on average a 0.015 is what
2 you actually eliminate per hour assuming that you, you have
3 an empty stomach, you haven't had anything to drink within
4 30 minutes to an hour after that last drink and that you're
5 not consuming past that.

6 Q So you have to assume that that person is on an empty
7 stomach, correct?

8 A That is one of the factors, yes.

9 Q One of the many assumptions, correct?

10 A Correct.

11 MR. SCHULTZ: Beg the Court's patience.

12 (Pause.)

13 Q With -- a couple of questions. With retrograde
14 extrapolation do you need to determine the age of the
15 person?

16 A No. Age is not a factor.

17 Q Age does not matter. Weight does?

18 A Weight only matters as far as how much they would have
19 had to consume. You take an average 150-pound person,
20 150-pound male, for them to reach a 0.025 they'd have to
21 have one 12-ounce domestic beer at that one hour. And they
22 have drink it in one hour. And then every hour from there
23 they'd have to drink one beer to continue to have that
24 0.025.

25 If you have a 200-pound person, a 250-pound, pound,

Brandon Landrum
Redirect examination by Mr. Barnette

1 person, then they can drink more to reach that level.

2 That's where the weight factor comes in as to how much you
3 have to take or have to drink to reach that level. It
4 doesn't really coincide with the elimination.

5 Q Now, my point in all of this is that different people
6 metabolize at different rates, correct?

7 A Correct, that's correct.

8 Q Okay.

9 MR. SCHULTZ: That's all I have.

10 MR. BARNETTE: May it please the Court Your Honor.

11 THE COURT: Yes, sir.

12 REDIRECT EXAMINATION

13 BY MR. BARNETTE

14 Q A younger person would metabolize faster than an older
15 person wouldn't they, sir?

16 A Yes, sir.

17 Q And looking at Mr. Teamer, he would metabolize faster
18 than somebody my age or older than me, right?

19 A Yes.

20 Q And if I understood your testimony correctly, the
21 parently, it was actually marijuana, the active ingredient.

22 A Yes, sir.

23 Q After, it's gone within three hours and wouldn't be
24 registered on your machine.

25 A That's correct. Yes, sir.

Brandon Landrum

Redirect examination by Mr. Barnette

1 Q So this was still there an hour and a half after the
2 wreck.

3 A Yes, sir.

4 Q So he had smoked pretty recent then.

5 A I would say as fairly recent. These numbers indicate
6 a fairly recent use of marijuana.

7 Q Plus these numbers here, don't that show that there's
8 quite a bit of marijuana T. H. C. still in his system?

9 A Yes, sir, it does.

10 Q And would that affect -- no question affect or you
11 feel that it appreciably affects his ability to drive?

12 A Yes. It would.

13 Q And then you add the alcohol to that.

14 A And then you're going to have an increase in your
15 ability to do those multitasking functions and being able
16 to drive.

17 Q And plus alcohol level would be higher too.

18 A As far as with the -- yes, it would have been due to
19 it being an hour after a half later.

20 Q Okay. But you've already been in the elimination
21 phase on that.

22 A Yes.

23 Q Thank you, sir.

24 MR. SCHULTZ: Just a couple of more questions, Your
25 Honor.

Brandon Landrum
Recross-examination by Mr. Schultz

1 CROSS-EXAMINATION

2 BY MR. SCHULTZ

3 Q What I'm asking you to say is that one side does not
4 fit all when it comes to toxicology, correct? People
5 metabolize. Different people metabolize at different
6 rates.

7 A Different people metabolize at different rates. But,
8 at the same time, when I talk about the average it's not an
9 average of five people. It's an average of thousands of
10 people that they do data and that they do testing on, that
11 they've done testing on for years and years. And that's
12 the average.

13 Like I said, you have your chronic drinkers or your
14 people that drink more readily that are your heavy
15 drinkers, then they, they might metabolize a little bit
16 faster than someone who is brand new at the game or first,
17 first drinks. And that's just one of the things that come
18 into, come into play. But at the time of the test this
19 person would have been under the influence.

20 Q But you weren't sure that he was a heavy drinker or a
21 heavy smoker or light drinker or heavy.

22 A No. I wouldn't.

23 Q Okay. So what I'm saying is you did not look at Mr.
24 Teamer's records to see what his relevant statistics were,
25 correct?

Brandon Landrum
Recross-examination by Mr. Schultz

1 A No. For him individually I did not do any studies.
2 Once again, in the scientific community we -- if we -- if
3 the state had the money to do individual testing, then I'm
4 sure they would. But we don't have the money to do
5 individual testing of each person.

6 Q But you didn't do this, correct?

7 A No, we didn't.

8 Q Thank you.

9 MR. SCHULTZ: That's all I have.

10 MR. BARNETTE: No further questions.

11 THE COURT: You may step down.

12 Let me see y'all just a minute.

13 (Bench conference held off the record.)

14 THE COURT: All right. Ladies and gentlemen, we're
15 going to take a short break. So please go to your jury
16 room.

17 Do not discuss the case. I'll bring you back in just
18 a few minutes.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: Court's in recess for 15 minutes.

22 (Whereupon, a recess was taken.)

23 MR. BARNETTE: Your Honor, there is one matter of law
24 I would like to put on the record.

25 MR. SCHULTZ: Your Honor, I just have one thing before

1 we get into it.

2 THE COURT: Let's wait for the defendant.

3 MR. SCHULTZ: That's fine.

4 THE COURT: Is he on his way?

5 MR. SCHULTZ: I will find out.

6 (Pause for the defendant to be brought into the
7 courtroom.)

8 THE COURT: All right. What matters do we have to
9 address?

10 MR. SCHULTZ: Your Honor, just briefly.

11 The victim is going to testify, I assume, in the
12 felony D. U. I. And I want to put this on the record.

13 I would like to introduce some evidence of the
14 victim's alcohol intoxication that night. I want to get
15 into that a little bit in my cross. So I'd like a ruling
16 on that.

17 It's highly relevant to what caused the wreck in the
18 first place, and especially when I believe that the direct
19 testimony of Officer Evett will reveal that he did not see
20 the wreck happen and his testimony will be inconclusive as
21 to what actually caused the wreck. Thank you.

22 MR. BARNETTE: Your Honor, I believe we discussed this
23 back in chambers.

24 The victim was charged with D. U. I. and was found not
25 guilty on that charge. And we had -- I think we had a

1 motion in limine prior to that, Your Honor. We would ask
2 for a motion in limine. Obviously, I don't think that's
3 relevant, and in this situation obviously he was found not
4 guilty of it. So therefore I don't think there's any
5 reason to be asking any questions concerning that.

6 THE COURT: Well, Mr. Schultz, are you just wanting to
7 examine the witness on whether or not he had been drinking
8 that night?

9 MR. SCHULTZ: That's correct, Your Honor. I just
10 wanted to get a couple of questions of that nature asked
11 and answered by him.

12 THE COURT: Well, what would be the relevance of that,
13 relevance of that?

14 MR. SCHULTZ: As to whether or not he had too much
15 maybe he --

16 THE COURT: Well, now, he's found not guilty of
17 driving under the influence.

18 MR. SCHULTZ: All right. I understand that, Your
19 Honor.

20 THE COURT: So what would it be relevant to?

21 MR. SCHULTZ: I think it would be relevant. I believe
22 to -- I know what the Court's saying when it comes to the
23 finding of not guilty. I realize that, that he was driving
24 under the influence. But, at the same time, I believe that
25 it would be relevant to maybe what caused the accident.

1 THE COURT: Well, tell me in what way.

2 MR. SCHULTZ: Well, if he -- like the toxicologist's
3 report, if he was found not guilty, maybe he was below the
4 legal limit and maybe it affected him in a different way,
5 you know, than another person. I think that maybe that's
6 relevant.

7 THE COURT: But what I'm saying, is there some other
8 evidence you have that Mr. Young violated some law or
9 neglected some duty that was imposed upon him, violated
10 some statute, some traffic regulation or anything else that
11 would have contributed to the accident?

12 MR. SCHULTZ: I don't have anything of that. In fact,
13 I believe Mr. Evett did not give a statement in this. So I
14 don't have anything like that.

15 The only thing I do have and this had a --

16 THE COURT: Well, I guess what I'm asking is do you
17 have any evidence you want to introduce other than just
18 speculative evidence or evidence from which someone could
19 speculate that Mr. Young was in any way at fault in causing
20 the accident.

21 MR. SCHULTZ: The only evidence that I will produce,
22 and this is really the only thing that I wanted to talk
23 about here, is that they collected his urine blood and did
24 a report, did the same analysis that they did to
25 Mr. Teamer.

1 I would just like to introduce that to him and say do
2 you recognize that and is that your name there and did they
3 test your blood and did they test your urine. That's all I
4 really want to get into, Your Honor.

5 THE COURT: Well, what's the relevance of it? You're
6 just trying to get him to speculate that if he had some
7 amount of alcohol or drugs or whatever it might be that
8 therefore he must have caused the accident?

9 MR. SCHULTZ: Well, that's basically what I'm getting
10 at.

11 THE COURT: Well, so what evidence do you have that he
12 did anything other than consume some substance that
13 contributed to the accident?

14 MR. SCHULTZ: Other than that, I don't. I don't have
15 any evidence.

16 THE COURT: Okay. All right. Well, I sustain the
17 objection to it.

18 MR. BARNETTE: May we approach the bench on another
19 issue, Your Honor?

20 THE COURT: Let me say that the prejudicial value
21 would outweigh any probative value.

22 (Bench conference held off the record.)

23 THE COURT: All right.

24 (The following takes place in the presence of the
25 jury.)

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 THE COURT: Mr. Barnette.

2 MR. BARNETTE: Thank you, Your Honor.

3 I would like to call Officer St. Louis to the stand,
4 please.

5 TIMOTHY ALLEN ST. LOUIS,
6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION BY MR. BARNETTE

8 Q If you would, sir, please state your full name for the
9 record.

10 A Timothy Allen St. Louis, Jr.

11 Q And where do you work at, sir?

12 A Spartanburg County Sheriff's Office.

13 Q And how long have you been there, sir?

14 A A little over a year.

15 Q Prior to that where did you work at, sir?

16 A Spartanburg Public Safety.

17 Q And how long did you work there, sir?

18 A Four and a half years.

19 Q And what was your position with the Department of
20 Public Safety back on February the 3rd of 2006?

21 A Senior patrol officer on the third shift.

22 Q Going back to February the 3rd of 2006, what area was
23 you patrolling that night?

24 A I was patrolling the west side of town that night.

25 Q And did you go on John B. White at some time that, I

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 guess early morning is what we're actually talking about.

2 A Yes, sir. I believe I had just left the city hall and
3 I was going that way.

4 Q Let me show you a map that's been marked State's
5 Exhibit No. 1.

6 MR. BARNETTE: And may I publish this to the jury,
7 Your Honor? I think it's already been put into evidence.

8 Q If you would, just step down, or can you see it from
9 there, sir? And I'll let you use the pointer right there.

10 THE COURT: Let's have him stand up there because the
11 court reporter can't hear him when his back is to her.

12 MR. BARNETTE: Okay. We'll do that.

13 (Whereupon, the witness left the stand.)

14 Q If you would, come around here, sir. I will try to
15 zoom in. If you would, tell the jury. Did you come upon a
16 car on John B. White?

17 A Yes, I did. And the car was behind the Li'L Cricket
18 which is right here across from East Crescent Road.

19 Q And what was unusual about this car?

20 A I was traveling from John B. White towards the
21 Westgate area. I was in the lane closest to the center
22 lane going that direction.

23 The car come out of the Li'L Cricket parking lot.
24 It's a blue Chevy Caprice. It didn't have any lights on
25 it.

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 He pulled out of the parking lot and went across both
2 of these two lanes and the center turning lane out right in
3 front of me.

4 Q And what happened after that, sir?

5 A I followed the car because it had no lights on. I was
6 investigating to see if he was possibly D. U. I.

7 He went down John B. White and turned onto East
8 Crescent still with no -- or turned onto Elliott Street,
9 excuse me, with no lights on and no turn signal.

10 I began running a video right along in this place for
11 a D. U. I. investigation. He went down Overbrook Circle
12 this way. About right there he threw a, what I believe to
13 be a, Ice House beer can out of the window.

14 He made another right turn onto Goldbrook Drive, and I
15 initiated my blue lights along right in here. He never
16 sped up but he never slowed down. He started swerving a
17 little bit, still with no lights on.

18 There's a stop sign right here. He ran the stop sign.
19 And I went on across. When he got to the stop sign here on
20 Crescent he actually turned his lights on and used a turn
21 signal. Along in here I also had my siren on. So I just
22 had my lights and siren on.

23 He turned right onto Crescent Avenue, and due to the
24 chase policy that we had I couldn't pursue any further
25 because I -- he was not going to stop for me.

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 So I turned off all of my lights and sirens and called
2 a BOLO in to the county. And I observed him go to John B.
3 White and turn left right here where it turns into
4 Reidville Road. And that's where I lost sight of him.

5 Q Did you call a BOLO out on that car?

6 A Yes, sir, I did.

7 Q And did you get the license plate, that information,
8 and pass it on?

9 A Yes, sir. The license plate on that car was 849 UPU.

10 Q Okay. Did you find out later it was registered to
11 Osia -- I can't pronounce it right -- Osia Feaster?

12 A Yes, I did.

13 (Whereupon, the witness returned to the stand.)

14 Q And you said you did have a video, is that correct?

15 A That's correct.

16 Q And in that video -- let me let you look at State's
17 Exhibit No. 14. Is this a video of that that you've seen
18 that was from your in-car video?

19 A Yes.

20 Q And does that video fairly represent what you saw that
21 night?

22 A Yes, sir.

23 Q And does it have some sound on it where you can hear
24 certain things?

25 A Yes, sir. You can hear me talking to the video

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 camera.

2 MR. BARNETTE: Your Honor, I'd like to enter State's
3 Exhibit 14 into evidence at this time.

4 MR. SCHULTZ: No objection, Your Honor.

5 THE COURT: It is admitted.

6 (Videotape marked State's Exhibit No. 14.)

7 THE COURT: Let me see y'all just a minute.

8 (Bench conference held off the record in the presence
9 of the jury but out of the hearing of the jury.)

10 MR. BARNETTE: May I publish this to the jury, Your
11 Honor?

12 THE COURT: You may.

13 Q If you would, sir, just step down for a second.

14 (Whereupon, the witness left the stand.)

15 MR. SCHULTZ: Your Honor, permission to approach for
16 the exhibit?

17 (Bench conference held off the record in the presence
18 of the jury but out of the hearing of the jury.)

19 (Whereupon, the video tape was played for the jury.)

20 Q Was that the video that you got from that night, sir?

21 A Yes, sir, it is.

22 Q And when you first saw him -- I think we saw on the
23 video -- there was no lights.

24 A No lights at all.

25 Q And you did turn on your blue lights.

Timothy Allen St. Louis, Jr.
Direct examination by Mr. Barnette

1 A Yes, sir.

2 Q And we saw, I guess, that flashing at times.

3 A Yes, sir. Part of it was on the bumper when he turned
4 the headlights on. Our headlights go back and forth.

5 That's what a lot of the reflection was, on his bumpers
6 coming off.

7 Q And did you turn on the siren?

8 A Yes, sir, I did.

9 Q And when you determined he wasn't going to stop, is
10 that when you called out the BOLO?

11 A Yes, sir. I'd already run the tag. So I called out
12 again. I BOLO'd the tag so I could give it to the county
13 and the highway patrol.

14 THE COURT: Let's put him back on the witness stand.

15 MR. BARNETTE: Yes, sir.

16 (Whereupon, the witness returned to the stand.)

17 Q And you did call the BOLO out or call out for other
18 units to look for him.

19 A Yes, sir.

20 Q And why did you do that, sir?

21 A Well, because other agencies could chase him a little
22 bit more than we could and try and get him stopped. And
23 that's why I wanted him to get off the road.

24 Q And when you turned left on John B. White was he
25 anywhere to be in sight?

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

1 A No, sir. He'd already cleared the next corner, by
2 where the, the road by the airport goes, which is Ammons
3 Road.

4 Q And when you looked in the car, how many people did
5 you see in the car?

6 A I saw one other person.

7 Q Did you see any other passengers or anybody sitting
8 up?

9 A No, sir.

10 Q And this was in the city of Spartanburg and the county
11 of Spartanburg, right?

12 A This was. Every, every bit of my video was in the
13 city of Spartanburg.

14 MR. BARNETTE: One moment, Your Honor, please.

15 Q Please answer any questions Mr. Schultz may have for
16 you, sir.

17 CROSS-EXAMINATION

18 BY MR. BARNETTE

19 Q Officer St. Louis --

20 A Yes, sir.

21 Q -- now, according to your police report you were
22 conducting a routine traffic patrol on February the 2nd or
23 the 3rd?

24 A It was the 3rd. It was already after midnight.

25 Q It was already after midnight. Okay. And you were on

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

1 John B. White Boulevard around 1:00 o'clock that morning?

2 A Yes, sir.

3 Q And according to the report you saw a car pull out of
4 the Li'L Cricket Convenience Store, correct?

5 A Yes, sir.

6 Q All right. This car had no headlights on it.

7 A No, sir. It had no headlights or taillights.

8 Q Did you turn your blue lights at this point?

9 A No, sir. I was going to see if he was going to turn
10 them back on.

11 Q So you did not turn on blue lights at that point.

12 A No, sir.

13 Q But you did run the tag.

14 A Yes, sir.

15 MR. SCHULTZ: And could we bring up the map there?

16 Q Could you show me where you were when you first ran
17 the tag?

18 (Whereupon, the witness left the stand.)

19 Q Do you want to use the laser pointer?

20 A Yes, sir. We were almost fixing to turn onto Elliott
21 Street when I gave the tag to Spartanburg, and it took them
22 a minute to give me the information back.

23 Q Okay. Now, according to your report you said that the
24 driver swerved all over the road.

25 A Yes, sir.

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

- 1 Q Okay.
- 2 A Once we turned onto Elliott Street.
- 3 Q Once the driver started to turn all over the road he
- 4 started to swerve on Elliott Street, you said.
- 5 A Yes, sir.
- 6 Q Okay. Could you point that out on the map?
- 7 A Yes, sir. That's the street I just pointed to.
- 8 Q All right.
- 9 A That's Elliott Street right here.
- 10 Q Okay. And Elliott Street leads to where?
- 11 A Leads to Overbrook Circle.
- 12 Q Okay. One of those addresses at Overbrook Circle is
- 13 [REDACTED] correct?
- 14 A I believe so. I couldn't --
- 15 Q Okay. And, as you say, he proceeded through Amherst
- 16 Street?
- 17 A He actually went back onto -- that's Overbrook Drive
- 18 that's circled around. Amherst runs right across here.
- 19 That's the road he ran the stop sign at.
- 20 Q Okay. So he was in the, quote, he was in the close
- 21 proximity to [REDACTED] Circle, correct?
- 22 A I'm not, I couldn't testify to that. I'm not sure
- 23 where [REDACTED] Circle falls at on the circle.
- 24 Q But he was on Overbrook Circle, correct?
- 25 A Yes. To that street.

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

1 Q And at this point you stopped.

2 A Yes. Well, once we got to Crescent Avenue.

3 Q You said in your incident report, and according to
4 your testimony, he threw beer cans out of the car.

5 A I saw one beer can come out of the car on Overbrook
6 Circle.

7 Q Okay. Now, when you ran the tag back who did it come
8 to?

9 A It came back to Osia Feaster.

10 Q Okay. Now, this was nighttime, correct?

11 A Yes, sir.

12 Q Okay. Now, did you get a good look at the person in
13 the car?

14 A I got a good look at him from behind. I couldn't see
15 any facial features.

16 Q In fact, on your incident report you say the only
17 identified features of the driver were black male with
18 short haircut.

19 A Yes, sir.

20 Q Correct?

21 A Yes, sir.

22 Q Okay. So you could not make a determination that that
23 was anybody at that time, correct?

24 A No, sir.

25 Q Okay. Now, the beer can that was supposedly thrown

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

1 out the driver's-side window, did you believe that whoever
2 was driving that car did that?

3 A Yes, sir.

4 Q Okay. Did you collect the beer can?

5 A I did.

6 Q Okay. Where is that?

7 A It was placed into evidence at Spartanburg Public
8 Safety.

9 Q All right. What happened to it after that?

10 A I'm not sure. I believe they said they were discarded
11 when I left the city to go work for the county since all of
12 my cases were closed.

13 Q It was discarded?

14 A Yes, sir.

15 Q Meaning destroyed?

16 A Yes, sir.

17 Q This is an officer disposition here I want to show
18 you, Officer St. Louis.

19 A Okay.

20 Q Okay. Could you read that to yourself?

21 A Yes.

22 Q Okay. Are you familiar with this?

23 A I'm familiar with the form but that's -- I never saw
24 that form.

25 Q You never saw the form.

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

- 1 A No, sir.
- 2 Q Okay. But yet you were the Officer St. Louis,
3 correct?
- 4 A Yes, sir.
- 5 Q Okay. But to your information the beer can was
6 destroyed, correct?
- 7 A Yes, sir.
- 8 Q To your information was the beer can ever tested for
9 any kind of fingerprints or anything?
- 10 A Not to my knowledge.
- 11 Q But you did collect it, right?
- 12 A Yes.
- 13 Q And put it into evidence.
- 14 A Yes, sir.
- 15 Q Now, whoever was in that car used his turn signal,
16 correct?
- 17 A Once we got to Crescent Avenue.
- 18 Q Okay. Did you have your blue lights on at this point?
- 19 A I did have my blue lights on at that point.
- 20 Q You did have your blue lights on --
- 21 A Yeah.
- 22 Q -- at this point when he turned on his turn signal.
- 23 A Yes.
- 24 Q Okay. All right. And you didn't notice any other
25 people in the car, correct?

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

- 1 A No, sir.
- 2 Q Okay. All right. And you according to your testimony
- 3 you said -- you said that the driver never sped up or never
- 4 slowed down when he was on Overbrook Circle, is that true?
- 5 A Yes.
- 6 Q Okay. One more question. Was the tag light on that
- 7 night in that car?
- 8 A I can't, I can't recall. I believe it was though.
- 9 Q Okay. You believe it was but you can't recall?
- 10 A I believe it was, but I can't a hundred percent
- 11 recall.
- 12 Q Could it have been possible that you ran the wrong
- 13 tag?
- 14 A No, sir, it's not possible.
- 15 Q It's not possible?
- 16 A It's not possible I ran the wrong tag on that car.
- 17 Q Why is that?
- 18 A Because I read it twice on the radio, and that's the
- 19 only tag I ever gave out. And my headlights were
- 20 illuminating in his back bumper which was chrome and
- 21 reflected very well.
- 22 Q So it's not possible that you could have misread the
- 23 tag --
- 24 A No, sir.
- 25 Q -- during the dead of the night. And you weren't sure

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

1 of whether the tag light was on.

2 A No, sir.

3 Q You were not sure, is that correct?

4 A I'm not sure.

5 Q You were not sure that the tag light was on, correct?

6 A Yes. I'm not sure if the tag light was on or not.

7 Q But you're positive that you got the tag right.

8 A Yes, sir, because my headlights were on.

9 Q Your headlights were on.

10 A Yes, sir.

11 MR. SCHULTZ: Beg the Court's patience.

12 (Pause.)

13 Q Officer, when you stopped at the red light and turned
14 onto John B. White Boulevard --

15 A Yes, sir.

16 Q -- you stayed at that light for a couple of seconds,
17 correct --

18 A Yes, sir.

19 Q -- before turning onto John B. White?

20 A Yes, sir, because the light was still red.

21 Q Okay. That distance from Crescent Avenue and the road
22 is not that far, correct?

23 A Approximately 50 or 70 yards.

24 Q Okay. And that's when say the car was out of sight.

25 A Yes, sir. Once I turned I didn't see the car any

Timothy Allen St. Louis, Jr.
Cross-examination by Mr. Schultz

- 1 more.
- 2 Q So that's a short distance for a car to be out of
- 3 sight, correct?
- 4 A Yes, sir.
- 5 Q So you could have mistaken that car for any other car,
- 6 correct?
- 7 A Mistaken?
- 8 Q It could have been possible.
- 9 A There was no other cars on the road except the one at
- 10 the red light.
- 11 Q There was no other cars on the road?
- 12 A No, sir.
- 13 Q Okay. And what was the approximate distance then?
- 14 A Approximate distance from what?
- 15 Q From when you -- from when the car got out of sight.
- 16 A It was approximately 50 or 70 yards.
- 17 Q Were the windows tinted?
- 18 A No, sir.
- 19 Q Okay.
- 20 A I don't believe.
- 21 MR. SCHULTZ: That's all I have, Your Honor.
- 22 MR. BARNETTE: May it please the Court. Just a couple
- 23 on redirect.
- 24
- 25

Timothy Allen St. Louis, Jr.
Redirect examination by Mr. Barnette
Recross-examination by Mr. Schultz

1 REDIRECT EXAMINATION

2 BY MR. BARNETTE

3 Q What time was it when you first saw this vehicle?

4 A I have it at approximately 12:57 a.m.

5 Q And that was at -- when you saw it on the road. And
6 that was on February the 3rd, right?

7 A Yes, sir.

8 Q Early morning hours. And when the car got on Crescent
9 Avenue it sped it, didn't it?

10 A Yes, sir.

11 Q When you was talking about the circle, you were
12 talking about in this area right in here?

13 A Yes, sir.

14 Q And once it got onto Crescent Avenue it obviously sped
15 up then.

16 A Yes, sir, because you could hear the tires squealing
17 when he turned.

18 Q And you said the red light was red down here and
19 that's the reason when you stopped.

20 A Yes, sir.

21 Q But obviously he kept going.

22 A Yes, sir.

23 Q Thank you, sir.

24

25

Timothy Allen St. Louis, Jr.
Recross-examination by Mr. Schultz

1 RECROSS-EXAMINATION

2 BY MR. SCHULTZ

3 Q Just one question further. Officer, this is a map of
4 Spartanburg.

5 A Yes, sir.

6 Q Okay. I just have one question, so I'm not going to
7 make you stand up here. Where did you lose sight of the
8 vehicle? Point to it.

9 A Ammons Road is right in here. I lost sight of him at
10 this intersection right as he passed Ammons Road.

11 Q Okay. And where is Mount Zion Road? Be careful with
12 the microphone.

13 THE COURT: Be careful of the microphone, please.

14 A I believe it's going to be off the map.

15 Q It would be off the map around here?

16 A Yes, sir, in this section up here.

17 Q Okay. And just one further question. When did you
18 stop the pursuit? What time?

19 A I have at 01:09 a.m.

20 Q 1:09 a.m.

21 A Yes, sir.

22 Q Thank you.

23 MR. BARNETTE: One question just with respect, Your
24 Honor, if I can.

25

Timothy Allen St. Louis, Jr.
Redirect examination by Mr. Barnette
Recross-examination by Mr. Schultz

1 REDIRECT EXAMINATION

2 BY MR. BARNETTE

3 Q Showing you State's 1-A. I'll help the jury out a
4 little bit. Is this where you first saw the vehicle,
5 approximately in that area? You may want to step down.

6 (Whereupon, the witness left the stand.)

7 Q In this area is where you saw a -- along in this area
8 is where you first saw the vehicle, is that correct?

9 A Yes, sir.

10 Q And Mount Zion Road is all the way up here, isn't it?

11 A Yes, sir.

12 Q And obviously Overbrook Circle is down here where you
13 first saw or close to where you first saw him.

14 A Yes, sir.

15 Q Thank you sir.

16 (Whereupon, the witness returned to the stand.)

17 MR. SCHULTZ: Just one more question, Your Honor.

18 RECROSS-EXAMINATION

19 BY MR. SCHULTZ

20 Q To your calculations how long would it take from -- to
21 get to where you stopped, where you stopped the pursuit to
22 Mount Zion Road?

23 A I couldn't give you an accurate estimation. I'm not,
24 I don't normally patrol that area.

25 Q Okay. But you're saying you reported it and

David Michael Evett
Direct examination by Mr. Barnette

1 approximately ten minutes later you were notified.

2 A Yes, sir, by radio.

3 Q Okay.

4 MR. SCHULTZ: That's all I have, Your Honor.

5 MR. BARNETTE: We would ask this witness be excused,
6 Your Honor.

7 THE COURT: You may step down.

8 (Whereupon, the witness was excused.)

9 MR. BARNETTE: I would like to call Deputy Evett next,
10 Your Honor.

11 DAVID MICHAEL EVETT, having
12 been first duly sworn, testified as follows:

13 DIRECT EXAMINATION BY MR. BARNETTE

14 Q It you would, sir, state your full name for the
15 record, please.

16 A David Michael Evett.

17 Q And where do you work at, sir?

18 A Spartanburg County Sheriff's Office, sir.

19 Q And how long have you been there, sir?

20 A Three years now.

21 Q And are you a member of the patrol, or are you on
22 patrol with the sheriff's department?

23 A Yes, sir, uniform patrol.

24 Q Back on February, the early morning hours of
25 February the 3rd of 2006, was you on patrol that, that

David Michael Evett
Direct examination by Mr. Barnette

1 morning?

2 A Yes, sir, I was.

3 Q And did y'all receive a BOLO concerning a vehicle that
4 was leaving the city?

5 A Yes, we did from Spartanburg communications, yes, sir.

6 Q If you would, tell the jury about that BOLO you
7 received and what happened.

8 A We received a BOLO on the county's side about a
9 dark-colored box style older model Chevrolet and a tag
10 number, with a tag number. I don't recall the tag number
11 right off the top of my head. However --

12 Q If you need to refresh your memory with your notes,
13 you can.

14 A Okay. With a tag number of, I have it here, 849
15 uniform poppy uniform, 849 UPU -- leaving the city failing
16 to stop for a city officer.

17 Q And what happened after you got that BOLO?

18 A I was just on patrol, and I was in the general area
19 probably two or three miles away from where the BOLO was
20 initiated from.

21 I was traveling along North Blackstock from Hayne
22 Street towards Warren H. Abernathy, and about the area of
23 Fairforest Elementary School a car matching that
24 description came driving by me. And at that point I turned
25 around on the vehicle and caught up to it at the light at

David Michael Evett
Direct examination by Mr. Barnette

1 North Blackstock and Hayne Street.

2 Q Did you notice anything unusual about the car that
3 drove by you?

4 A He didn't have its lights on, and that was part of the
5 BOLO from the city was not stopping for an officer in the
6 city and didn't have its headlights on. When it passed me
7 it did not have its headlights on.

8 Q And what did you do when that happened, sir?

9 A Well, I turned around on the vehicle and caught up to
10 it. It had stopped for, the vehicle had stopped for, the
11 light at Hayne and North Blackstock.

12 I caught up behind it and was attempting to verify the
13 tag to ensure that it was the one, the vehicle from the
14 city give me the BOLO to it. And his light changed colors
15 and the vehicle turned. And at this point he turned, and
16 turned his lights back on. He turned to the left, went
17 across the railroad tracks, turned to the left and
18 continued along up North Blackstock towards Mount Zion
19 Road.

20 Q And what happened as you was following that vehicle,
21 sir? Did you turn on your blue lights?

22 A At that point I hadn't turned on the blue lights yet.
23 Once we got a confirmation I got up behind the vehicle and
24 was going to initiate a traffic stop, and it took off and
25 turned on, turned off its lights. And it was traveling up

David Michael Evett
Direct examination by Mr. Barnette

1 North Blackstock at a high rate of speed without its lights
2 on, which was incredibly unsafe.

3 Q Did you have your blue lights and siren on at that
4 point?

5 A Not at that time point, no.

6 Q And what did you do then, sir?

7 A I notified Spartanburg Communications that it was
8 traveling at a high rate of speed. At one point it was up
9 to 70 miles an hour, and that was unsafe.

10 And I backed off back down towards the speed limit.

11 And as soon as I backed off the vehicle slowed down. And I
12 could see it in the distance every time it had its lights
13 off and the vehicle had to stop or the vehicle had to hit
14 the brakes a lot, because it was dark. And I could see the
15 brake lights. And I continued following at a safe distance
16 and a reasonable speed.

17 Q And did you turn your blue lights off at some -- on
18 some period of time trying to stop that vehicle?

19 A I did. When we reached -- when we were at the top of
20 Business 85 as the road goes over Business 85 I briefly
21 lost sight of it, of the vehicle. And not too far past
22 that is where Mount Zion Road cuts off to the left. When I
23 got over the bridge, the overpass, I still didn't have
24 sight of it because the road turns a little bit.

25 I come around the corner and the vehicle was stopped

David Michael Evett
Direct examination by Mr. Barnette

1 with its backup lights on at the intersection where Mount
2 Zion Road comes into North Blackstock. And it turned on
3 to -- back up a little bit. It turned down to the left on
4 Mount Zion.

5 And that's when I got up close to it and initiated,
6 attempted to initiate, a traffic stop. I turned on my blue
7 lights and the vehicle did not stop.

8 Q And did you verify that was the tag number also?

9 A I got a verification from Spartanburg communications
10 during that time.

11 Q And you attempted to make a traffic stop by turning
12 your blue lights on.

13 A I did attempt to make a traffic stop and turned the
14 blue lights on. It wouldn't stop. And just as soon as I
15 hit my siren it turned off, the vehicle turned off its
16 lights, and sped up again.

17 And in that area of the county there's no street
18 lights or anything out there. So I just turned my
19 emergency equipment off and continued to follow at a high
20 rate of speed knowing that from the previous part on the
21 lower end of North Blackstock, every time I got close to
22 the vehicle it would speed up without its lights on. You
23 know, I was afraid he was going to run off the road or have
24 an accident of some sort, you know, going that fast on a
25 relatively curvy road without its lights on and no street

David Michael Evett
Direct examination by Mr. Barnette

1 lamps.

2 Q And in the meantime did you call for backup from other
3 units?

4 A Spartanburg communications had already called the
5 T-units and told them I was -- I didn't know at the time.
6 I was just keeping Spartanburg communications informed of
7 what was going on with me. And there was other people in
8 route to that area.

9 Q And when you say T-units, if you would, tell the jury.

10 A Oh, I'm sorry. Our traffic units were working that
11 night also. They're on a different channel. But they were
12 notified on the other channel.

13 Q And T-unit's traffic, that's what they usually deal
14 work, is those type of individuals.

15 A They do, yes.

16 Q So you maintained pursuing this individual. And you
17 turned on the blue lights trying to make traffic stops.
18 But you was afraid of wrecking or something like that?

19 A Well, every time I -- sir, when I, and ladies and
20 gentlemen, when I got close to the vehicle it would just
21 speed up without its lights on possibly using, you know, my
22 headlights to see where he was going. But whenever I
23 stayed back it was driving slow. It was move -- traveling
24 slower which would have been a safer speed.

25 Q Is there any question that he could see your blue

David Michael Evett
Direct examination by Mr. Barnette

1 lights where you was behind him?

2 A No, there's no question that he could not see my blue
3 lights.

4 Q Could you tell the jury what happened as you followed
5 this individual?

6 A I followed the vehicle up Mount Zion Road. And where
7 Hope Road comes into Mount Zion there's another "V" or a
8 "Y", "V" at the bottom of the "Y".

9 When we come around the corner I couldn't see the
10 vehicle any more. We came around one corner and the road
11 V's off to the right. And when I come around I couldn't
12 see the vehicle any more.

13 So I went to the right and continued on Mount Zion.
14 And really, as chance would have it because I didn't know
15 which way the vehicle had gone, I went around Mount Zion,
16 and I still couldn't see the vehicle. But off in the
17 distance I saw another set of headlights coming towards me.
18 And it was way several hundred yards up the road.

19 The vehicle I was behind, I didn't really know it was
20 there because it wasn't, I didn't see any brake lights.
21 That's kind of what I was following, was the brake lights.
22 And then I saw the headlights coming with the other vehicle
23 coming towards me. I thought maybe I had picked the wrong
24 direction to go. And then I saw a shower of sparks.
25 That's when the two vehicles collided.

David Michael Evett
Direct examination by Mr. Barnette

1 Q What happened after that, sir?

2 A That was probably 200 yards or so, right around,
3 roughly therein in front of me. And I sped up to the first
4 vehicle, was a small pickup truck facing the opposite
5 direction of what it was traveling, the same direction I
6 was traveling.

7 And there was a gentleman in there holding his knee in
8 obvious pain but breathing. And a lot of it, I didn't see
9 a lot of blood. And I immediately sped up to the other
10 vehicle. It didn't take very long. I sped up to the other
11 vehicle that I was behind earlier, the blue box style
12 Caprice.

13 As I pulled up behind that vehicle I observed the
14 driver move from the driver's side to the passenger side
15 and climb out the window. And I was getting out of my car.
16 And the driver moved around behind the car. And I thought
17 he was going to run on me. So I called 10-8, foot, because
18 I was but to. But just as soon as I yelled at him to get
19 down on the ground and put his hands behind his back he got
20 down on the ground.

21 Q And that person that you saw that night, do you see
22 him here in the courtroom today?

23 A Yes, sir.

24 Q Who was that individual?

25 A It's this gentleman over here in the middle.

David Michael Evett
Direct examination by Mr. Barnette

1 Q And can you describe what he's wearing, sir?

2 A What he was wearing?

3 Q No. What he's wearing.

4 A Oh, I'm sorry. In the tan shirt with the black shirt
5 underneath it, the defendant.

6 Q And this occurred in Spartanburg County, is that
7 right?

8 A It did.

9 Q And once you, obviously, you contained him at that
10 time. Where did you put him after you --

11 A I placed handcuffs on him. I placed handcuffs on him
12 and put him in the back of my squad car, locked him in the
13 back of my squad car, and ran down to the other truck to
14 check on the other gentleman. And then shortly thereafter
15 our T-units and everybody else started showing up to assist
16 me.

17 Q And did you spend much time with him other than
18 capturing him at that time or --

19 A No. I didn't spend much time with him other than
20 putting him in the back of the vehicle. And I did
21 transport him for the highway patrol down to the hospital.
22 But other than that I was outside the vehicle while he was
23 in the back seat of the vehicle most of the time.

24 Q And how was he acting?

25 A He was a little -- I don't know a good word for it --

David Michael Evett
Direct examination by Mr. Barnette

1 but a little bit crazy, I guess. It wasn't, I mean he
2 wasn't, calm. He wasn't -- I did ask him, you know, if he
3 was hurt and where he was hurting at. At that point I
4 don't think he realized if he was hurt or where he was
5 hurting at because he was up and walking when he got out of
6 the car and seemed to be okay. And he was complaining a
7 lot.

8 Q Did you think he could be under the influence of drugs
9 or something at that point?

10 A He very well could have. I didn't spend enough time
11 with him at that point to, to really notice or do any kind
12 of check on him. I mean, I had another gentleman in the
13 other truck that was injured.

14 Q And you was worried about that individual also.

15 A Yes, sir.

16 Q And did Trooper Darity come and take over the
17 investigation at that point, I mean, later on at the
18 hospital and so forth?

19 A Yeah. Well, several highway patrol troopers showed up
20 out there to work the accident. And then the other trooper
21 met me at the hospital to take custody of the young man.

22 Q And usually when one, one agency is involved in a
23 chase like that, another agency takes over that
24 investigation to make sure possibly since that all involved
25 in it, but you wouldn't be handling that part of the

David Michael Evett
Direct examination by Mr. Barnette

1 investigation.

2 A Well, the highway patrol handles most of the accidents
3 that, that occur out in the county. They, they were
4 handling the accident out there on Mount Zion Road.

5 Q But you had this individual, Mr. Teamer, was speeding
6 up, up to 70 miles an hour, I believe you said.

7 A Yes, sir.

8 Q What was the speed limits on that area?

9 A Thirty-five to 45 depending on where you're at,
10 nothing over 45 miles an hour.

11 Q And how far did you follow him? Did you ever get a
12 chance to --

13 A I did. From Fairforest Elementary to that area of
14 Mount Zion Road is about 3. -- or 4.3 miles by my car
15 odometer.

16 Q And whose fault was the wreck? Who caused the wreck
17 in this situation based off your observations?

18 A Based off my observations it would be Mr. Teamer's
19 fault for the wreck. He was driving without his headlights
20 on.

21 Q And did he cross the center line and hit the other car
22 head on from what you saw?

23 A I couldn't see if he crossed the center line because I
24 couldn't see his car. I mean, I did see the accident
25 report from the highway patrol. However at that point I

David Michael Evett
Cross-examination by Mr. Schultz

1 couldn't see his car because he wasn't on his brakes.

2 Q So the only car you could see was Mr. Young's car, the
3 headlights that you saw.

4 A Yes, coming down the road.

5 MR. BARNETTE: One moment, Your Honor, please.

6 (Pause.)

7 Q Please answer any questions Mr. Schultz may have for
8 you. Thank you.

9 CROSS-EXAMINATION

10 BY MR. SCHULTZ

11 Q Officer Evett, you said this happened at approximately
12 1:06 a.m.

13 A I believe that's about the time I got behind it,
14 behind the, behind the vehicle.

15 Q Did the accident happen then?

16 A No. The accident would have happened a little later,
17 however long it took us to get 4.3 miles.

18 Q And this was on Mount Zion Hill Road -- Mount Zion
19 Road.

20 A Mount Zion Road, yes, sir.

21 Q Okay. Now, he was -- whoever you were following there
22 at a high rate of speed from, according to your statement,
23 Warren H. Abernathy towards Hayne Street?

24 A Yeah. That's the direction of travel according to my
25 statement. I mean, it was on North Blackstock Road. And I

David Michael Evett
Cross-examination by Mr. Schultz

1 put in there from, you know, the direction of travel was
2 from Warren H. Abernathy towards Hayne Street so you have
3 an idea of the direction.

4 Q And at that time did you identify that as a Chevy
5 Caprice?

6 A When he passed me, no, but after I got behind him.

7 Q When he passed you?

8 A Well, I was traveling from Hayne Street towards North
9 Blackstock. And he was traveling -- or from on North
10 Blackstock from Hayne Street towards Warren H. Abernathy.
11 He was traveling from Warren H. Abernathy towards Hayne
12 Street and passed like this.

13 Q So he passed like that.

14 A Yes. And I turned around.

15 Q And you turned around. And why did you turn around?

16 A He didn't have any headlights on and that vehicle at
17 first glance, no headlights on, an older model box style
18 dark-colored car kind of matched the BOLO.

19 Q And prior to this he was stopped at a stoplight,
20 correct?

21 A When he got to Hayne Street and North Blackstock he
22 stopped at a stoplight, yes, sir.

23 Q Okay. So if this vehicle was involved in some other
24 crime that night he wasn't, he or she wasn't, trying to get
25 away, and if that vehicle stopped at a stoplight, correct?

David Michael Evett
Cross-examination by Mr. Schultz

1 A I'm not sure I understand your question, sir.

2 Q Well.

3 A What I was acting off of was the BOLO that he
4 didn't -- that that vehicle did not stop for a city unit.
5 That's all. That's all, no, as I had, was driving without
6 his headlights and did not stop for a city unit.

7 Q What I'm trying to get across is that the driver,
8 whoever it was, was obeying the rules of the road.

9 A Not by driving with no headlights on, no, sir.

10 Q Well, stopping at a stoplight is obeying the rules of
11 the road, correct?

12 A Yes, sir.

13 Q All right. And then when the light turned green the
14 vehicle turned left, correct?

15 A Crossed the railroad tracks and turned left, yes, sir.

16 Q Okay. So that's another thing. He stopped at a red
17 light. And then when the light went green he turned left,
18 correct?

19 A Yes, sir.

20 Q Okay. So at that point he was obeying the rules of
21 the road --

22 A Yes, he was.

23 Q -- as far as when it comes to directional signals,
24 correct?

25 A I don't recall whether or not he used his directional

David Michael Evett
Cross-examination by Mr. Schultz

1 signal or not. But I know that he crossed the railroad
2 trais and turned left. I don't recall that in detail.

3 Q But as far as obeying a green light and red light.

4 A Yes, sir. He was obeying the green light and he was
5 adhering to the stoplight.

6 Q Thank you. And you were following at a safe distance
7 after this, correct?

8 A Yes.

9 Q Okay. Did you turn on your blue lights at this point?

10 A When I got up behind, when I got up close to him he
11 took off at a high rate of speed.

12 Q Okay. Was the lights on at that point, or off?

13 A No. I don't recall turning my blue lights on, no, at
14 that point.

15 Q Okay. All right. When you said that in your --
16 according to your statement you said that the car turned
17 off its lights.

18 A Yes. Its headlights.

19 Q Okay. Its headlights. But this only happened after
20 the intersection there, correct?

21 A The vehicle had its headlights off when it passed me,
22 when we passed each other on North Blackstock prior to the
23 stoplight. Had the headlights on at the stoplight, and
24 then on North Blackstock again after making left, after
25 obeyed the stoplight, made to the left on North Blackstock.

David Michael Evett
Cross-examination by Mr. Schultz

1 It sped up and turned over its lights again, turned
2 its lights, headlights, back off. So now he's traveling up
3 along North Blackstock from Hayne Street towards Mount Zion
4 at a high read of speed without its headlights on.

5 Q Okay. And, now, according to your statement it was
6 there that you lost sight of the vehicle for the first
7 time, correct?

8 A Yes, sir, about the Business 85 area where it goes up
9 over the hill.

10 Q Okay. And then what you're telling the Court is that,
11 and you're telling the jury is that, you regained sight of
12 it, correct?

13 A I did.

14 Q Okay. How could you be so sure?

15 A Well, I was sitting behind it at a stoplight. And
16 when I caught back up to it at Mount Zion it was the same
17 style of vehicle with the same license plate on the back.

18 Q So now you're at the corner of North Blackstock and
19 Mount Zion, correct?

20 A Yes, sir.

21 Q Okay. And you said at this point in your statement
22 the vehicle stopped in the roadway with the reverse lights
23 on.

24 A Yes, sir.

25 Q Okay. Did you think that was strange?

David Michael Evett
Cross-examination by Mr. Schultz

1 A Yes, sir.

2 Q Okay.

3 A I mean, it was stopped in the middle of the roadway at
4 the "Y" intersection with his reverse lights on. I assume,
5 that he backed up or something, or was going to back up. I
6 don't know.

7 Q But yet that person, whoever was driving, had the
8 presence of mind to obey a traffic signal, to obey the red
9 light and green light and to turn on his or her signal,
10 correct?

11 A Well, when he put the car in reverse the reverse
12 lights automatically come on, sir.

13 Q That was with the car being in reverse.

14 A I don't recall seeing it back up. I just -- when I
15 come around the corner I saw the reverse lights, and the
16 reverse lights went out. And the car moved on down Mount
17 Zion Road, or down.

18 Q And at this point according to your statement the
19 lights are off.

20 A Yes.

21 Q Did you ever in your investigation find out whether
22 the car had any trouble with its lights?

23 A No, sir.

24 Q Okay. So it could be a possibility that the car was
25 having some mechanical failure, correct?

David Michael Evett
Cross-examination by Mr. Schultz

1 A It could be a possibility..

2 Q Okay. And at this point is the vehicle speeding?

3 A At the point where it was stopped at Mount Zion, or
4 after?

5 Q After.

6 A After it turned down Mount Zion?

7 Q Yeah?

8 A When I -- there's really no more street lights out
9 there past Business 85. And when I, after the vehicle went
10 down, began traveling down Mount Zion, I don't recall the
11 speed. But I was traveling at the speed limit and I was
12 able to keep contact with it. So I would be safe to say
13 that it wasn't speeding at that time, no.

14 Q It wasn't speeding at that time. And according to
15 your statement that's when you turned your siren on,
16 correct?

17 A When right after he started traveling down Mount Zion,
18 that's when I turned my blue lights on. I initiated the
19 traffic stop. And as soon as I hit my siren the lights
20 went back up, the lights went back off, and he sped up, but
21 I'm not sure of the speed. I was able to. I was traveling
22 the speed limit. I was able to keep sight of him. He
23 stayed a couple of hundred yards in front of me.

24 Q Okay. During this time on Mount Zion Road did you
25 lose sight of the car?

David Michael Evett
Cross-examination by Mr. Schultz

- 1 A Yes, I did.
- 2 Q Yes, you did.
- 3 A I did.
- 4 Q And this was the second time you lost sight of the
5 car, correct?
- 6 A Yes, sir.
- 7 Q Okay. So, now, there's one time you lost sight of the
8 car, and another time, correct?
- 9 A Yes, sir.
- 10 Q In fact, the vehicle did slow down, correct, that you
11 were chasing?
- 12 A As long as I wasn't close to it, it drove at a slower
13 speed, yes.
- 14 Q So it was driving at a slow speed and staying within
15 the lines, correct?
- 16 A I'm not sure about staying within the lines. I was
17 several hundred yards back. And the only time I could see
18 the vehicle was when he, when the vehicle's brake lights
19 came on because he didn't have any headlights.
- 20 Q So it could have been staying within the lines. You
21 don't, you don't --
- 22 A I don't know.
- 23 Q From what you're seeing before it was obeying the
24 rules of the road, correct?
- 25 A Most of the rules, yes, sir.

David Michael Evett
Cross-examination by Mr. Schultz

- 1 Q Most of the rules of the road?
- 2 A Except for driving without headlights on, yes, sir.
- 3 Q Okay. But that could, as you said before, that could
- 4 have been mechanical failure. A lots of cars have problems
- 5 with headlights, correct?
- 6 A I don't know the statistics on that, sir, about as far
- 7 as lots of cars.
- 8 Q But this was an older model car, correct?
- 9 A It was, yes.
- 10 Q Okay. It was, in fact it was, a, it was a 19 -- 1984
- 11 Chevy Caprice.
- 12 A I could look at the year again, sir.
- 13 Q It was an older model car, correct?
- 14 A It was an older model Caprice, yes, sir.
- 15 Q Okay. All right. So after you lost sight of it again
- 16 there was the distance that you were on the stretches for,
- 17 correct?
- 18 A Yes, sir.
- 19 Q Okay. At any time did you see the car driving
- 20 erratically at all?
- 21 A It would --
- 22 Q According to your statement did you see the car
- 23 driving erratically?
- 24 A Not erratically.
- 25 Q Okay.

David Michael Evett
Cross-examination by Mr. Schultz

1 A Seems like to me he had difficulty, from what I recall
2 he had difficulty, you know, because he was hitting his
3 brake lights a lot. Difficulty probably because if he
4 didn't have any headlights, it's dark out there. So I
5 assume he had to use the brakes a lot to stay on the road.

6 Q Okay. But, nevertheless, you would assume that that
7 would take a lot of concentration and effort to keep your
8 car on the road when your headlights have failed, correct?

9 A That's a fair assumption, yes, sir.

10 Q Okay. And then at this point you continue around the
11 corner of Mount Zion. When you got over the hill you could
12 see the headlights of a vehicle traveling along Mount Zion
13 Road.

14 A Yes, sir.

15 Q Okay. Now, this was not the car that you were
16 traveling, correct?

17 A The headlights of the -- ahead of the vehicle?

18 Q Yes.

19 A It was off at a distance. I didn't know whose car it
20 was. I mean, all I saw was a pair of headlights.

21 Q Right. So you didn't know whose car it was. But,
22 nevertheless, you lost sight of the car for the third time,
23 correct?

24 A Yes, I did, yes, sir.

25 Q Okay. In fact, you say in your statement I could not

David Michael Evett
Cross-examination by Mr. Schultz

1 see the suspect vehicle.

2 A That's correct, sir.

3 Q All right. And at this point you said that you saw a
4 shower of sparks.

5 A Yes, sir.

6 Q Okay. So it is your conclusion, and if you reasonably
7 assess your statement here, that you do not know who caused
8 the car accident, right?

9 A Right. No, I do not know. Alls I know is the, the
10 findings later on. At that point I did not know who caused
11 the car -- the accident.

12 Q Okay. Now, have you arrested people involved in
13 driving under intoxication charges?

14 A Yes, I have, sir.

15 Q Okay. This, this, this car that you followed that
16 night, in your opinion did it fit the profile of someone
17 that was under the influence?

18 A Driving your vehicle without headlights and at a high
19 rate of speed could be a factor.

20 Q Could be a factor?

21 A But there's, there's many, there's many factors. That
22 varies from individual -- individual to individual.

23 Q All right. But at the same time you agree that if
24 your headlights have failed and you're driving along a long
25 twisty road, which Mount Zion Hill is -- Mount Zion Road

David Michael Evett
Cross-examination by Mr. Schultz

1 is -- that would take a fair amount of concentration and
2 effort to maintain your car on that road, correct?

3 A Yes, sir, it would take a fair amount of effort.

4 Q So you'd to have all your faculties, your faculties,
5 whoever was driving that car, would you agree that their
6 faculties were not impaired, correct?

7 A Well, I think that would depend on by individual about
8 their faculties.

9 Q But you would agree to that, that their --

10 A To agree, yes, sir, yes, sir, I agree. I agree -- I
11 also agree a prudent person would pull a car over if the
12 headlights weren't working in the middle of the night.

13 Q I understand that. Okay. And it's your testimony
14 today that something happened. You're not sure what
15 happened, exactly who caused that accident, correct?

16 A No. I, like I said I, couldn't see a suspect vehicle.
17 I saw a pair of headlights coming toward me on the road,
18 and a shower of sparks.

19 Q Right. Now, you said in your testimony today that
20 maybe you picked the wrong vehicle. Would that be correct?

21 A Maybe I picked the wrong vehicle? Excuse me, sir?

22 Q To, to chase that night.

23 A I don't recall saying that I picked the wrong vehicle
24 to chase, no. I was following the suspect vehicle from the
25 BOLO issued by Spartanburg communications.

David Michael Evett
Redirect examination by Mr. Barnette

1 Q But at the same time by your own admissions you lost
2 sight of the vehicle three times.

3 A I did.

4 Q Okay.

5 A Each time I regained sight, sir, it was the same type
6 vehicle with the same license plate on the back of the
7 vehicle.

8 Q Okay.

9 MR. SCHULTZ: Beg the Court's patience.

10 (Pause.)

11 MR. SCHULTZ: That's all I have, Your Honor. Thank
12 you.

13 MR. BARNETTE: Just a few on redirect, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. BARNETTE

16 Q Pretty unsafe driving your car without lights on on a
17 road, isn't it?

18 A It's very unsafe, yes.

19 Q And this person was turning them on and off.

20 A Yeah. They, they'd come on and they'd gone off
21 several, you know, several times.

22 Q And usually when did they come on?

23 A They usually came on when I wasn't anywhere near the
24 vehicle.

25 Q When would they go off?

David Michael Evett
Redirect examination by Mr. Barnette

- 1 A Whenever I got close to the vehicle, sir.
- 2 Q What kind of car was you driving that night?
- 3 A I was driving a black and white Ford Crown Victoria.
- 4 Q Just like the sheriff's department vehicles?
- 5 A Sheriff's department standard patrol car.
- 6 Q And you had blue lights on top.
- 7 A Blue lights on top, yes, sir.
- 8 Q Very visible where you could obviously tell what kind
9 of vehicle it was.
- 10 A Yes, sir.
- 11 Q And he didn't have his lights on when he caused this
12 wreck.
- 13 A Correct, sir.
- 14 MR. SCHULTZ: Your Honor, I believe that's an improper
15 question. That's calling for a conclusion.
- 16 THE COURT: Sustained.
- 17 MR. BARNETTE: I'll rephrase the question.
- 18 Q In the, in the collision did he have his lights on?
- 19 A I only saw one set, one set of headlights prior to the
20 collision, and that was the headlights coming toward me.
21 And the rest of them, the rest of the area out there on the
22 road was totally dark.
- 23 Q And the other, the headlights coming to you or
24 whatever, did you see anything unusual of them?
- 25 A No, sir.

David Michael Evett
Redirect examination by Mr. Barnette

1 Q Was he traveling properly in his lane?

2 A I assume he was. It was several hundred feet, several
3 hundred yards in front of me.

4 Q And the only thing you saw was the one headlights and
5 the sparks.

6 A Yes, sir.

7 Q Isn't it true one of the signs of being under the
8 influence is driving without your lights on?

9 A It is, yes, sir.

10 Q Is another factor speeding?

11 A Speeding. There's a lot of factors that go into
12 driving under the influence. They vary by individual.

13 Q And showing you State's Exhibit No. 1-A, this up here
14 is Mount Zion Road. Is that the road y'all was on that
15 night?

16 A Yes, sir.

17 Q And obviously the BOLO, where was you at exactly in
18 relation? If you would, just show. I don't know if you
19 can read this map or not.

20 A There's -- it would be right in this area right in
21 here, is where I saw the vehicle initially. And we
22 traveled along to the stoplight, to the stoplight across
23 the railroad tracks, Blackstock, Mount Zion Road and
24 actually on Mount Zion --

25 THE COURT: Excuse me just a minute.

David Michael Evett
Redirect examination by Mr. Barnette

1 You've got your back to the court reporter and you're
2 talking a little fast.

3 THE WITNESS: Oh, I'm sorry.

4 THE COURT: Let's slow it down and speak a little
5 louder.

6 THE WITNESS: I'm sorry, sir.

7 THE COURT: You can come down off the stand and stand
8 where Mr. Barnette is if you would like.

9 THE WITNESS: Okay. Thank you, sir.

10 (Whereupon, the witness left the stand.)

11 A Much better. I initially saw the vehicle from the
12 BOLO right in this area here, which is the area of North
13 Blackstock near Fairforest Elementary School.

14 The vehicle stopped up here at the intersection at
15 Hayne and North Blackstock, and that's where I got behind
16 it. After the light changed it traveled across the
17 railroad tracks and up, continued along North Blackstock
18 towards Mount Zion Road.

19 Q And let me ask you this. He was traveling obviously
20 away from the city, is that right?

21 A Yes, sir.

22 Q Thank you, sir.

23 (Whereupon, the witness returned to the stand.)

24 Q And was your video machine on that night?

25 A No, it was not, sir.

David Michael Evett
Recross-examination by Mr. Schultz.

1 Q And why was it not on?

2 A That was my error, sir. I, a brand new camera, never
3 had a camera in my car before. I had it for a few weeks.
4 When I went to the jail to seek a warrant I had turned the
5 camera and radio and everything off. And when I left the
6 jail I never turned the camera back on.

7 Q So it didn't come on like it was supposed to?

8 A It did not come on like it was supposed to come on,
9 no, sir.

10 Q Thank you, sir.

11 MR. SCHULTZ: Just a couple more, Your Honor.

12 RECROSS-EXAMINATION

13 BY MR. SCHULTZ

14 Q Mr. Barnette asked you about the -- somebody that was
15 suspected of D. U. I., correct?

16 A Yes, sir.

17 Q Okay. And some of the problems that somebody that is
18 D. U. I. has is that you would think the person would have
19 sort of erratic driving, correct?

20 A They can, yes, sir.

21 Q Okay. They can. And driving off the side of the
22 road, maybe driving off the side of the road and driving
23 onto the road again, would that, that would be consistent
24 with somebody that's under the influence, correct?

25 A That would be consistent, yes, sir.

David Michael Evett
Recross-examination by Mr. Schultz

1 Q Okay. And also somebody that was under the influence
2 would be swerving on the road.

3 A They may.

4 Q Okay. They're generally just, you know, they wouldn't
5 be driving normally. They'd be driving in a crazy fashion,
6 right?

7 A Oftentimes, yes, sir.

8 Q And going over the center line, correct?

9 A The center line or off the side of the road and
10 drifting.

11 Q And it's your testimony today and backed up by your
12 statements that the, the car that you were following never
13 exhibits any of these things, correct?

14 A I do not recall the car leaving the roadway.

15 Q Thank you.

16 MR. SCHULTZ: That's all I have.

17 MR. BARNETTE: No further questions of this witness,
18 Your Honor.

19 THE COURT: You may step down.

20 MR. BARNETTE: I would call Investigator Ed Guthro,
21 Your Honor.

22 May we approach for a second, Your Honor?

23 (Bench conference held off the record in the presence
24 of the jury but out of the hearing of the jury.)

25 MR. BARNETTE: I would like to call Mr. Young to the

James Young
Direct examination by Mr. Barnette

1 stand, Your Honor.

2 MR. SCHULTZ: Your Honor, may we approach again for
3 just one second?

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 JAMES YOUNG, having been first
7 duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q Mr. Young, could you state your full name for the
10 record, please?

11 A James Young.

12 Q And where do you live at, Mr. Young?

13 A [REDACTED].

14 Q And what kind of work have you done before this
15 accident?

16 A Drywall work.

17 Q And how long did you do that, sir?

18 A A little over 20 years.

19 Q Going back to the morning of February the 3rd of 2006,
20 what was you driving that morning, sir?

21 A I was driving a '88 little Dodge 50 truck.

22 Q And where was you at earlier that night?

23 A I was at a friend's.

24 Q And about what time did you leave your friend's house?

25 A It was going on 1:00. It was 12:30 to 1:00, somewhere

James Young
Direct examination by Mr. Barnette

- 1 along there.
- 2 Q And where was you going back to, sir?
- 3 A I was going home.
- 4 Q And what roads were you traveling back home, sir?
- 5 A John Dodd and to left on Mount Zion.
- 6 Q As you was driving down the road did you have your
7 headlights on?
- 8 A I did.
- 9 Q And as you was driving down Mount Zion Road, if you
10 would, tell the jury what you saw, sir.
- 11 A There is a little knoll, not a hill, a knoll. I saw
12 lights coming at me. As soon as the lights, the car got
13 across that knoll, it's just like it turned right into me.
- 14 Q And was it being followed by a police car?
- 15 A It was being followed by a police car, because as
16 right before impact I saw blue lights on, right before
17 impact. So I knew it was being followed by the law.
- 18 Q What happened after that, sir?
- 19 A I don't remember much after that.
- 20 Q Was you in pain?
- 21 A Yeah, I was in a great deal of pain after I come to.
- 22 Q What injuries did you receive, sir?
- 23 A I've had to have four surgeries, one on my left
24 shoulder, tore rotary cuff, one on my knee, two on my foot,
25 which I have a plate and ten screws now.

James Young
Direct examination by Mr. Barnette

1 Q Let me show you what's been marked as State's
2 Exhibits 15, 16, 17, 18 and 19. If you would, just take a
3 look at those pictures, sir. Do those pictures fairly
4 represent what they show there?

5 A Yes, sir.

6 MR. BARNETTE: Your Honor, I would like to move these
7 into evidence at this time.

8 MR. SCHULTZ: No objection, Your Honor.

9 THE COURT: They're admitted.

10 (Photographs marked State's Exhibits Nos. 15, 16, 17,
11 18 and 19.)

12 MR. BARNETTE: Permission to publish these pictures to
13 the jury?

14 THE COURT: Yes.

15 Q This is State's Exhibit No. 15. Can you describe to
16 the jury what that is, sir? I'm sorry. Take your time.

17 A That's my little Dodge 50 that I was driving.

18 Q Does that fairly represent after the wreck where it
19 was taken to?

20 A Yes, sir.

21 Q And let me show you State's Exhibit No. 16. Is that
22 another picture of the truck you were driving, sir?

23 A Yes, sir.

24 Q Let me show you what's been marked as State's
25 Exhibit 17. What is this a picture of, sir?

James Young
Direct examination by Mr. Barnette

- 1 A That's a picture of my right leg.
- 2 Q And did you have surgery on that leg?
- 3 A Excuse me?
- 4 Q You've had surgery on that, obviously on that, leg at
- 5 the E. R.
- 6 A I have had it on my knee, yes, sir.
- 7 Q And did you have it on the -- I believe you had the
- 8 injury to the knee and you had an injury to the ankle or
- 9 top of the foot.
- 10 A I had the top of my foot and shattered my heel.
- 11 Q State's Exhibit No. 18, is this the other injury you
- 12 was talking about, sir?
- 13 A Yes, sir.
- 14 Q And showing you State's Exhibit No. 19, is that your
- 15 knee, sir?
- 16 A It is.
- 17 Q How long was you in the -- or what kind of treatment
- 18 did you receive after the accident or after the wreck, sir?
- 19 A I retrieved -- I was homebound for a while. And I
- 20 received probably six or seven months of chiropractic
- 21 therapy, you know, or therapy on my leg and shoulder.
- 22 Q If you would, come down. I'd like for you to show the
- 23 jury your leg now, sir.
- 24 MR. BARNETTE: Your Honor, permission for him to sit
- 25 down in front of the jury.

James Young
Direct examination by Mr. Barnette

- 1 THE COURT: Yes, sir.
- 2 (Whereupon, the witness left the stand.)
- 3 A Take my shoe off too?
- 4 Q Yes, sir, if you would.
- 5 A The top of my foot and --
- 6 THE COURT: Excuse me just a minute, now.
- 7 The court reporter is back here and she can't hear.
- 8 So you've to speak up loud enough.
- 9 THE WITNESS: Okay.
- 10 A This top scar on the top of my foot, this scar on my
- 11 heel.
- 12 Q If you would, sir, please show them again.
- 13 A This is my knee. From here to here.
- 14 (Whereupon, the witness returned to the stand.)
- 15 Q Sir, this has been 18 months since this wreck.
- 16 A Yes, sir.
- 17 Q Have the doctors told you -- obviously you'll have
- 18 this disability for the rest of your life.
- 19 A Yes, sir.
- 20 Q Do you still try to, ever try to, build up your leg to
- 21 match your other leg?
- 22 A I've tried. I can't remember how many months. I went
- 23 seven months I think through therapy, through therapy going
- 24 to a therapist. And I do it at home every day.
- 25 Q Will you ever be able to do the work that you did

James Young
Cross-examination by Mr. Schultz

1 before?

2 A No.

3 MR. BARNETTE: One moment, Your Honor.

4 (Pause.)

5 Q Please answer any questions Mr. Schultz may have
6 please.

7 MR. SCHULTZ: Briefly, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. SCHULTZ

10 Q You were in a Dodge car?

11 A Dodge truck, yes, sir.

12 Q Dodge truck. And prior to this, as you said to the
13 solicitor, you were at a friend's house.

14 A I was.

15 Q And how long were you there for?

16 A Probably the most part of the day. It was a friend of
17 mine. We was just over there just hanging out because I
18 was off that day.

19 Q What were you doing there?

20 A We watched T. V. for a while and listened to music,
21 and I think we played some cards.

22 Q All right.

23 MR. SCHULTZ: Beg the Court's patience.

24 (Pause.)

25 Q When is the last time you worked that day, Mr. Young?

James Young
Cross-examination by Mr. Schultz

1 A I had not worked that day.

2 Q You had not worked that day. Okay. But how much
3 sleep did you have that night?

4 A I had laid down probably for a couple of hours.

5 Q About what time was that?

6 A Two or three hours. I don't remember how long. I
7 fell out, I'd say 10:00, around 10:00.

8 Q 10:00 o'clock?

9 A Yeah. And I woke up after 12:00.

10 Q Sometime after 12:00.

11 A Yeah.

12 Q All right. Were you still tired at this point?

13 A Not really. I mean, I sat there I guess 20 or 30
14 minutes before I left to get woke up good.

15 MR. SCHULTZ: That's all I have, Your Honor.

16 MR. BARNETTE: No further questions of this witness,
17 Your Honor. We would ask he be excused.

18 THE COURT: You may step down. You may also be
19 excused. Thank you.

20 (Whereupon, the witness was excused.)

21 THE COURT: All right. Ladies and gentlemen, we're
22 going to recess for the afternoon. So I'll ask you to
23 please keep in mind the cautions. No discussions, no media
24 exposure, no research, no investigation.

25 Have a good evening. Please report to your jury room

James Young
Cross-examination by Mr. Schultz

1 at 9:30 in the morning, 9:30 in the morning.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Court's in recess until 9:30 in the
5 morning.

6 END OF PROCEEDINGS SEPTEMBER 11, 2007

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Edgar Victor Guthro
Direct examination by Mr. Barnette

1 (Proceedings September 12, 2007)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right. Are we ready for the jury?

5 MR. BARNETTE: The state is ready, Your Honor.

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

7 (The following takes place in the presence of the
8 jury.)

9 THE COURT: Good morning, ladies and gentlemen.

10 We are going to continue with the state's presentation
11 of evidence.

12 Mr. Barnette.

13 MR. BARNETTE: I would like to call Ed Guthro to the
14 stand, Your Honor.

15 EDGAR VICTOR GUTHRO, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q If you would, sir, state your full name for the
19 record.

20 A Edgar Victor Guthro.

21 Q And where do you work at, sir?

22 A City of Spartanburg, Public Safety Department.

23 Q And what's your position there, sir?

24 A I work in our forensics unit.

25 Q And how long have you worked for the Department of

Edgar Victor Guthro
Direct examination by Mr. Barnette

- 1 Public Safety?
- 2 A In a few months will be 19 years.
- 3 Q And what positions have you held there?
- 4 A Patrol officer, complex officer, criminal
- 5 investigations for eight years and forensics for the last
- 6 couple of years.
- 7 Q Did you receive a car in this case, a 1985 blue
- 8 Caprice where you processed?
- 9 A I did.
- 10 Q And let me show you what's been marked as State's
- 11 Exhibits 5, 6, 7 and 8. Do those photographs fairly
- 12 represent what you saw when you processed that car?
- 13 A Yes, sir.
- 14 Q I believe you've seen those pictures before, haven't
- 15 you?
- 16 A Yes, sir.
- 17 MR. BARNETTE: Your Honor, I'd like to move these into
- 18 evidence at this time.
- 19 MR. SCHULTZ: No objection, Your Honor.
- 20 THE COURT: What numbers are they?
- 21 MR. BARNETTE: Nos. 5, 6, 7 and 8.
- 22 THE COURT: They're admitted.
- 23 (Photographs marked State's Exhibits Nos. 5, 6, 7 and
- 24 8.)
- 25 MR. BARNETTE: Permission to publish these to the

Edgar Victor Guthro
Direct examination by Mr. Barnette

1 jury, Your Honor.

2 THE COURT: You may.

3 Q Showing you State's Exhibit No. 5. Is this the car
4 that you processed, sir?

5 A Yes, sir, it is.

6 Q And was that the 1985 Chevrolet Caprice, a blue car?

7 A That's correct.

8 Q And was this after it was involved in the wreck on
9 Mount Zion Road?

10 A Yes, sir.

11 Q Showing you State's Exhibit No. 6. In processing did
12 you check the floorboard of this car?

13 A I did.

14 Q Okay. And showing this area right here, did you find
15 objects right here and take closer pictures of that?

16 A Yes, sir, I did. That was a plastic baggy containing
17 what we normally referred to as a green leafy substance
18 until it's tested.

19 Q I show you what's been marked as State's Exhibit
20 No. 7. Is this a closer-up picture of that?

21 A Yes, sir, it is.

22 Q And is this the object we're talking about?

23 A It is.

24 Q And let me show you what's been marked as State's
25 Exhibit No. 8. In processing everything do you assign

Edgar Victor Guthro
Cross-examination by Mr. Schultz

1 numbers and so forth to it?

2 A Yes, sir.

3 Q And that would be the same object you saw in the
4 earlier pictures.

5 A That's correct.

6 Q And was a drug analysis later done on that by another
7 individual?

8 A Yes, sir, it was.

9 Q And what was it determined to be?

10 A It tested positive for marijuana.

11 MR. BARNETTE: One second, Your Honor.

12 (Pause.)

13 Q Please answer any questions that Mr. Schultz may have
14 for you.

15 CROSS-EXAMINATION

16 BY MR. SCHULTZ

17 Q Mr. Guthro, where was the, that material found?

18 A In the passenger-front floorboard.

19 Q Passenger-front floorboard. Okay. Were you aware
20 that that was a car that was not registered to the person
21 that drove that car that night?

22 A I had no idea who the car was registered to. It was
23 simply brought to me to process it.

24 Q Okay. So you processed the scene. And you found this
25 material and you tested it later, correct?

George David Reeves
Direct examination by Mr. Barnette

1 A It was tested by somebody else. But that's correct.

2 I processed the vehicle and that was recovered.

3 Q So you're not the one that tested it, correct?

4 A No, sir.

5 Q Okay.

6 MR. SCHULTZ: That's all I have, Your Honor. Thank
7 you.

8 THE COURT: You may step down.

9 MR. BARNETTE: I would ask this witness be excused.

10 (Whereupon, the witness was excused.)

11 MR. BARNETTE: Your Honor, I'd like to call David
12 Reeves to the stand.

13 (Report marked State's Exhibit No. 30 for
14 Identification.)

15 GEORGE DAVID REEVES, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q If you would, sir, state your full name for the
19 record.

20 A George David Reeves.

21 Q And where do you work at, sir?

22 A City of Spartanburg's Public Safety Department.

23 Q And how long have you worked there, sir?

24 A Just over six years, right at six years.

25 Q And what's your position there, sir?

George David Reeves
Direct examination by Mr. Barnette

1 A I'm the property and evidence technician.

2 Q And as part of your duties, I know you take care of
3 the evidence, but do you also test items of marijuana?

4 A Yes, I do. I am a certified marijuana analyst.

5 Q And how many times have you tested for marijuana?

6 A In general sessions court?

7 Q I mean just tested in general.

8 A Just -- ooh. I can easily say 800 or 900 times.

9 Q And you generate reports once you do your testing, is
10 that right?

11 A Yes, I do.

12 Q And did you test this substance in this case?

13 A Yes, I did.

14 MR. BARNETTE: Your Honor, I would make, ask he be
15 qualified as an expert in marijuana testing.

16 MR. SCHULTZ: No objection, Your Honor.

17 THE COURT: He is so qualified.

18 Q Let me show you what's been marked as -- this is -- if
19 you will, look at State's Exhibit No. 27. Take a look at
20 that, as well as State's Exhibit No. 30. Are those items
21 that you received? Well, State's Exhibit 27, was that an
22 item you received from Ed Guthro that was placed in
23 evidence?

24 A Yes, it is.

25 Q And did you test that, sir?

George David Reeves
Direct examination by Mr. Barnette

1 A Yes, I did.

2 Q And do you generate a report concerning that?

3 A Yes, I do.

4 Q Is that report State's Exhibit No. 30?

5 A Yes, it is.

6 MR. BARNETTE: Your Honor, I'd like to move these two
7 items into evidence at this time.

8 MR. SCHULTZ: No objection, Your Honor.

9 (Marijuana marked State's Exhibit No. 27; report
10 marked State's Exhibit No. 30.)

11 MR. BARNETTE: Permission to publish these to the
12 jury, Your Honor?

13 THE COURT: You may.

14 Q Okay. Showing you what was in State's Exhibit 27, the
15 evidence bag. Was this the marijuana you tested, sir?

16 A Yes, it is.

17 Q And you generated a report concerning that. And
18 showing you State's Exhibit No. 30. What was the results
19 of your testing?

20 A It was tested positive for T. H. C.,
21 Tetrahydrocannabinol.

22 Q And so it is marijuana.

23 A Yes, it is.

24 Q And how much weight was there found?

25 A It was 4.24 grams of marijuana.

George David Reeves
Cross-examination by Mr. Schultz

1 Q Thank you, sir. If you would, answer any questions
2 that Mr. Schultz may have for you.

3 CROSS-EXAMINATION

4 BY MR. SCHULTZ

5 Q The material that was found in the car, correct?

6 A I, I couldn't tell you that.

7 Q I haven't asked, answered, asked my question yet. The
8 material that was found in the car, you tested it, correct?

9 A Yes, I did.

10 Q Okay. Was that a joint?

11 A That was a baggy.

12 Q It was a baggy. So it wasn't a marijuana cigarette,
13 correct?

14 A That is correct.

15 Q Okay.

16 MR. SCHULTZ: That's all I have.

17 THE COURT: You may step down.

18 MR. BARNETTE: We would ask this witness be excused,
19 Your Honor.

20 THE COURT: He may be.

21 (Whereupon, the witness was excused.)

22 MR. BARNETTE: Your Honor, may I briefly check the
23 exhibit list with the court reporter?

24 (Pause.)

25 MR. BARNETTE: Your Honor, thank you for letting us

Motions

1 check with the court reporter.

2 The state would rest at this time.

3 THE COURT: Ladies and gentlemen, that's all the
4 evidence to be offered by the state.

5 Before we go any further I've got some matters to
6 address with the lawyers. So I will ask you to please go
7 to your jury room. Do not yet discuss the case. I'll
8 bring you back shortly.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: All right. Any motions or other matters
12 to address before we continue?

13 MR. SCHULTZ: Yes. There's a couple from the defense.

14 I'd like to move at this time for a directed verdict
15 on all the charges, Your Honor. I believe that the state
16 as a matter of law has not met their burden of proof,
17 especially when it came to the felony D. U. I.

18 We've heard testimony today or testimony yesterday
19 that the toxicologist said that Mr. Teamer registered .02
20 as far as the ethanol levels in his blood and .03 as far as
21 the ethanol amounts in his urine.

22 As you know, Your Honor, the legal limit in South
23 Carolina is .08, and he was well below the legal limit.
24 Even if the expert's testimony is to be believed as far as
25 retrograde extrapolation goes, he was still below the legal

Motions

1 limit of .08.

2 We've heard testimony today, yesterday from Officer
3 Evett, the person that was closest to the scene of the
4 accident and the chase. And he -- I asked him several
5 times was he driving erratically, was he driving, did his
6 actions constitute someone that was materially and
7 appreciably impaired. And he said no.

8 So I believe that being that he's under the legal
9 level in South Carolina and that the officer himself said
10 that it required quite a lot of effort and skill in order
11 to maintain his vehicle while having the headlights
12 malfunction while going on the long twisty, winding road of
13 Mount Zion Road, I believe that he has not materially and
14 appreciably impaired. And I don't think that he was felony
15 D. U. I. at that point.

16 So I think that the defense has a very strong motion
17 for a directed verdict at this time.

18 THE COURT: Okay. Mr. Barnette.

19 MR. BARNETTE: Your Honor, I think in the light most
20 favorable to the state, obviously if I heard the toxicology
21 testimony right the marijuana was in the level of the --
22 was in the system, be levels of impairment. And obviously
23 the alcohol, the combination of the marijuana would affect
24 the judgment even more. And if you do the retrograding it
25 is at higher levels than that.

Motions

1 And there's no question he'd recently smoked the
2 marijuana and obviously the parent drug was in his system.
3 And I'd ask the Court deny all his motions on all charges.

4 THE COURT: All right. Well, as I understand it,
5 you're just making a motion on the felony D. U. I. right
6 now.

7 There is evidence that the defendant had consumed
8 intoxicating substances. There is evidence from which you
9 could reasonably infer impairment of the mental and
10 physical faculties.

11 And of course there was a head-on collision. I don't
12 think there was any testimony that he passed any other
13 vehicles until he crashed into Mr. Young. So that's
14 certainly some evidence of impairment, of impairment of
15 faculties and intoxication.

16 So based upon the evidence presented I find that the
17 motion for the directed verdict should be denied, and it
18 is.

19 Others?

20 MR. SCHULTZ: Your Honor, I'd like, also like, to make
21 a motion for a directed verdict on the failure to stop.

22 Officer St. Louis, you heard his testimony there
23 yesterday. And he said plainly that he did not see who was
24 in the car that night. He could not make a positive
25 identification of anybody in this car.

Motions

1 His testimony and the statement said that he saw a
2 black male that had short hair in the front driver's seat
3 of the car. That was, that was it.

4 But as far as the other failure to stop, it's true
5 that the driver of the Caprice maybe failed to stop. But
6 you've heard also testimony, excuse me, that you've also
7 heard testimony that he stopped at a stoplight. He was
8 obeying the traffic signals.

9 So I believe that a directed verdict should be granted
10 on the failure to stop. Thank you.

11 THE COURT: Mr. Barnette.

12 MR. BARNETTE: Thank you, Your Honor.

13 We had the video. Obviously the officer had his blue
14 lights on and turned the siren on, Officer St. Louis did.
15 He did not stop according to the laws of the state.

16 Obviously, Officer Evett also picked up after the
17 BOLO, and he turned his blue lights on. He turned his
18 siren on periodically.

19 Mr. Young even saw as the car wreck occurred that the
20 officer was following him with the blue lights. So I think
21 there is ample evidence for the failure to stop in this
22 case, and we would ask great bodily injury, go forward.
23 Thank you.

24 MR. SCHULTZ: That's all I have, Your Honor.

25 THE COURT: All right. Well, based upon the evidence

Motions

1 that has been presented I do find there is abundant
2 evidence from which a jury, if they determined it to be
3 credible, could reasonably infer each of the -- and find
4 each of the essential elements of the crime of failing to
5 stop. That is that he knew or reasonably should have known
6 that the officer was attempting to stop him with the use of
7 blue lights and a siren.

8 Shut the door, please.

9 And that there was some statutory provisions violated
10 and that there was great bodily injury resulting from the
11 defendant's failing to stop and the injury sustained by
12 Mr. Young.

13 So based upon the evidence in the record I find the
14 motion for a directed verdict should be denied as to that
15 indictment also.

16 MR. SCHULTZ: Thank you, Your Honor. Beg the Court's
17 patience.

18 (Pause.)

19 MR. SCHULTZ: Your Honor, that's all I have.

20 THE COURT: No motions on the burglary indictment or
21 the armed robbery indictment?

22 MR. SCHULTZ: No, no, Your Honor.

23 I would just like to make sure that when the jury
24 comes back I can address them in my opening statement.

25 THE COURT: Oh, okay.

1 What about Mr. Teamer? Have you talked to him about
2 his right to testify, or not?

3 MR. SCHULTZ: I have, Your Honor.

4 THE COURT: What does he indicate to you he wishes to
5 do?

6 MR. SCHULTZ: Your Honor, he does not wish to testify.

7 THE COURT: He does not?

8 All right. Mr. Teamer, you've heard my questions to
9 Mr. Schultz. He tells me that you and he have discussed
10 your right to testify and you have made the decision not to
11 take the witness stand. Is that true?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Do you understand that when you're charged
14 with a crime you have an absolute right to remain silent?
15 You also have a right to take the witness stand and testify
16 during the trial of this case if you wish to.

17 The rights just simply mean that you get the choice.
18 Nobody can make you do one or the other. You have to make
19 that decision on your own.

20 Do you understand you have an absolute right to remain
21 silent?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you understand you also have the same
24 right or an additional right to testify if you wish to?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Now, have you and Mr. Schultz and Mr.
2 Hatcher discussed the advantages and the disadvantages of
3 testifying, as well as not testifying?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: And do you appreciate what those
6 advantages and disadvantages are?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And have you made a decision about whether
9 or not you'll testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: And is your decision that you will not
12 testify?

13 THE DEFENDANT: Remain silent, sir.

14 THE COURT: All right. And is that a decision that
15 you made of your own free will and accord?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: Did anybody force you into it?

18 THE DEFENDANT: No, sir.

19 THE COURT: Did anybody pressure you into it?

20 THE DEFENDANT: No, sir.

21 THE COURT: Did anybody suggest that that's the
22 decision you ought to make?

23 THE DEFENDANT: No, sir.

24 THE COURT: Did you make that decision on your own
25 after considering everything and discussing it with your

1 lawyers?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you're satisfied with that decision?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: All right.

6 MR. SCHULTZ: Thank you, Your Honor.

7 THE COURT: The defense does have other witnesses?

8 MR. SCHULTZ: Yes, we do, Your Honor.

9 THE COURT: Okay. All right. Bring the jury back,
10 please.

11 MR. BARNETTE: Your Honor, do you need me to move that
12 during the opening or whatever?

13 THE COURT: Well, I guess you'll want to turn it off.

14 Are you going to need it?

15 Mr. Schultz, are you going to need that machine for
16 anything?

17 MR. SCHULTZ: Yes, yes, I will, Your Honor.

18 MR. BARNETTE: I'll just turn it off, Judge.

19 MR. SCHULTZ: Actually I was asking that be moved
20 maybe over there with permission of the Court.

21 (The following takes place in the presence of the
22 jury.)

23 THE COURT: Ladies and gentlemen, as you know, all of
24 the state's evidence, at least in their case in chief, has
25 now been presented. And, as you know, at the beginning of

Opening statement

1 this trial I told you that the lawyers may address you in
2 opening statements and give you their perspective on the
3 case prior to their presentation of evidence. And Mr.
4 Barnette did that prior to the presentation of the state's
5 evidence.

6 Mr. Schultz requested permission to be allowed to
7 simply defer his opening statement until the time that the
8 defense was to present evidence. So that has been
9 permitted.

10 So Mr. Schultz will now address you in his brief
11 opening statements, and then we will follow that with the
12 presentation of evidence from the defense.

13 MR. SCHULTZ: Thank you, Your Honor. May it please
14 the Court.

15 THE COURT: Yes, sir.

16 MR. SCHULTZ: Good morning again, ladies and
17 gentlemen.

18 I appreciate your attention these last three days.
19 I've looked at every one of you during the course of this
20 trial, and you've all been a great jury, and you're paying
21 attention to what's going on. I know I appreciate that,
22 and so does Charlie.

23 Ladies and gentlemen, now that the state is done with
24 their case it's our turn to present Charlie's side of the
25 case. As you could have already guessed, it is completely

Opening statement

1 different from what Erica Gray, Donald Martin and Mary Gray
2 say happened.

3 Now, some of you may have wondered why I chose to not
4 give my opening statement at the beginning, why I chose not
5 to give it Monday morning or Monday afternoon. I tell you
6 that's a legitimate question. That is. And the answer is
7 that we wanted to let you hear the state's case in full
8 with only my cross-examination.

9 The analogy I would like to use in cases like this, it
10 is that the state is really selling you a product. Now, to
11 all appearances this product may look good. You may want
12 to buy it.

13 It is the defense's job to show that this product,
14 this package, is not good. And I put it through some kind
15 of quality control, and that quality control is called
16 cross-examination.

17 Now, during the state's case I cross-examined all of
18 their witnesses, and I tested to verify the truthfulness,
19 the accuracy of what they are saying, and their
20 reliability.

21 Now, you've seen the Grays testify. You've seen Erica
22 Gray and Mary Gray testify, and Donald Martin testify. And
23 their stories were all over the place. And I'll get into
24 that a little later.

25 MR. BARNETTE: Your Honor, I'm going to object.

Opening statement

1 THE COURT: Excuse me just a minute.

2 Now, Mr. Schultz, understand this is an opening
3 statement. It's not a final argument.

4 MR. SCHULTZ: Yes, sir, Your Honor.

5 Now, when I try cases like this I try to think to
6 myself what a jury is going to do. And I will go into my
7 closing remarks a little more.

8 And I assume that you may have heard people testify
9 today that you, testified in the last couple of days that
10 you, you believed and that you did not believe. But then
11 you heard from witnesses hopefully that you did not
12 believe.

13 And as I said before, the state has offered you a
14 product. Now, some of you may have already decided that
15 you don't want to buy this product, that you don't want to
16 take this product home with you. It may, you may have
17 already decided that it doesn't match your seal of
18 approval.

19 Now, I know a lot of you are unfamiliar with this
20 process and how it works, but just let me explain some
21 things here. The judge directed you at the beginning of
22 the trial to be fair and impartial and to listen to both
23 sides of the case.

24 Now, in some trials the state puts up their case and
25 the defense doesn't have to do anything. Okay. All we

Osia Feaster
Direct examination by Mr. Schultz

1 have to do is just cross-examine their witnesses, and then
2 that's it. That's the end of the trial.

3 This trial is a little different. You're now going to
4 hear from two witnesses. And this is another product that
5 I'm going to give you. And this is called alibi. You are
6 going to hear two witnesses today that said that, are going
7 to say that Charlie was nowhere near [REDACTED] Circle
8 on that night.

9 And looking at the case now, I just want to conclude.
10 I said I'd be up here for a brief time. Now, I'm going to
11 ask you for the sale again, okay, because you can't sale
12 anything if you never ask. So, and that's what I'm asking
13 you to do right now, is to consider my case, just as well
14 as you have considered the state's case.

15 Again, I thank you for your attention. And I look
16 forward to the rest of this case. Thank you.

17 Thank you, Your Honor.

18 THE COURT: Mr. Schultz.

19 MR. SCHULTZ: Your Honor, I would like to call my
20 first witness, and that's Osia Feaster.

21 OSIA FEASTER, having been
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION BY MR. SCHULTZ

24 Q Could you state your name for the record?

25 A Osia Feaster.

Osia Feaster
Direct examination by Mr. Schultz

1 Q How old are you?

2 A Twenty-two.

3 Q All right. Could you stand up? Or not stand up, but
4 lean into the microphone a little bit. Okay. Thank you.

5 Do you know Charlie Teamer?

6 A Yes, sir.

7 Q Okay. How do you know him?

8 A He was my boyfriend.

9 Q Okay. Were you with him on the night of February the
10 2nd of 2006?

11 A Yes.

12 Q Okay. About what time was that?

13 A It was after 8:00.

14 Q After 8:00 o'clock?

15 A Yes.

16 Q All right. Do you want to tell me what happened after
17 8:00 o'clock, what you two did?

18 A After 8:00, he met me at my house. He was already
19 there when I got there. And we was at my house because I
20 had this little girl. She didn't want to go home. So I
21 had her until her mom came and got her.

22 And then after that, I would say about, it was
23 something till 11:00, something like that, we went. He had
24 already ordered the food, and we went to T N T.

25 Q You said ordered the food.

Osia Feaster

Direct examination by Mr. Schultz

- 1 A Yeah, from T N T.
- 2 Q Do you know where he ordered it from?
- 3 A From T N T Hot Wings.
- 4 Q And where is that?
- 5 A On Reidville Road.
- 6 Q And where is your house?
- 7 A On [REDACTED].
- 8 Q What address is that?
- 9 A [REDACTED].
- 10 Q Okay. How long have you lived there?
- 11 A About ten years.
- 12 Q Okay. Do you still live there?
- 13 A Yes, sir.
- 14 Q Now, let's go back to when you first saw Charlie that
- 15 night. When is the first time you saw Charlie that night?
- 16 A After 8:00.
- 17 Q After 8:00 o'clock?
- 18 A Yeah.
- 19 Q Okay. And where was he?
- 20 A On [REDACTED] at my house.
- 21 Q Did you have your car at the time?
- 22 A Yes.
- 23 Q Were you coming back from anywhere?
- 24 A I was coming back from dance practice.
- 25 Q And where did you go to dance practice?

Osia Feaster
Direct examination by Mr. Schultz

- 1 A It was at Northwest Center that night.
- 2 Q Okay. And you came back approximately when?
- 3 A It was after 8:00.
- 4 Q It was after 8:00?
- 5 A Yeah.
- 6 Q And Charlie was there waiting for you?
- 7 A Yeah.
- 8 Q Okay. So from 8:00 o'clock until 11:15, after 11:15,
- 9 Charlie was with you, correct?
- 10 A Yeah.
- 11 Q Did Charlie drive with you in your car?
- 12 A Yeah.
- 13 Q Who drove?
- 14 A I did.
- 15 Q And where did you drive to?
- 16 A I drove to T N T.
- 17 Q T N T?
- 18 A Hot Wings.
- 19 Q Hot Wings. And where is that?
- 20 A On Reidville Road.
- 21 Q Okay. Did you have dinner there?
- 22 A No. I just picked it up.
- 23 Q You just picked it up.
- 24 A Yeah.
- 25 Q And Charlie was with you?

Osia Feaster
Direct examination by Mr. Schultz

1 A Yeah.

2 Q And then when did you drive back to [REDACTED]
3 Street?

4 A After picking up the food.

5 Q After picking up the food?

6 A Yeah.

7 Q Now, did Charlie borrow your car that night too?

8 A Yeah.

9 Q And what time was that?

10 A I'm not sure exactly what time it was, but it was
11 after I got home and we was about to eat.

12 Q And that was when? Had to be after 11:15, correct?

13 A Yeah.

14 MR. SCHULTZ: Beg the Court's patience.

15 (Pause.)

16 Q That's all I have for you.

17 MR. SCHULTZ: But, Your Honor, just one more question.

18 Q Are you pregnant right now?

19 A Yes.

20 Q Okay. If you're uncomfortable, let the Court know.
21 And hopefully you should be okay. Okay?

22 A Okay.

23 Q Thank you. Please answer any questions that Mr.
24 Barnette or Mr. Stalvey may have.

25 MR. BARNETTE: May it please the Court, Your Honor.

Osia Feaster
Cross-examination by Mr. Barnette

1 THE COURT: Mr. Barnette.

2 CROSS-EXAMINATION

3 BY MR. BARNETTE:

4 Q Ms. Feaster, you live at [REDACTED] Street, is
5 that right?

6 A Yes, sir.

7 Q Who lives there with you?

8 A My mom and my grandma.

9 Q Okay. That's the only other two people that live
10 there, right?

11 A Yeah.

12 Q Where does Mr. Teamer live at?

13 A I don't know the street, but it's off Reidville Road.

14 Q Is it Overbrook Circle?

15 A I guess. I don't know the street.

16 Q How long had you dated him?

17 A For three months.

18 Q You didn't know where he lived at?

19 A No. I don't know the street. I didn't know the
20 street.

21 Q Had you ever been to his house?

22 A Yes, I had.

23 Q What is your cell phone number, ma'am?

24 A I don't have a cell phone.

25 Q Back on February 2nd or February 3rd did you have a

Osia Feaster
Cross-examination by Mr. Barnette

- 1 cell phone?
- 2 A Yeah. It was 237-██████ I think.
- 3 Q And what is your mom -- or the phone that was in your
- 4 mom's name at the South Center location?
- 5 A 542-██████
- 6 Q And let me show you what's been marked as State's
- 7 Exhibits 11, 12. And this was inside. That's Charlie
- 8 Teamer's handwriting, isn't it?
- 9 A I guess. I'm not sure.
- 10 Q You have never seen his handwriting before?
- 11 A Yeah, I have seen it before, but I haven't seen it in
- 12 a while.
- 13 Q Okay. And going to page two, your mother's phone
- 14 number was 542-██████
- 15 A Yeah.
- 16 Q And your cell phone was 237-██████
- 17 A Yeah.
- 18 Q Did you call Mr. Teamer at the jail?
- 19 A Did I call him at the jail?
- 20 Q Yes, ma'am.
- 21 A I don't understand. How could I call him at the jail?
- 22 Q Let me just rephrase it. Did he ever call you?
- 23 A Yeah.
- 24 Q How many times did he call you from the jail?
- 25 A I'm not sure.

Osia Feaster
Cross-examination by Mr. Barnette

1 Q Did you talk to him on the phone from the jail?

2 A I have, yes.

3 Q How many? Would you do 3-way calling for him from the
4 jail?

5 A I have.

6 Q And did you talk to him on February the 5th of 2006 at
7 the jail?

8 A I'm not sure.

9 Q Did he ever talk to you about Duke and Pooh-Pooh?

10 A I don't remember Duke and Pooh-Pooh. I mean, I don't
11 remember talking about them.

12 Q Do you remember him telling you that somebody was mad
13 at him because of what he had did to Duke and Pooh-Pooh?

14 A No.

15 Q You don't remember him telling you that, "You know I
16 did that shit"?

17 A No, no.

18 Q You didn't hear him say that they will never be able
19 to prove that?

20 A I don't remember.

21 MR. SCHULTZ: Your Honor, is this relevant to the
22 alibi?

23 MR. BARNETTE: Yes, sir, it is.

24 THE COURT: Is that an objection?

25 MR. SCHULTZ: Yes, sir, Your Honor.

Osia Feaster
Cross-examination by Mr. Barnette

- 1 THE COURT: Overruled.
- 2 MR. BARNETTE: Your Honor, permission to play
- 3 Exhibit 21-A again.
- 4 THE COURT: Okay.
- 5 Q While I do that, ma'am --
- 6 MR. BARNETTE: Permission to approach the witness,
- 7 Your Honor.
- 8 THE COURT: You may.
- 9 Q State's Exhibit 22, which was the jail records for the
- 10 phone calls, the phone number 542- [REDACTED] that's your
- 11 residence, isn't it?
- 12 A Yes.
- 13 (Whereupon, the C. D. was played for the jury.)
- 14 Q Ms. Feaster, who is that on the phone with Mr. Teamer?
- 15 A It's me.
- 16 Q That's you?
- 17 A Yeah.
- 18 (Whereupon, the C. D. was played for the jury.)
- 19 Q That was you on the phone with him, wasn't it?
- 20 A Yes.
- 21 Q He wasn't with you that night, was he?
- 22 A Yes. We were together that night.
- 23 Q Didn't you just say you heard about it?
- 24 A I heard about it?
- 25 Q Yes, ma'am.

Osia Feaster
Cross-examination by Mr. Barnette

1 A I heard about what?

2 Q Do you want me to replay? I can replay.

3 A Yeah. You can play it, yeah.

4 Q What's that, ma'am?

5 A Replay it.

6 Q Replay it.

7 (Whereupon, the C. D. was played for the jury.)

8 Q Was you able to hear the tape?

9 A Yeah, I heard it.

10 Q Then you heard about it, didn't you?

11 A Well, people talk, but yeah.

12 Q Okay. He wasn't at your residence, was he?

13 A We were together.

14 Q You weren't together at that time, were you, at that
15 time when the crime occurred?

16 A At what time?

17 Q You claim that he was with you from 8:00 to
18 12:00 o'clock.

19 A Uh-huh.

20 Q Didn't he call you on your cell phone at 8:43 that
21 evening?

22 A I don't know about 8:43. He called me at 7:45.

23 Q And isn't it true -- where was he, at your house 9:03?
24 Was he at your house?

25 A He was at my house all night just about.

Osia Feaster
Cross-examination by Mr. Barnette

- 1 Q All night?
- 2 A Yes.
- 3 Q Was he at your house at 9:03 p.m. that evening?
- 4 A Yes, he was.
- 5 Q Didn't he call your mom's house at 8:45 that evening?
- 6 A I'm not sure.
- 7 Q Isn't it true that T N T Hot Wings closes about 11:00?
- 8 A T N T Hot Wings didn't close on time that night.
- 9 Q Who is Ieshia?
- 10 A His cousin.
- 11 Q Okay. Didn't he tell you that he wanted you to take
- 12 care of Ieshia and wanted them to live with you over at
- 13 your house?
- 14 A No. I don't remember that.
- 15 Q And he told Ieshia to call you. "Call my little
- 16 friend lady, Ieshia, if you need anything or something's
- 17 wrong."
- 18 A I never talked to Ieshia.
- 19 Q You talked to -- by the way, what is Mr. Teamer's
- 20 nickname?
- 21 A Charlie.
- 22 Q What other nicknames?
- 23 A I don't know. I know him as Little Charlie.
- 24 Q You don't know him by any other names?
- 25 A That's all I know him as -- Charlie.

Osia Feaster
Cross-examination by Mr. Barnette

1 Q You never heard him use the nickname Murda?

2 A I heard it, but they call him Charlie. That's all I
3 know.

4 Q You've heard him use Murda before?

5 A Yeah. But I didn't know who Murda was.

6 Q Heard him use Murda Rich before?

7 A I heard him use Charlie.

8 Q But, now, he did tell you that on the phone.

9 A Tell me what?

10 Q The tape that I played a little bit earlier, he did
11 tell you that. Does that refresh your memory?

12 A Yeah.

13 Q And he did tell you that he did that shit to Duke and
14 Pooh-Pooh.

15 A Yeah.

16 Q And Duke and Pooh-Pooh, who are they?

17 A Neighbors.

18 Q They were neighbors of his, weren't they? How did you
19 know they were neighbors?

20 A I had seen them before.

21 Q Where had you seen them before at, ma'am?

22 A At their residence.

23 Q At their residence?

24 A Yeah.

25 Q Didn't Mr. Teamer go visit them?

Osia Feaster
Cross-examination by Mr. Barnette

- 1 A Yes.
- 2 Q So he knew them.
- 3 A Yes.
- 4 Q And they knew him.
- 5 A Yes.
- 6 Q And you're saying he was with you from 8:00 to
- 7 12:00 o'clock, or 8:00 until 11:15, I guess.
- 8 A It had to be after 11:15.
- 9 Q And he took your car.
- 10 A Yeah.
- 11 Q He took it by himself?
- 12 A Yeah.
- 13 Q Where did he say he was going?
- 14 A Said he was going to his sister's house.
- 15 Q Now, where he lived at, how far is it away from your
- 16 house? You live over. Let me get a map.
- 17 MR. BARNETTE: Publishing State's Exhibit No. 1.
- 18 Q If I'm right -- I don't know if it's even on the map.
- 19 You live above W. O. Ezell Boulevard, is that right? You
- 20 live on South Center Street, is near the mission, up in
- 21 that area of town, isn't that right?
- 22 A Yeah.
- 23 Q So you have to cross W. O. Ezell Boulevard and
- 24 Reidville Road to get to his residence on Overbrook Circle,
- 25 or to his neighbor's residence, is that right?

Osia Feaster
Cross-examination by Mr. Barnette

1 A I don't go that way, so.

2 Q What's that, ma'am? I'm sorry?

3 A I don't go that way, but it takes about ten minutes.

4 Q Okay. It takes ten minutes to get from your house to
5 his house.

6 A About ten minutes.

7 Q Would you say it's at least three miles, give or take?

8 A I'm not sure, but I know it takes about ten minutes.

9 Q And, by the way, did you keep marijuana in your car?

10 A No.

11 Q So any marijuana that was found in the car would not
12 be yours.

13 A No.

14 Q But he was not at your residence -- he was at your
15 residence at 9:03.

16 A Yes.

17 Q He did not call you on your cell phone at 8:43.

18 A I'm not sure if he called me on my cell phone. He
19 could be outside of my house and call me on the cell phone.

20 Q Why would he call you from right outside your house
21 and not step in?

22 A He did that. If he was outside of my house and he
23 called my mom and let her know, he call my mom and let her
24 know if he's outside, come to the door.

25 Q But if he was in your house at 8:00 o'clock, unless he

Osia Feaster

Cross-examination by Mr. Barnette

- 1 just stepped out, why wouldn't he be able to come -- why
2 did he have to call before he'd come back in?
- 3 A He wasn't in my house the whole time.
- 4 Q He wasn't in your house the whole time?
- 5 A He wasn't in my house the whole time, but he was back
6 and forth.
- 7 Q He was back and forth somewhere else?
- 8 A Not somewhere else. He was on my porch and he was in
9 my house.
- 10 Q How long did he stay out on the porch?
- 11 A Not long. He had come back in the house.
- 12 Q So he wasn't with you and your mom the whole time
13 then.
- 14 A Not just with us, but he was there.
- 15 Q Would he use your car to go places?
- 16 A No. That was the first time.
- 17 Q Would you drive him to places?
- 18 A I have.
- 19 Q You -- did you drive him to T N T Hot Wings that
20 night?
- 21 A Yeah.
- 22 Q Let me ask you. You said that was the first time he
23 used your car.
- 24 A Right.
- 25 Q Why did you let him use that car for the first time?

Osia Feaster
Cross-examination by Mr. Barnette

1 A Because I was tired and didn't feel like going
2 anywhere.

3 Q So you would take him places, to go to places and
4 things like that?

5 A Yeah.

6 Q Where would you drive him to?

7 A Wherever he needed to go.

8 Q Would you do anything that he would want you to do?

9 A No.

10 Q Did -- so you don't know where he was when he was
11 outside the house?

12 A He was on my porch because he wasn't outside long.

13 Q But you don't know where he went once he went outside.
14 You didn't physically see him, did you?

15 A I just seen him go outside.

16 Q But you don't know where he went, when he came back
17 in, where he came back from.

18 A No.

19 MR. BARNETTE: One moment, Your Honor, please.

20 (Pause.)

21 Q One other thing. Do you know what Charlie Teamer's
22 cell phone number was?

23 A No. It was a 621 number.

24 Q Did he also have a 921 number?

25 A I don't know the 921 number. I remember 621.

Osia Feaster
Redirect examination by Mr. Schultz

- 1 Q Thank you, ma'am.
- 2 REDIRECT EXAMINATION
- 3 BY MR. SCHULTZ
- 4 Q Who is Ieshia?
- 5 A Charlie's cousin.
- 6 Q That phone conversation, do you know what Charlie was
- 7 talking about?
- 8 A At first I didn't.
- 9 Q Okay. But what was he talking about?
- 10 A Duke and Pooh-Pooh.
- 11 Q Duke and Pooh-Pooh. Do you know Duke and Pooh-Pooh?
- 12 A I don't know them like that, but I, I seen them. I
- 13 been --
- 14 Q So you didn't really know who he was talking about,
- 15 correct?
- 16 A Correct.
- 17 Q I asked you on my direct. Are you pregnant?
- 18 A Yes.
- 19 MR. BARNETTE: Your Honor, I'm going to object to
- 20 this. I don't know what the relevance of that is.
- 21 THE COURT: Sustained.
- 22 MR. SCHULTZ: Beg the Court's patience.
- 23 (Pause.)
- 24 Q That's all I have. Thank you.
- 25 THE COURT: You may step down.

Daisy Elaine Feaster
Direct examination by Mr. Schultz

1 MR. SCHULTZ: The defense would like to call Elaine
2 Feaster to the stand.

3 DAISY ELAINE FEASTER, having
4 been first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MR. SCHULTZ

6 Q Could you please state your name for the record?

7 A Daisy Elaine Feaster.

8 Q All right. Daisy, do you go by Daisy or Elaine?

9 A Elaine.

10 Q Elaine. How old are you?

11 A Forty-four.

12 Q All right. Where do you live?

13 A [REDACTED] Street.

14 Q Do you know Charlie Teamer?

15 A Yes.

16 Q How long have you known him for?

17 A I knowed him the end of December of 2005 up until now.

18 Q December of 2005?

19 A Uh-huh.

20 Q Okay. Do you remember where you were on the night of
21 February the 2nd of 2006?

22 A Well, yes. I seen him that night.

23 Q When did you see him that night?

24 A Well, he had called me. I seen him about, I want to
25 say, something after 8:00, because he had called me when I

Daisy Elaine Feaster
Direct examination by Mr. Schultz

1 was in the tub to tell me he was outside waiting on my
2 daughter to come home, that he had talked to her on the
3 phone. And when I came out of the bathroom he was in the
4 room. My daughter had got home.

5 Q What room was that?

6 A In my bedroom.

7 Q And this is at [REDACTED] Street?

8 A Yes.

9 Q And that's where you live?

10 A Yes.

11 Q Was he at [REDACTED] Street at 11:00 o'clock?

12 A Well, I got back from Wal-Mart. It was like, it was
13 after 11:00 when I got back. It was like, more like, 12:00
14 or something to 12:00. Me and my cousin got back from
15 Wal-Mart.

16 Q All right. And your daughter is who?

17 A Osia feaster.

18 Q Osia Feaster. Okay. So when Charlie was on the porch
19 there he would call you on your home phone, correct?

20 A Yes. If he called me and my daughter wasn't at home,
21 he would call and let me know that he was outside.

22 Q Okay. Because you were in the tub, right?

23 A Yeah, I was in the tub then.

24 Q When did you leave for Wal-Mart?

25 A We left for Wal-Mart about something till 9:00 or

Daisy Elaine Feaster
Cross-examination by Mr. Barnette

1 9:00 o'clock.

2 Q Okay. And when did you get back?

3 A We got back about 12:00.

4 Q Okay. That's all I have.

5 CROSS-EXAMINATION

6 BY MR. BARNETTE

7 MR. BARNETTE: May it please the Court, Your Honor.

8 THE COURT: Yes.

9 Q Ms. Feaster, if I understood your testimony right, you
10 said he had called. He called sometime after 8:00, is that
11 right?

12 A Yes.

13 Q And he -- and you left at 9:00 p.m., is that right?

14 A It was like something till 9:00. It wasn't exactly
15 9:00.

16 Q Somewhere around 9:00. Was it before 9:00?

17 A It was before 9:00, yes.

18 Q And you went to Wal-Mart?

19 A We went to, first we went to, Circuit City. And then
20 we went to Best Buy. And Wal-Mart was the last store we
21 went to, because she was looking for a T. V.

22 Q And y'all didn't get back until after midnight.

23 A Yeah, about 12:00.

24 Q So you weren't -- you don't know where Mr. Teamer was
25 from 9:00 until 12:00 o'clock, do you?

Daisy Elaine Feaster
Redirect examination by Mr. Schultz

1 A No.

2 Q Because you was at other places.

3 A Excuse me?

4 Q You was at other places.

5 A Well, yes. I left about 8:30 or 9:00 o'clock, and we
6 got back about 12:00.

7 Q Okay.

8 MR. BARNETTE: One moment, Your Honor, please.

9 (Pause.)

10 MR. BARNETTE: That's all the questions I have, Your
11 Honor.

12 MR. SCHULTZ: Just one more.

13 REDIRECT EXAMINATION

14 BY MR. SCHULTZ

15 Q And Charlie was there when you got back from Wal-Mart.

16 A Yes, he was.

17 MR. SCHULTZ: Beg the Court's patience.

18 (Pause.)

19 Q Briefly. When you came back, what was Charlie and
20 Osia doing?

21 A Well, Charlie was sitting at the computer listening to
22 music and Osia and Ashley was in the kitchen getting ready
23 to eat the food they had got from T N T Hot Wings.

24 Q Okay. That's all I have.

25 MR. BARNETTE: Just one on followup, Your Honor.

Daisy Elaine Feaster
Recross-examination by Mr. Barnette

1 RECROSS-EXAMINATION

2 BY MR. BARNETTE

3 Q What time did Charlie leave?

4 A Well, I say he had to leave -- he didn't leave the
5 time that we got back. We were sitting down eating. I
6 would say he left maybe about 20 minutes after.

7 Q And how did he leave?

8 A Well, he left in Osia's car.

9 Q Did he drive Osia's car back at the time?

10 A No.

11 Q Why did he take it that night?

12 A Well, he asked us to take him somewhere, to his
13 sister's house, and she told him she was tired.

14 Q But you don't know where he was from 9:00 until
15 12:00 o'clock or whenever you got back from Wal-Mart.

16 A Are you talking about before I got back from Wal-Mart?

17 Q No, no. You don't know where, what happened between
18 9:00 -- what time did you -- you got back after midnight?

19 A Yeah. I got back about 12:00, but I don't know what
20 happened, you know.

21 Q Thank you, ma'am.

22 THE COURT: You may step down. Thank you.

23 MR. SCHULTZ: The defense would like to call Christina
24 Hoggle.

25 MR. BARNETTE: Your Honor, may I approach the bench?

Christina M. Hoggle
Direct examination by Mr. Schultz

1 THE COURT: Yes.

2 (Bench conference held off the record in the presence
3 of the jury but out of the hearing of the jury.)

4 CHRISTINA M. HOGGLE, having
5 been first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MR. SCHULTZ

7 Q Please state your name for the record.

8 A Christina M. Hoggle.

9 Q Okay. Where do you work for?

10 A Spartanburg County Detention Facility.

11 Q How long have you worked for the detention facility?

12 A Three years.

13 Q Were you working the night on or actually the morning
14 of February 3rd of 2006?

15 A I was.

16 Q Did you book in a Nathaniel Charles Teamer?

17 A I did.

18 Q Okay. Is this the arresting officer?

19 A Yes, sir.

20 Q Okay. Is this your signature there?

21 A It is.

22 Q Is this your writing?

23 A Yes, sir.

24 Q How much according to this, how much cash did Mr.
25 Teamer have on him?

Christina M. Hoggle
Cross-examination by Mr. Barnette

1 A \$1.52.

2 Q Did he have anything, other articles that night?

3 A Yes. He had also in possession on two keys on two key
4 rings and an open tube of chapstick.

5 Q Okay. Anything else that you saw on the booking
6 sheet?

7 A No, sir.

8 Q Do you know how long your involvement was with
9 Mr. Teamer that night?

10 A Takes roughly about six minutes to book somebody in.

11 MR. SCHULTZ: Beg the Court's patience.

12 (Pause.)

13 Q I have nothing more for this witness.

14 CROSS-EXAMINATION

15 BY MR. BARNETTE

16 Q Did you bring your folder with you? Did you bring the
17 booking folder with you too?

18 A I did not.

19 MR. BARNETTE: Your Honor, I would like to enter this
20 into the record.

21 MR. SCHULTZ: Without objection.

22 THE COURT: It is admitted.

23 (Receipt marked State's Exhibit No. 31.)

24 Q Do you remember anything about Mr. Teamer, ma'am?

25 A Nothing in particular, no.

Christina M. Hoggle
Cross-examination by Mr. Barnette

- 1 Q I know you book several people through there.
- 2 A Yes, sir.
- 3 MR. BARNETTE: Your Honor, permission to publish this
- 4 to the jury.
- 5 THE COURT: You may.
- 6 Q Let me ask you this question real quick. Did the
- 7 defendant sign this form?
- 8 A Yes, he did.
- 9 Q And does he sign it in one or two places?
- 10 A He signs it in two separate places. The one spot
- 11 requires an initial, but Mr. Teamer signed his full name on
- 12 it instead.
- 13 Q I think I asked this question before. Is this where
- 14 he signs his signature?
- 15 A Yes, sir, it is.
- 16 Q And he also signs it here.
- 17 A Yes, sir.
- 18 Q Thank you, ma'am.
- 19 A You're welcome.
- 20 MR. BARNETTE: That will be all the questions of this
- 21 witness, Your Honor.
- 22 THE COURT: You may step down.
- 23 THE WITNESS: Thank you.
- 24 MR. SCHULTZ: Your Honor, may she be released?
- 25 THE COURT: She may.

1 (Whereupon, the witness was excused.)

2 MR. SCHULTZ: At this time the defense rests, Your
3 Honor.

4 THE COURT: Any reply?

5 MR. BARNETTE: Possibly, Your Honor, there is one
6 matter I need to talk to the Court about.

7 THE COURT: All right. Ladies and gentlemen, let me
8 ask you to please go to your jury room. Do not yet discuss
9 the case. I'll bring you back shortly.

10 (The following takes place outside the presence of the
11 jury.)

12 THE COURT: All right. Mr. Barnette.

13 MR. BARNETTE: Your Honor, the next witness, the
14 rebuttal witness, would be -- he was on home detention at
15 the time this crime occurred.

16 Based on their alibi testimony, Ms. Feaster, Osia
17 Feaster, said that she was at his residence or, I mean, at
18 her residence at 9:03.

19 On the home monitoring system he was not at his house.
20 He went by it or was inside the house at 9:03. He left
21 shortly after that. His residence is at [REDACTED]
22 Circle. It is at least, she'd say, ten minutes away,
23 possibly three miles away from the house.

24 The box will register any time you have the bracelet
25 within 150 yards of the house. So obviously he went by the

1 house at 9 -- his own house at 9:03. There's no way he
2 could have been at [REDACTED] Street. We would like
3 to introduce that evidence obviously to impeach the alibi
4 witness.

5 The question I have for the Court is, is how to handle
6 that, because obviously he was out on bond for a previous
7 charge at that time, criminal sexual conduct and
8 kidnapping.

9 I've instructed the lady I am just going to ask you
10 about, you know, did you have a monitoring system on him,
11 because they had violated his curfew the day before. They
12 had actually started the process to have him arrested the
13 day before because he had violated his curfew on home
14 detention.

15 THE COURT: Mr. Schultz.

16 MR. SCHULTZ: Thank you, Your Honor.

17 I believe that the home detention records will allow
18 the solicitor to essentially have two bites of the apple
19 here today.

20 I don't think -- I believe that these home detention
21 records are highly irrelevant and that we would show, we
22 would contend that the prejudicial effect of having the
23 jury see that Mr. Teamer was on a home detention monitoring
24 system for -- and they would have to assume that he did
25 something wrong in the past, and that he was not convicted

1 for the C. S. C.'s or the kidnapping. I think that's
2 highly prejudicial.

3 THE COURT: Well, clearly the nature of the charges
4 for which he was being supervised will not be before the
5 jury.

6 What the state is seeking to introduce is simply
7 evidence that it just so happens -- this is a rebuttal to
8 an alibi-witness testimony. The testimony the state seeks
9 to introduce is simply testimony from a person -- in this
10 case it happened to be someone supervising his release --
11 that he could not have been where his alibi witnesses claim
12 he was at 9:00 o'clock because they were supervising him,
13 they were checking on him and at 9:00 o'clock he had to
14 have been at least within 150 yards of his residence and
15 therefore could not have been at Ms. Feaster's residence.

16 Let me see y'all just a minute.

17 (Bench conference held off the record.)

18 THE COURT: All right. We are going to take ten
19 minutes.

20 (Whereupon, a recess was taken.)

21 THE COURT: Any other matters we need to address
22 regarding the potential rebuttal witness?

23 MR. BARNETTE: Nothing from the state, Your Honor.

24 MR. SCHULTZ: Nothing from the defense, Your Honor.

25 THE COURT: Okay. Is this witness going to be called,

1 or not?

2 MR. BARNETTE: The witness is not going to be called,
3 Your Honor.

4 THE COURT: All right. No rebuttal, no reply.
5 All right. Any specific instruction requests y'all
6 want to make?

7 MR. BARNETTE: None from the state, Your Honor. I
8 think the standard charges will be fine.

9 MR. SCHULTZ: The standard charge will be fine as long
10 as it contains alibi.

11 THE COURT: All right. Bring the jury in, please.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: All right. Any reply on behalf of the
15 state?

16 MR. BARNETTE: Nothing from the state, Your Honor.

17 THE COURT: Ladies and gentlemen, that is all of the
18 testimony or other evidence to be offered in the trial of
19 the case.

20 Therefore what remains to be done are the lawyers'
21 final summations after which I'll instruct you on the law.
22 And then you'll begin with your deliberations in the case.

23 So I'm going to ask that you please give the lawyers
24 your attention now as they give you their final summations.

25 Mr. Schultz.

Closing arguments

1 MR. SCHULTZ: Thank you, Your Honor. May it please
2 the Court.

3 Ladies and gentlemen, I want to thank you again for
4 your time and attention to this very important case. I
5 know that you paid a lot of attention to this case. I know
6 you were into it, and I appreciate that very much. I know
7 Charlie does as well.

8 Ladies and gentlemen, for the past three days you've
9 heard testimony from both the state and the defense as to
10 what happened on the night of February 2nd and the early
11 morning hours of February 3rd of 2006.

12 Now, what the state did is present their evidence that
13 Charlie Teamer did these things. And we have shown
14 conclusively that Charlie Teamer was nowhere around [REDACTED]
15 [REDACTED] that night when this home invasion was
16 supposed to have taken place. We have proved that Charlie
17 was elsewhere that night and could not have done the things
18 that the Grays and Donald Martin said that he did.

19 Now, we have heard that there's some animosity between
20 the Grays and Charlie. There's definitely no love lost
21 between Charlie and Donald Martin. And you heard that from
22 the tone of his testimony yesterday and you heard that in
23 the tone of the letter.

24 So let's talk about, a little bit about, the testimony
25 of Donald Martin. Now, you sat here and heard his

Closing arguments

1 testimony yesterday. He didn't seem very interested in
2 being here. He sat back in his chair and answered my
3 questions with a shrug of the shoulders like it was no big
4 deal.

5 During my cross-examination I tested his memory of the
6 event. He wasn't sure who came to the door that night, was
7 it called Murda or Murda Rich. He said the intruder was
8 dressed all in black and had a ski mask on and a long
9 shotgun. The interesting thing about this is Mr. Martin's
10 pants. Were they on, were they off? He doesn't know.

11 But it's not so much of what Donald Martin said in his
12 testimony. It's what he didn't say. You heard from his
13 testimony that he gave a statement. That statement was
14 written by an officer for 15 minutes, from 11:45 until
15 12:00 o'clock at night.

16 Ladies and gentlemen, you can say a lot of things in
17 15 minutes. You really can. So Donald Martin gave all of
18 this pertinent details that will be helpful in assisting
19 the police in apprehending whoever did this, but he never
20 once mentioned Charlie Teamer in his statement, never once
21 for 15 minutes.

22 He sat down with a police officer and told him
23 everything he knew about that night. Never once said
24 Charlie Teamer. Anything that would be helpful in catching
25 him, he didn't mention. When things were freshest in his

Closing arguments

1 mind he did not mention Charlie Teamer, not once in his
2 statement. And I would present to you that after all is
3 said and done that's someone making a story up.

4 So what we are left with now, we are left with Donald
5 Martin coming to court and completely changing around what
6 he said that night.

7 Now, on Monday, late Monday, you heard Erica Gray
8 testify and tell about what happened that night. She said
9 she was in the front room when a man came in and robbed
10 her. And in her statement she said it sounded like someone
11 saying Murda.

12 But according to Donald Martin, and you heard him
13 testify yesterday, he said it was in a low voice. So how
14 could Erica Gray hear someone in a low voice when she was
15 in a separate room, especially if someone's sitting in a
16 separate room, especially? According to her statement she
17 was asleep at the time.

18 Ladies and gentlemen, her testimony, as well as Donald
19 Martin's, is all over the place. And we've proved that in
20 my cross-examination.

21 We've heard Erica Gray say that she knew that Charlie
22 was over at her house, [REDACTED] All right. She said
23 Charlie was not only over at the house but he knew that
24 Erica was counting \$5,000 in tax refund that she received.
25 He knew that.

Closing arguments

1 And on cross-examination did the intruder ever say I
2 know you've got \$5,000? No. Did the intruder ever say I
3 know you just got your tax refund back so give it up? No.
4 That's not what happened.

5 The intruder never demanded \$5,000 and the intruder
6 according to the statement of Donald Martin left with \$500,
7 assuming that Donald Martin, that money was his, the \$500.

8 So Erica Gray and Donald Martin didn't mention Teamer
9 once. So you think that someone would have to, but, no,
10 that didn't happen.

11 A third person, Mary Gray, didn't mention anybody that
12 night. She mentioned somebody when the statement, when her
13 memory was freshest in her mind at 11:45 that night. And
14 it happened remember at 11:00 o'clock. None of them
15 mentioned Charlie Teamer. None of them.

16 Now, ladies and gentlemen, one person I could see
17 overlooking this would be an oversight, understandable; two
18 people would be stranger; three people not saying this
19 stand off the same, they don't know. They don't know who
20 broke in the house. And it was not Charlie Teamer. It was
21 not him.

22 You may have noticed that all the victims could have
23 come back. They could have wrote another statement just to
24 clarify the issue, but they didn't. The only one that came
25 back was Erica, and that was five days later, five days

Closing arguments

1 later. Donald Martin and Mary Gray could have come back,
2 but they chose not to.

3 Ladies and gentlemen, there's an expression that I
4 like that my parents often use, after all is said and done
5 a heck of a lot more is said than done. And you have heard
6 the testimony these last couple of days. You know what the
7 statements say. And a heck of a lot more was said than
8 actually done with this case.

9 I think the most interesting witness at this trial was
10 the little nine-year-old-girl, Javanica. You remember when
11 Mr. Barnette first asked Javanica about this, what did she
12 say? She said somebody broke in. Now, later on she said,
13 well, voice sounded like Charlie Teamer. Okay. That's
14 fine. But the first time she said that. And she didn't
15 give a statement either. The first time she said that.
16 You heard her testify. She's like somebody broke in.

17 Well, someone did break in that night. We aren't
18 contesting that, but it wasn't Charlie Teamer because he is
19 far away at [REDACTED] Street that night, which
20 brings us to the next part of the case.

21 Now, you heard the testimony today of Osia Feaster and
22 Elaine Feaster, two witnesses with no, absolutely no,
23 motive to lie. In fact, I would find it very difficult to
24 come to court to testify to somebody that borrowed my car
25 and then was in a wreck.

Closing arguments

1 Think about that for a minute. Yet they did the right
2 thing today. Osia did the write thing, Elaine did the
3 right thing today. They told you the real version of
4 events that night. And the real version went like this.
5 Charlie went to [REDACTED] Street at 8:00 o'clock,
6 and he was there that night until he borrowed Osia's car.
7 That's it, that simple. And sometimes in a court of law
8 and in real life the simplest answer is the correct answer.

9 You know that at 11:00 o'clock Charlie was at 533
10 South Center Street on his way to get him some hot wings at
11 T N T on Reidville Road.

12 So that brings us to the next part of this case, which
13 is where Charlie asked to borrow Osia's car and was
14 unfortunately involved in a car wreck at the end of the
15 night.

16 Now, after Charlie borrowed the car for the first time
17 that night, now, he went to Overbrook Circle for the first
18 time that night. I want you to remember that. He went for
19 the first time that night to Overbrook Circle with Osia's
20 car.

21 Assuming that it's him, now, I ask you would this be
22 the action of somebody that goes back to where this robbery
23 happened, okay, to go back to Overbrook Circle where this
24 all happened? And not only that, would this be the action
25 of somebody trying to throw beer cans, according to Officer

Closing arguments

1 St. Louis' testimony, throwing beer cans out of his car?

2 That doesn't make sense.

3 Why would he draw attention to himself at this place?

4 And that does not make sense because it didn't, that

5 robbery did, not happen. That robbery was not caused by

6 Charlie Teamer.

7 Now, I find it cold and calculating to dress myself up

8 entirely in black that night with a ski mask and having a

9 shotgun and taking \$500. Would I then decide later on that

10 night to go back to Overbrook Circle where there's police

11 all over the place? You heard from Officer Patton, you

12 heard from St. Louis. There is all kinds of police all

13 over the place. Okay. Well, I've just decided I'm going

14 to go back to that place. It doesn't make any sense.

15 Ladies and gentlemen, the simple fact of this is that

16 the state's case does not add up. If you believe the

17 state's case you would have to believe that Charlie somehow

18 got rid of a huge shotgun and discarded his clothes back at

19 his house and got to Osia Feaster's house to borrow the car

20 and then go back to the scene of the incident. And not

21 only that, drawing attention to himself by throwing beer

22 cans out of the side of the car..

23 In order to convict him you have to believe that

24 there's two Charlie Teamers that night. Well, there

25 weren't two Charlie Teamers that night. There was only

Closing arguments

1 one, one Charlie Teamer that night, at 23 -- 533 South
2 Center Street from 8:00 o'clock until when he borrowed his
3 girlfriend's car.

4 And this, ladies and gentlemen, is the whole crux of
5 my argument, the whole crux of the state's case. The
6 state's case does not add up.

7 Where is the ski mask? Where is the shotgun? Where
8 are all of these things? Where is the weapon? They
9 haven't found it. There was a shotgun shell, unspent
10 shotgun shell, near [REDACTED] Was that ever tested
11 for fingerprints? No. Any forensics done on it? No.

12 Did they find a ski mask when Officer Gardner went in
13 there to do a search warrant? No. And you heard him. He
14 went through every house, I mean, every, every room in that
15 house. Did he find anything? No. Did he find any black
16 on him? No. Find any shotgun? No. Find a ski mask? No.
17 And that's because it's the simple reason, because Charlie
18 Teamer never robbed or burglarized anybody that night.

19 Now, the final aspect of this case that we heard late
20 yesterday is the charge of felony D. U. I. Now, I know the
21 toxicologist, he was up here, and it was dry testimony. It
22 wasn't exciting testimony like maybe you were used to
23 earlier in the today. But it's very important testimony
24 because .02 ethanol in the blood is well below the legal
25 limit in South Carolina, well below.

Closing arguments

1 You heard Officer Evett testify, and he gave a
2 statement to that effect. What you heard from Officer
3 Evett late yesterday was from a police officer who was, who
4 was being honest that night with the truth.

5 I asked him would erratic driving be expected of
6 someone who was D. U. I. Would someone that went back and
7 forth from side to side be expected, would that be, that
8 person be suspected of D. U. I., and he said definitely no,
9 definitely not. That was my last question to him
10 yesterday.

11 And I asked him after I went over this full laundry
12 list of things did Mr. Teamer exhibit any other
13 characteristics that night of someone as D. U. I., and he
14 said no, he said no. He was not materially and appreciably
15 impaired that night. In fact, he admitted that he lost
16 sight of Mr. Teamer's car, not one time, not two times, but
17 three times. Lost sight of the car.

18 Officer Evett also admitted that in my cross, that
19 driving fast on the winding, twisting turns of Mount Zion
20 Road, especially no headlights on, demands a lot of skill,
21 a lot of attention.

22 So the state's saying two things. He's saying that he
23 was driving erratically, but yet at the same time the
24 evidence doesn't say that. He was driving on these
25 winding, twisty streets, the road, Mount Zion, okay,

Closing arguments

1 without his headlights on. And that requires an extreme
2 amount of skill.

3 Ladies and gentlemen, that doesn't make sense. He was
4 not materially and appreciably impaired that night. Is
5 this consistent? And I ask you. Is this consistent with
6 somebody who is driving under the influence? And the
7 answer is an emphatic no.

8 This confirmed not only by Officer Evett but by the
9 results of the toxicology report. The toxicologist said
10 that he was just above the threshold amount for what he
11 tests for, his threshold amount.

12 Now, we got into science, and I don't want to get into
13 science knowledge, but, briefly, the threshold amount that
14 he was talking about, he tested right above that, well
15 below what the state of South Carolina says is materially
16 and appreciably impaired.

17 Just to make sure, they not only tested his blood.
18 They also tested his urine too. They both came back well
19 below the limit.

20 We also hear the toxicologist, and I can't ignore
21 this, testified to the presence of cannabinoids, which is
22 marijuana or T. H. C., whatever you want to call it, should
23 make you drowsy and sleepy. In fact, according to Evett
24 suspect had complete control of his vehicle up until the
25 time he crashed.

Closing arguments

1 Now, you heard Darity and Evett testify to what caused
2 the wreck. They said that they didn't see it, they weren't
3 there, that Evett lost sight of the vehicle. Nobody was
4 there that night. We don't know what caused the wreck.

5 But, ladies and gentlemen, again, I go to my phrase
6 that sometimes the simplest answer is the correct answer.
7 What if it was just an accident that night? What if it was
8 just an accident? And that's what happened that night,
9 that it was an accident.

10 Mr. Teamer was not intoxicated. You heard that said.
11 He was not under the influence of drugs. It was an
12 accident. It was not felony D. U. I.

13 Now, like I said before, sometimes the simplest answer
14 is the correct one. We don't have a video. All we have is
15 the officer's own testimony that he lost sight of it. We
16 don't know. But we do know that it was an accident.

17 You know, when the judge first spoke to you on Monday
18 he mentioned the words reasonable doubt, presumption of
19 innocence. Reasonable doubt and presumption of innocence
20 are the most important things today.

21 You cannot convict Mr. Teamer if you have one
22 reasonable doubt as to his guilt for all of these charges,
23 just one reasonable doubt. Well, I am not going to only
24 give you one reasonable doubt. I'm going to give you 12.

25 This animosity between Donald Martin and Charlie,

Closing arguments

1 that's number one. This essential storyline, I believe, is
2 what's driving the Grays to do this, to accuse an innocent
3 man of this charge.

4 Two, where were the Grays that night? In their house
5 huddled in the back or huddled in the front. But they said
6 the front. Officer Patton with no motivation to lie
7 investigated this. They said they were huddled in the
8 back. Who knows?

9 Number three, Donald Martin said nothing about Charlie
10 Teamer in his statement.

11 I know I went over this again, but I have to emphasize
12 this because this is the most important part. Number
13 three, Donald Martin didn't say anything about Charlie
14 Teamer in his statement.

15 Number four, Mary Gray didn't say anything about
16 Charlie Teamer in her statement.

17 Number five, Erica Gray said nothing about Charlie
18 Teamer in her statement.

19 We have five reasonable doubts right there, ladies and
20 gentlemen. Already it's clear it's not Charlie Teamer
21 because if they are not sure, if the Grays are not sure
22 that night, you shouldn't be sure as well.

23 Six, Charlie had been over at the house that day and
24 saw \$5,000 being counted out in front of him. This is very
25 important as well. That intruder never asked for that

Closing arguments

1 money. The intruder's statement was \$500, whoever it was.

2 Seven, Donald Martin said the intruder entered the
3 house and said something in a low voice. Well, if that's
4 true, how did Erica Gray hear this in a separate room,
5 wherever she was, in a low voice?

6 Eight, Officer Patton says that Donald Martin came
7 back with his pants off. Okay. Donald Martin said in his
8 testimony that he walked out, he ran out with his pants not
9 on. Okay. This is an inconsistency, puts a reasonable
10 doubt as well.

11 Number nine, where is the gun? A lot of the police
12 investigated this crime. They searched all over the place.
13 They searched around [REDACTED] they searched around
14 [REDACTED] Did they find a gun? No. You never heard
15 anything about that. They came up with nothing.

16 Ten, where is the ski mask? They searched [REDACTED]
17 [REDACTED], they searched [REDACTED] They didn't find
18 it. This leads you again to the conclusion that Charlie
19 Teamer did not do this.

20 Oh, by the way, where is the \$500? Where is it? What
21 happened with that? I don't know. \$500. Okay. If
22 Charlie Teamer did this, okay, what would you think? He
23 would have kept \$500, wouldn't he?

24 But when he was booked in later on that night how much
25 money did he have? \$1.32 and a chapstick. Didn't find any

Closing arguments

1 money at [REDACTED] did they? No.

2 Twelve, the last piece, you heard the officer --
3 actually 13. You've heard officer St. Louis testify. He
4 said that the driver of the blue Caprice was throwing beer
5 cans. If this was Charlie Teamer why would he draw
6 attention to himself? It's stupid.

7 Number 13, which is the most important reasonable
8 doubt, is an alibi. We have conclusively proven that
9 Charlie Teamer was nowhere near [REDACTED] Circle at
10 11:00 o'clock that night. We've heard from two witnesses.

11 Ladies and gentlemen, you may not remember this that
12 you've sat in on a jury in a couple of years. You may not
13 remember my name; you may not remember the solicitor's
14 name; you may not remember the defendant's name. But you
15 will remember one thing. You will remember that you did
16 justice. That's the most important part here.

17 Again, I thank you for your time. And I talked about
18 in my opening statement today asking you for the sale. I
19 always want to ask this. I know that you're going to go
20 back there and when you come back you will acquit Mr.
21 Teamer on all of these charges today. Thank you very much.

22 THE COURT: Mr. Barnette.

23 MR. BARNETTE: May it please the Court, Your Honor.

24 Ladies and gentlemen, this isn't about products. This
25 is about people's lives, the lives that was affected that

Closing arguments

1 night because of that man right there.

2 You're going to weigh the credibility of the
3 witnesses. You'll look at it. They put up an alibi
4 defense. You'll get to weigh their witnesses, their
5 credibility, against the credibility of our witnesses and
6 our evidence.

7 They say the truth comes from the mouths of babies. I
8 had to put a nine-year-old girl up. It pained me to do
9 that. But you needed to know the truth from that night.
10 And she told you who woke her up and who did this to her.

11 Mr. Schultz keeps talking about the \$5,000. Well, why
12 would you go in and say where is the \$5,000 to try to let
13 them know that he saw it? I mean, that just don't make any
14 sense. He's going to go over there and rob them and take
15 their money. He went through the pocketbook of Ms. Gray
16 trying to find the money.

17 They told the officers that night. You had Officer
18 Patton come here and tell you they told them who it was
19 that night and who they sent the information out on. They
20 knowed his voice. Witnesses have told you that they know,
21 that he's been friends with them, that he knew them. They
22 all told you they told the police.

23 Officer Patton told you, and he's got absolutely no
24 reason to lie because he's the first officer on the scene.
25 He heard the gunshot, the same shot they heard. He saw.

Closing arguments

1 And please remember the testimony as you remember it,
2 not the way it's been repeated by me or Mr. Schultz.
3 Remember it the way you remember it.

4 The way I heard it was, yes, Donald Martin's pants, he
5 had to take his pants off. When he came back his pants was
6 still off. Officer Patton remembered that.

7 Everything matches. He uses the nickname Murda for
8 identification, or Murda Rich. You've got evidence that
9 you'll have back here.

10 When they did do the search warrant they found a
11 letter addressed to his address, Murda. You've got the
12 letters. And please read through all of these.

13 You'll have a known writing sample. We called an
14 expert in, and also it's been verified by other witnesses
15 this was his handwriting. Please read through this.

16 And he talks about the reason why he went over and did
17 that to Duke and Pooh-Pooh, because the dude was messing
18 with his cousin Ieshia or his girl Ieshia. I don't know
19 just what the situation is, but you read these letters.

20 Talking about the alibi witnesses. Osia Feaster. You
21 heard the telephone conversation. We have the records
22 here, and you're welcome to look at those too, ladies and
23 gentlemen, any piece of evidence back there.

24 That call was made on February 5th. It's the sixth
25 call on the list. February 5th. This occurred on

Closing arguments

1 with her the whole time. They called her mother. Her
2 mother wasn't even there.

3 This crime occurred around 11:00 p.m., and she's gone
4 from her own admission from 9:00 until 12:00 o'clock to
5 Wal-Mart, Best Buy and everything. She doesn't know.

6 Osia Feaster has a phone conversation saying, yeah, I
7 heard about it. Well, if that was the problem, she says,
8 well, you was with me, that couldn't have happened. She
9 wasn't with him that night. She might have been earlier,
10 later. Obviously he got the car, may have had the car
11 earlier. He had her car that night.

12 They keep talking about the \$5,000 or the \$500 or
13 whatever. Well, obviously, he can go anywhere to put that
14 money away. He could go to [REDACTED] Street and
15 give that money to Osia or whatever. He had plenty of time
16 to do it. They didn't pick him up until later when they
17 saw him driving without his lights at 12:57.

18 And let me ask you something too, ladies and
19 gentlemen. Does this make sense? Here he is driving her
20 vehicle. He's driving without his lights on.

21 He goes on Overbrook Circle, which is his place. He
22 lives at [REDACTED] Circle. And you will have the maps
23 back there in the back. He drives right by his house when
24 the police officer is behind him.

25 He keeps going. The officer turns on his blue lights

Closing arguments

1 to stop him. He keeps going. You heard the siren come on
2 the video. He keeps going. He goes back out on Crescent
3 Avenue and goes down J. B. White Avenue away from his
4 house.

5 The officer had to stop because they have a no-chase
6 policy in the city and calls the BOLO out. He keeps
7 driving. And he's got his lights on and Officer Evett sees
8 him again. That's what makes him think of the BOLO and the
9 type of car it was. And you'll have this map. And he
10 keeps driving away from South Center Street from where he
11 lives. He keeps going and goes all the way to Mount Zion
12 Road and turns his lights off.

13 Every time the police officer got near him or
14 whatever, he turns his lights off trying to stay away from
15 him. He kept running, running away from the police, and he
16 kept running.

17 Mr. Schultz says, well, he's not under the influence.
18 Well, you remember the toxicologist's testimony. The first
19 thing I asked him about was the marijuana, all over
20 marijuana, obviously freshly smoked. He's got the
21 appearance. He's got the actual marijuana before the body
22 processes it through. And he does have that metabolite.

23 And I said this alone, this alone, would affect your
24 judgment to drive a vehicle. Obviously, somebody's crazy
25 at 1:00 o'clock at night driving without your lights on

Closing arguments

1 when there's not any lights out there with them.

2 And what obviously happens is what happened.

3 Mr. Young that has nothing to do with this, absolutely
4 nothing, and you saw what a shape he's in for the rest of
5 his life. It's been 18 months ago. He can't work any
6 more. He can't live the life he had once before.

7 He had marijuana in the car with him, and plus the
8 alcohol along with the marijuana together. I agree if he
9 just had the alcohol alone you wouldn't have him under the
10 influence. But you had the marijuana alone, put him under
11 the influence, and the alcohol just increases those, both
12 of them, the effects of it.

13 Ladies and gentlemen, this is about justice because
14 this happened that night. All of these incidents happened
15 that night. And the man responsible for it is sitting
16 right there at that table. He had two motives, the money
17 that night, as well as pay-back in his mind, that he's been
18 over there earlier that day.

19 He said, well, there couldn't be two Charlie Teamers.
20 I submit to you, ladies and gentlemen, there are. There's
21 the one, I want to submit to you, if you read through the
22 letters, make you think he's a Christian, quoting Bible
23 verses, being a good person, being a good friend.

24 And then there's the other one that goes out and uses
25 the nickname Murda, goes out and does the type of crimes

Closing arguments

1 that he did that night with no disregard for any person,
2 friends or people he don't even know.

3 This case is just like a puzzle. He keeps on talking
4 about the mask, the gun. That's stuff hid away. Just like
5 you take a puzzle of the statute of liberty. You may not
6 have every piece of the puzzle, but you've got the whole
7 puzzle. You've got a majority of the puzzle and you can
8 tell what it is. You may not have a piece here and there,
9 but you have enough of the puzzle to tell what it is, the
10 statute of liberty.

11 And that's what you've got here, ladies and gentlemen.
12 You've got the pieces of the puzzle to show the man that
13 did this that night is sitting right there.

14 The Grays knew it. They told the police that night.
15 He was driving under the influence that night, driving, I
16 mean, to me when you're driving without your lights on and
17 everything else you couldn't ask for more dangerous driving
18 than that, because Ms. Young didn't have a chance to see
19 that night.

20 And, like I said, even from his own lips that you've
21 heard on the tape, and I am going to play it one more time.
22 This man did it, all of these crimes, that night, ladies
23 and gentlemen.

24 And I'm asking you for justice in this case. I am
25 asking you for guilty an all four counts. Hold him

Jury charge

1 responsible for what he did to the Grays, to Donald Martin
2 and all the Grays, and the nine-year-old child.

3 Like I said, truth comes from the mouth of babies.
4 And for what he did to Mr. Young, and because it isn't
5 right, ladies and gentlemen, he is guilty of all of these
6 crimes.

7 THE COURT: Ladies and gentlemen, before I give you --

8 MR. BARNETTE: Your Honor, I was going to play one
9 more thing, Your Honor.

10 THE COURT: Okay.

11 (Whereupon, the C. D. was played for the jury.)

12 MR. BARNETTE: Ladies and gentlemen, we've proven it.
13 Don't let him get away with it. Don't let him get away
14 with what he did that night to these folks. Thank you.

15 THE COURT: Ladies and gentlemen, before I give you
16 the instruction on the law I'm going to let you go back to
17 the jury room, and the clerk is going to take your lunch
18 orders. And then we'll have that being prepared and
19 brought to the jury room while I give you the instruction
20 so that it will be here by lunchtime.

21 So if you will please go back to your jury room and
22 give the clerk your lunch orders, and then we'll bring you
23 back to give you the instruction on the law.

24 (The following takes place outside the presence of the
25 jury.)

Jury charge

1 (Whereupon, a recess was taken.)

2 THE COURT: Bring the jury in, please.

3 (The following takes place in the presence of the
4 jury.)

5 THE COURT: All right. Ladies and gentlemen, as you
6 know, you've heard and seen all the evidence in the case.
7 You've also heard the final summations of the lawyers; and
8 therefore it now becomes my duty and obligation to instruct
9 you on the law that's applicable in the case. And then
10 you'll be asked to go back and begin with your
11 deliberations. And through that process you'll examine the
12 evidence, decide the facts, apply the law and arrive at a
13 fair and just decision in the case.

14 It is your exclusive duty to determine what the facts
15 are. And you do that through your own common sense
16 examination and evaluation of all of the testimony and the
17 other evidence received during the trial of this case.

18 You 12 jurors alone will decide what weight, value and
19 effect to give to any particular witness' testimony or
20 other evidence in the case. Your sole objective of course
21 is to simply reach the truth in the matter, and by doing
22 that you will have fulfilled your obligations as jurors,
23 and that is to simply give both the state and the defendant
24 a fair and impartial trial.

25 Now, in this case, as you know, the state has accused

Jury charge

1 the defendant with having committed four separate and
2 distinct criminal offenses, although they are alleged to
3 have arisen out of one particular event or course of events
4 which the state alleges occurred on or about February the
5 2nd and 3rd of 2006.

6 By way of these documents called indictments the state
7 has alleged that the defendant in this case has committed
8 the crimes of burglary in the first degree, of armed
9 robbery, of felony driving under the influence with great
10 bodily injury resulting and with failing to stop when
11 signaled by a law enforcement officer with great bodily
12 injury resulting.

13 Now, as I told you, these indictments are not evidence
14 in the case, and they're not proof of anything. The
15 indictments will be in the jury room, because, Mr. Foreman,
16 it is on the back of each of those indictments that you're
17 going to be asked to indicate the jury's unanimous decision
18 as to that particular charge. But other than serving as
19 the verdict form, the indictments serve no purpose so far
20 as you jurors are concerned. The state has the burden of
21 proving the allegations set forth in those indictments
22 beyond a reasonable doubt.

23 Now, as to each of those indictments and as to the
24 charges contained therein the defendant has entered a plea
25 of not guilty. And, as I told you, that plea of not guilty

Jury charge

1 therefore places upon the state the burden of proving each
2 of the allegations that are set forth in the indictment,
3 the burden of proving each of the essential elements that
4 constitute the crimes that are alleged against the
5 defendant; and therefore the burden is upon the state to
6 establish the defendant's guilt to the satisfaction of you
7 12 jurors beyond a reasonable doubt before any verdict of
8 guilty could be returned as to any of the separate
9 indictments.

10 The burden is never upon a defendant to prove that he
11 is not guilty or to prove that he is innocent because in
12 some cases that might not even be possible. The burden is
13 always upon the state in bringing a charge against another
14 to establish that person's guilt beyond a reasonable doubt.

15 It is a vital, important and cardinal rule of law that
16 every defendant in a criminal trial -- it doesn't matter
17 how serious the offense might be for which that person
18 stands charged -- under the law that person shall always be
19 presumed innocent of that charge.

20 That presumption of innocence remains with any
21 defendant, as it does with this defendant, from the time
22 that he is placed under arrest and throughout the course of
23 the criminal process and even throughout the course of the
24 actual trial.

25 And, as I told you, that presumption of innocence is

Jury charge

1 going to be with Mr. Teamer even as you go back into your
2 jury room to begin with your deliberations in this case.
3 And that presumption of innocence will be with him in your
4 jury room, and it'll remain with him forever unless you 12
5 jurors determine that he's no longer entitled to that
6 presumption of innocence.

7 That is after you've carefully considered all of the
8 evidence in the case, from that evidence you've decided the
9 facts, and after deciding those facts you apply the law, if
10 you 12 jurors unanimously determine that his guilt has been
11 proven beyond a reasonable doubt as to some particular
12 indictment, then the defendant would no longer be entitled
13 to that presumption of innocence, because his guilt would
14 have been proven beyond a reasonable doubt. But it's only
15 if, unless and until you 12 jurors are satisfied of his
16 guilt beyond a reasonable doubt that the presumption of
17 innocence would no longer be applicable.

18 Now, while the state does have the burden of proving a
19 defendant's guilt beyond a reasonable doubt, that doesn't
20 mean that the state has to prove his guilt beyond all doubt
21 or beyond any possible doubt. But it does require that the
22 state prove his guilt beyond a reasonable doubt.

23 The term reasonable doubt should be given its plain
24 and ordinary meaning. A reasonable doubt is the kind of
25 doubt that would cause a reasonable person to hesitate to

Jury charge

1 act upon the information provided.

2 A defendant in a criminal trial is entitled to any
3 reasonable doubt that arises from the evidence or lack of
4 evidence in a case. And if upon any factual issue
5 essential to a finding of a verdict of guilty you have some
6 reasonable doubt as to how that issue should be resolved,
7 it is your duty to resolve that reasonable doubt in favor
8 of the defendant.

9 And therefore if upon your consideration of the whole
10 case you have a reasonable doubt as to the defendant's
11 guilt as to some charge it would be your duty to resolve
12 that reasonable doubt in his favor and to return a verdict
13 of not guilty as to that particular charge.

14 And, on the other hand, if after considering all of
15 the evidence in the case if you have no reasonable doubt as
16 to his guilt as it relates to a particular charge, then of
17 course it would be your corresponding duty to convict the
18 defendant or to find him guilty of any crime that has been
19 proven to your satisfaction beyond a reasonable doubt.

20 Now, the same law that provides that you are the
21 judges of the facts also provides that I am the judge of
22 the law. That simply means that nobody is going to tell
23 you how to arrive at your determination of fact in this
24 case. You do that, as I have stated, through the exercise
25 of good judgment and common sense conscientiously applied

Jury charge

1 to the testimony and evidence received during the trial of
2 the case.

3 You must however under your oath as a juror accept the
4 law as I give it to you as being the law that is applicable
5 in this particular case. In other words, you're not to
6 concern yourself with what you thought the law was before
7 you came to serve as a juror this week or what you think
8 the law ought to be.

9 You must simply under your oath accept the law as I
10 provide it to you as being the law that is applicable in
11 this particular case. And then you simply take that law
12 and you apply it to the facts as you 12 jurors determine
13 those facts to be based upon your own common sense
14 examination of the testimony and other evidence received
15 during the trial of the case.

16 Now, because you are the sole judges of the facts you
17 are therefore necessarily the sole judges of the
18 credibility, that is the believability, of each witness
19 that has testified during the trial of this case. And I'm
20 going to list for you a number of factors that you should
21 take into consideration in your making an assessment as to
22 a particular witness' credibility or believability.

23 And those factors include what was the demeanor of the
24 witness. That is how did the witness appear to you as the
25 witness testified from the witness stand.

Jury charge

1 Was the witness straightforward in responding to
2 questions, or was the witness hesitant or evasive in
3 responding to questions that were asked of that particular
4 witness?

5 Simply put, did the witness appear to you to be
6 telling the truth and to have knowledge of the facts to
7 which that witness has testified?

8 You may also consider whether or not the testimony of
9 a witness is consistent, or is it inconsistent with that
10 witness' own testimony, whether it be testimony or
11 statements given in court or out of court, as well as
12 whether or not the testimony of a witness is consistent, or
13 is it inconsistent with other testimony or other evidence
14 received during the trial of the case?

15 You may also consider how the witness came to know the
16 facts to which that witness has testified. That is what
17 was that particular witness' opportunity and ability to
18 perceive the existence of those facts to which that witness
19 has testified by having previously perceived that fact by
20 sight or touch or hearing, and then what was that witness'
21 ability to be able to come into court and to accurately
22 recollect to you as to what they have previously perceived?

23 You may also consider whether or not a witness is
24 biased or prejudiced or has any interest in the outcome of
25 the case. And by that I simply mean do you find some

Jury charge

1 reason that a particular witness would come into court and
2 would testify one way or another to help or to hurt one
3 side or the other.

4 You may consider any interest that a witness might
5 have in the outcome of the case if you determine that a
6 witness does have such an interest and you find that that
7 interest would bear upon that particular witness'
8 credibility.

9 You may also consider whether or not the testimony of
10 a witness is strengthened, or is it weakened by other
11 testimony or other evidence received during the trial of
12 the case?

13 Now, during the trial of this case you've heard
14 certain testimony that was elicited from one or more
15 witnesses regarding their having been, they having
16 previously been convicted of a criminal offense.

17 Ordinarily evidence of convictions is not admissible
18 during the trial of a case, whether it be from a witness or
19 any other person. But where a witness has been convicted
20 of particular types of offenses, the law provides that
21 where a witness has been convicted of such an offense then
22 evidence of those convictions may be admitted during that
23 witness' testimony. And the purpose of that testimony
24 being allowed is for any impeachment value that such
25 convictions might have.

Jury charge

1 In other words, based upon a witness having a
2 particular type of conviction for a criminal offense, if
3 you think, if you determine in your wisdom and good
4 judgment that a person convicted of that type of an offense
5 is more likely or less likely to be telling the truth when
6 they testify, then you can take that into consideration.
7 So you may consider that evidence as it relates to the
8 credibility issue of a witness. And that is the purpose
9 for which it has been introduced.

10 Now, you as the finders of the fact and you as the
11 judges of the credibility of each witness that has
12 testified are permitted to believe as much or as little of
13 what a witness has testified to as you deem is appropriate.

14 And therefore in your good judgment you may believe
15 everything that a witness testified to. You may choose to
16 believe none of it. You may believe one portion of a
17 witness' testimony and reject some other portion of that
18 same witness' testimony.

19 You may believe one witness as opposed to several, or
20 several as opposed to one. But whatever your good judgment
21 and common sense tells you is the most believable and
22 credible testimony is the testimony you should accept. And
23 you should reject any testimony or other evidence that you
24 find not to be credible or believable. Again, your sole
25 objective is to simply reach the truth in the matter. And

Jury charge

1 by doing that you will have fulfilled your obligations as
2 jurors in the case.

3 Now, in this case, as you know, the defendant is
4 charged with four separate and distinct offenses. So I'm
5 going to instruct you on the law as it relates to each of
6 those separate four offenses.

7 I'll begin with the indictment charging burglary in
8 the first degree, and then I'll instruct you on the armed
9 robbery, felony driving under the influence and failing to
10 stop with great bodily injury resulting.

11 Now, Section 16-11-311 is the section that sets forth
12 the crime of burglary in the first degree. There are two
13 kinds of crimes. You've got statutory crimes and common
14 law crimes. You don't have to worry about the difference
15 between the two. But statutory crimes are set forth in a
16 statute.

17 In other words, the legislature when they meet every
18 year, they might classify a certain type of conduct as
19 criminal conduct. And where they do, if a person is found
20 to have engaged in that conduct in violation of the law,
21 then the legislature also sets forth some type of
22 punishment or penalty for a person having engaged in that
23 conduct or having violated that particular statute.

24 Please understand however that you are never to be
25 concerned with punishment. You don't need to be concerned

Jury charge

1 with any consequence of your decision. Your sole
2 obligation and duty in a case is to determine whether or
3 not a person has been proven guilty or not.

4 If there's any punishment to be imposed the Court will
5 make that determination. But you're not to be concerned
6 with that, and that should not enter into your
7 deliberations or your decision.

8 The statute, as I told you, that sets forth burglary
9 in the first degree is Section 16-11-311. And it provides
10 as follows: A person is guilty of burglary in the first
11 degree if that person enters a dwelling without consent and
12 with the intent to commit a crime therein, and one or more
13 of the additional factors must be present in order for it
14 to be first degree, when in effecting entry or while in the
15 dwelling or in immediate flight therefrom the defendant is
16 armed with a deadly weapon, or causes physical injury to a
17 person who is not a participant in the crime, or the
18 defendant threatens the use of a dangerous instrument, or
19 the defendant displays what is or what appears to be a
20 knife, pistol, revolver, rifle, shotgun, machine gun or
21 other firearm, or the entering or the remaining occurs in
22 the nighttime.

23 Now, based upon the foregoing statute, before you
24 could return a verdict of guilty as to the crime of
25 burglary in the first degree it would be necessary that the

Jury charge

1 evidence in this case has established to your satisfaction
2 beyond a reasonable doubt the following four elements.

3 Number one, the state has to prove that the defendant
4 entered a dwelling. Entry is an indispensable element in
5 the crime of burglary, and entry is the act of going into
6 the dwelling or any room or structure which is attached or
7 pertinent to that dwelling. It also must be a dwelling.
8 And a dwelling is defined as a building or a structure
9 which is used or normally used for sleeping, living or
10 lodging by any person.

11 Secondly, there must be an entry of a dwelling without
12 consent. Entering without consent means to enter a
13 dwelling without the consent of the owner or person
14 otherwise in lawful possession of the premises; or it's to
15 enter a dwelling by using deception, artifice, trick or
16 misrepresentation in order to gain consent or to enter the
17 dwelling.

18 Thirdly, there must also be an entry without consent
19 and with the intent to commit a crime in the dwelling.
20 There must be an intent to commit a crime, whether or not
21 the crime is actually committed.

22 The mere entering of a dwelling without an intent to
23 commit a crime does not constitute burglary. It is only
24 when there is an entry of a dwelling without consent and
25 with the intent to commit a crime therein that the crime of

Jury charge

1 burglary is complete. And a crime of any grade or severity
2 is sufficient to satisfy this particular element of the
3 crime of burglary.

4 It's also essential that the intent to commit a crime
5 exist at the time of the entry into the dwelling. It's not
6 sufficient that the intent is formed after the entry has
7 been accomplished.

8 On the other hand, where the intent to commit exists
9 at the time of the entering of the dwelling, it is not a
10 defense to a charge of burglary that the intent is later
11 abandoned.

12 An intent means the state of a person's mind which
13 directs his actions towards a specific object or goal. The
14 entry of a dwelling without consent and with the intent to
15 commit a crime therein completes the crime of burglary.

16 Now, in order for it to be a burglary in the first
17 degree an additional fourth element must be established
18 beyond a reasonable doubt; and that is the state must prove
19 that when in effecting entry or while in the dwelling, or
20 in immediate flight therefrom, the defendant was armed with
21 a deadly weapon, or he caused physical injury to a person
22 who was not a participant in the crime, or he threatened
23 the use of a dangerous instrument, or he displayed what was
24 or appeared to be a knife, a pistol, revolver, rifle,
25 shotgun, machine gun or any other firearm, or the entering

Jury charge

1 of a dwelling occurred in the nighttime.

2 Now, in this particular case the state is alleging a
3 burglary. And they allege that it is a burglary in the
4 first degree claiming that the defendant entered in the
5 nighttime, or that he was armed with a deadly weapon, or
6 that he caused physical injury to a person not a
7 participant in the crime, or that he used or threatened the
8 use of a dangerous instrument, or that he displayed what
9 appeared to be a pistol, rifle, revolver, shotgun or other
10 firearm.

11 Now, in order to prove a defendant guilty of burglary
12 in the first degree it is not necessary that the state
13 prove all of those additional factors that I have
14 described. It is however necessary that the state prove at
15 least one of those additional factors in order for it to be
16 a burglary in the first degree.

17 So, again, burglary in the first degree is the
18 entering of a dwelling without consent and with the intent
19 to commit a crime therein. That's burglary. And
20 additionally that the defendant committed the burglary in
21 the nighttime, or was armed with a deadly weapon, or caused
22 physical injury to another person, or threatened to use a
23 dangerous instrument, or displayed what appeared to be a
24 rifle, shotgun, pistol or other firearm.

25 Now, the second indictment I'm going to refer to is

Jury charge

1 the indictment for armed robbery. Armed robbery is also a
2 statutory offense, and that offense is set forth in Section
3 16-11-330.

4 That statute provides that a person who commits
5 robbery while armed with a pistol, dirk, slingshot, metal
6 knuckles, razor or any other deadly weapon, or a person who
7 commits the crime of robbery while alleging either by
8 actions or words that he was armed while using a
9 representation of a deadly weapon or any object which a
10 person present during the commission of a robbery
11 reasonably believed to be a deadly weapon is guilty of the
12 crime of armed robbery.

13 Now, in order for you to understand the crime of armed
14 robbery I'm going to define for you the term larceny and
15 robbery, which are lesser offenses, but they are included
16 in armed robbery. And it must be proven, they must be
17 proven, in order for armed robbery to be proven.

18 Larceny is commonly referred to and known as stealing.
19 And larceny is defined in the law as the taking and the
20 stealing and the carrying away of the personal property of
21 another with the intention of depriving the true owner of
22 use and possession of his property and converting that
23 property to the taker's own use.

24 A robbery is commonly referred to as a larceny by
25 force. And a robbery is defined in the law as the taking

Jury charge

1 and the stealing and the carrying away of the personal
2 property of another having any value whatsoever from the
3 person or from the presence of any such person without his
4 or her consent and with the intent to steal, and by using
5 force or violence or threatening to use force or violence
6 in order to accomplish the theft. Forcing a person to
7 surrender property out of fear and intimidation through the
8 use of force or violence or the threat of the use of force
9 or violence with an intent to steal the property is a
10 robbery under the law.

11 Therefore under this particular statute an armed
12 robbery is defined in either one of -- in either of two
13 ways. One, that a robbery is committed while the
14 perpetrator is actually armed with a pistol, rifle, shotgun
15 or other deadly weapon; or it's a robbery committed while
16 the perpetrator alleges either by actions or by words that
17 he is armed while using a representation of a deadly weapon
18 or some object which a person present during the commission
19 of the robbery reasonably believes to be a deadly weapon.

20 Therefore while it may be proven by direct or
21 circumstantial evidence that the perpetrator of a robbery
22 was actually armed with a deadly weapon under the law, it
23 is not necessary in order to prove the commission of an
24 armed robbery that it be proven that the perpetrator
25 actually was in possession of or displayed an actual deadly

Jury charge

1 weapon so long as it is proven that the perpetrator
2 committed a robbery while alleging by actions or words that
3 he was armed while using a representation of a deadly
4 weapon or some object which some person present at the
5 scene of the robbery reasonably believes to be a deadly
6 weapon.

7 And reasonably believed means a belief that is
8 reasonable under the circumstances then existing. In other
9 words, if a reasonable and prudent person had been acting
10 under the same or similar circumstances that person would
11 have entertained the same belief. That is that person
12 would have believed the object used by the perpetrator was,
13 in fact, a deadly weapon.

14 The next indictment that I'll instruct you on the law
15 as to is the indictment for felony driving under the
16 influence. That is also a statutory offense. And that
17 offense is set forth in Section 56-5-2945.

18 That section of law provides that a person shall be
19 deemed guilty of felony driving under the influence where
20 it is proven that a person drives a vehicle within this
21 state while that person is under the influence of alcohol,
22 or under the influence of some other drug, or is under the
23 influence of the combined substances alcohol and any other
24 drug or other substances which cause impairment to the
25 extent that that person's faculties to drive are materially

Jury charge

1 and appreciably impaired; and further in addition to the
2 person having to be proven to have been driving while under
3 the influence of some type of an intoxicating substance,
4 further it must be established that when driving the
5 vehicle while under the influence that the defendant did
6 some act which is forbidden by law or neglected some duty
7 which was imposed by law in the operation of that motor
8 vehicle and that that forbidden act or neglect of duty
9 proximately caused great bodily injury or death to some
10 other person.

11 Therefore under this statute before you could find the
12 defendant to be guilty of felony driving under the
13 influence it would be necessary that the state has proven
14 to your satisfaction beyond a reasonable doubt four
15 essential elements.

16 First, that the defendant was the driver of a motor
17 vehicle in this county on the date as alleged; that at the
18 time the defendant was found to be driving a motor vehicle
19 in this county that he was under the influence of alcohol
20 or some other drug or a combination of alcohol and some
21 other drug to the extent that the defendant's faculties and
22 ability to drive that motor vehicle were materially and
23 appreciably impaired; fourthly, excuse me, thirdly, that
24 the defendant in the driving of his motor vehicle while
25 under the influence did some act forbidden by law or

Jury charge

1 neglected some duty imposed by law in the operation of that
2 motor vehicle; and, lastly, that the forbidden act or
3 neglect of the duty proximately caused great bodily injury
4 to a person other than himself.

5 Now, in order to be deemed under the influence within
6 the meaning of the statute it's not necessary that it be
7 proven that the defendant was in a helpless condition or
8 that he was drunk or even that he was intoxicated.

9 On the other hand, proof that the defendant at some
10 time prior to his arrest had consumed some quantity of
11 alcohol or had ingested some quantity of some other type of
12 drug, or both, is not sufficient in and of itself to prove
13 that the defendant was under the influence within the
14 meaning of the statute.

15 A person is deemed to be under the influence within
16 the meaning of the statute when he has consumed or ingested
17 a sufficient amount of some intoxicating substance or
18 substances which cause impairment to the extent that the
19 defendant's mental and physical faculties and his ability
20 to drive the motor vehicle were materially and appreciably
21 impaired.

22 In other words, a person is under the influence when a
23 person has consumed such a quantity of intoxicating
24 substances which cause him to lose normal mental and
25 physical faculties and which prevents him from exercising

Jury charge

1 reasonable care in the operation of his motor vehicle like
2 that which would have been exercised by a person of
3 ordinary reason and prudence if that person had been
4 operating that vehicle under the same or similar
5 circumstances as shown by the evidence in this case.

6 A person who is found beyond a reasonable doubt to
7 have driven a motor vehicle while his mental and physical
8 faculties necessary for the operation of a motor vehicle
9 are materially and appreciably impaired by the consumption
10 of intoxicating substances is deemed to be under the
11 influence.

12 And, as I've stated, it must also be shown that the
13 defendant did commit some act which was forbidden by law or
14 he neglected some duty imposed by law in the operation of
15 that motor vehicle.

16 In that regard you are instructed that in the
17 operation of a motor vehicle, motor vehicle drivers must
18 comply with all statutory rules, requirements and
19 regulations and also any other duties imposed by law.

20 You are instructed that a motor vehicle operator is
21 always under an obligation to maintain his vehicle under
22 proper control, to maintain a proper lookout for other
23 vehicles which are lawfully upon the roadway and to
24 exercise reasonable and due care in the operation of that
25 motor vehicle.

Jury charge

1 In addition, the driver of a motor vehicle must obey
2 all traffic regulations. That is the driver of a motor
3 vehicle must ensure that his vehicle is driven in a proper
4 lane of traffic, that he must yield properly to the right
5 of way of other vehicles where they have the right of way,
6 that a motor vehicle operator may not drive a vehicle too
7 fast for the conditions then existing, that a motor vehicle
8 driver must not drive his vehicle in a reckless manner, and
9 that in the nighttime a motor vehicle must be operated with
10 headlamps.

11 Now, as I've stated, the state has to prove that the
12 defendant committed some act which was forbidden by law or
13 he neglected some duty imposed by law in the operation of
14 that motor vehicle while he was under the influence of some
15 intoxicating substance, and the act forbidden by law or the
16 neglect of the duty imposed by law, if you find that that
17 has been proven beyond a reasonable doubt, must have
18 proximately caused great bodily injury to another person.

19 Proximate cause means the direct cause without which
20 that injury would not have occurred. And great bodily
21 injury is defined as an injury which creates a substantial
22 risk of death or which causes serious permanent
23 disfigurement or which results in an extended loss or
24 impairment of the function of a bodily member or organ.

25 And the final indictment charges the defendant with

Jury charge

1 failing to stop when signaled by a law enforcement officer.
2 And failing to stop is also a statutory offense, and that
3 is set forth in 56-5-750 of the code of laws.

4 And that statute provides that in the absence of any
5 mitigation circumstances it is unlawful for a motor vehicle
6 driver while driving on a road, street or highway of this
7 state to fail to stop when signaled by a law enforcement
8 vehicle by means of a siren or flashing light.

9 And where a person violates this particular section in
10 failing to stop and where it is further shown that in
11 violating this section that the defendant commits some act
12 which is forbidden by law or neglects some duty which is
13 imposed by law in the driving of that motor vehicle and
14 where great bodily injury results, then the defendant may
15 be found guilty of failing to stop with great bodily
16 injury, which is alleged in the indictment.

17 So with regard to this particular indictment before a
18 defendant could be, before the defendant could be, found
19 guilty of a violation of that section it would be necessary
20 that the state has proven to your satisfaction beyond a
21 reasonable doubt that he was driving a motor vehicle, that
22 he was signaled to stop by a law enforcement vehicle using
23 a blue light or siren or both, that the defendant did not
24 stop and there is an absence of mitigating circumstances.

25 Now, mitigating circumstances are those circumstances

Jury charge

1 which in fairness and mercy may be considered as
2 extenuating or reducing the degree of moral culpability of
3 an individual and give rise to a reasonable justification
4 for not stopping.

5 In determining whether or not there are mitigating
6 circumstances which would justify the defendant's failure
7 to stop for any blue light or siren or both you may
8 consider the circumstances as established by the evidence
9 in this particular case.

10 An official signal requiring the motorist to stop may
11 be by a siren or flashing lights. Both may be given, but
12 both are not required so long as one has been established
13 beyond a reasonable doubt.

14 Further, you are instructed that any attempt to
15 increase the speed of a vehicle or in any other manner
16 avoid the pursuing law enforcement vehicle when signaled by
17 a siren or a flashing light may be considered as evidence
18 of a failure to stop for a law enforcement vehicle.

19 However, any inference which might reasonably be drawn
20 from the proof of such other facts or circumstances are
21 merely evidentiary facts which may be taken into
22 consideration by you 12 jurors along with all the other
23 evidence in the case and may be given such weight as you
24 determine they should receive, if any.

25 And, as I've stated, in order for the defendant to be

Jury charge

1 found guilty of the offense that is alleged in this
2 indictment, failing to stop resulting in great bodily
3 injury, the state must also have proven the additional
4 elements of him committing an act forbidden by law or
5 neglecting a duty imposed by law as I have previously
6 instructed you, and that forbidden act or that neglected
7 duty if proven must have proximately caused great bodily
8 injury. Proximate caution and great bodily injury have
9 also previously been defined for you.

10 One thing I did neglect to tell you. Now, with regard
11 to the offense of driving under the influence, Section
12 56-5-2950 is referred to as the implied consent law.

13 It provides that any person who operates a motor
14 vehicle in this state is considered to have given his
15 consent to chemical tests of his breath or blood or urine
16 for the purpose of determining the presence of alcohol or
17 drugs or a combination of substances.

18 Now, where there is evidence of such chemical tests
19 having been administered for the purpose of determining the
20 presence of alcohol in the blood of a person, the amount of
21 alcohol in the person's blood at the time of the alleged
22 violation as shown by a chemical analysis of the person's
23 breath or any other bodily fluid may give rise to the
24 following inferences or even presumption.

25 Number one, if there was at the time five

Jury charge

1 one-hundredths of one percent or less of alcohol in the
2 person's blood it is conclusively presumed that that person
3 was not under the influence of alcohol.

4 If there is five one-hundredths of one percent but
5 less than eight one-hundredths of one percent of alcohol in
6 the person's blood, then that fact does not give rise to
7 any inference or any presumption. But it may be considered
8 along with any other competent evidence in the case in your
9 determination as to whether or not the defendant was under
10 the influence.

11 If there was at the time eight one-hundredths of one
12 percent or more of the alcohol in the person's blood it may
13 be inferred that the person was under the influence of
14 alcohol.

15 So while this particular statute does provide that a
16 person whose chemical test results from an analysis shows
17 that there was less than five one-hundredths of one percent
18 of alcohol in the person's blood conclusively establishes
19 that he was not under the influence of alcohol. However,
20 that evidence of alcohol content in the blood may be
21 considered with any other evidence that is relevant to the
22 issue of whether or not the defendant was under the
23 influence.

24 Now, further in this case the defendant has raised
25 what is referred to in the law as the defense of alibi.

Jury charge

1 And an alibi means that the defendant was at another
2 specified place at the time that any crime alleged to have
3 been committed by him was committed and therefore it was
4 not possible for the defendant to have committed the crime
5 he is accused of committing because he was not present at
6 the scene where that crime was committed.

7 Now, while a defendant may present evidence of an
8 alibi, there is no burden on the defendant to prove an
9 alibi by any standard. The burden is on the state to prove
10 beyond a reasonable doubt that the defendant was actually
11 present at the place where the crime was committed and that
12 the defendant actually committed the crime and therefore he
13 was not somewhere else.

14 In other words, because the state has the burden of
15 proving the defendant's guilt beyond a reasonable doubt,
16 such a burden would necessarily require that the state
17 prove that it was this defendant who committed that crime
18 and that he was, in fact, not somewhere else.

19 Now, I further instruct you, and I emphasize to you,
20 that the fact that a defendant in the trial of a criminal
21 case does not take the witness stand and testify during the
22 trial is not a factor which may be considered by you in any
23 way during your deliberations or in your determination as
24 to whether or not his guilt has been proven beyond a
25 reasonable doubt.

Jury charge

1 As I have stated, the burden is upon the state to
2 establish the defendant's guilt beyond a reasonable doubt.
3 The burden is never upon a defendant to prove that he is
4 not guilty or to prove that he is innocent.

5 And therefore where a defendant in a criminal trial
6 does not take the witness stand and testify during the
7 trial of the case, that fact may not be considered in any
8 way whatsoever by the jury in your deliberations or in your
9 determination as to whether his guilt has been proven. You
10 may not allow that fact to influence you in any way
11 whatsoever, nor may that fact even be discussed while you
12 are engaged in your deliberations.

13 Now, Mr. Foreman, ladies and gentlemen of the jury, I
14 am not in any way concerned with what your decisions are,
15 but you are instructed that your decision, whatever it
16 might, be must be unanimous. All 12 must be in agreement.

17 Now, Mr. Foreman, as you go back you're going to have,
18 along with any evidence that has been introduced during the
19 trial of the case, these four indictments. And on the back
20 of each indictment you'll see in the lower left-hand corner
21 the word verdict. And I know you can't see it from there.
22 But in the lower left-hand corner there is the word
23 verdict. There are some lines there. Beneath that word is
24 where you'll indicate the jury's unanimous decision as it
25 relates to that particular indictment.

Jury charge

1 When you have reached that decision, insert it and
2 sign your name as the foreperson indicating that is the
3 jury's unanimous decision.

4 Now, with respect to each of the separate indictments
5 you have two potential verdict forms. If the state has
6 proven each of the essential elements of the crime alleged
7 in the indictment, which includes the defendant being the
8 perpetrator of that particular offense, and they have
9 proven those elements to your satisfaction beyond a
10 reasonable doubt, then your verdict would be guilty. And
11 that would be the form you would insert.

12 If the state has failed to prove any one or more of
13 the essential elements of any of the crimes alleged against
14 the defendant, then in that event your verdict would be not
15 guilty. And you would insert that form in the space
16 provided.

17 Now, as I've told you, you've got four separate
18 indictments, four separate and distinct criminal offenses.
19 You will consider each of those separate offenses in light
20 of the evidence received during the trial and in light of
21 the law that I have provided you.

22 You will determine whether or not the defendant has
23 been proven guilty of any, all or none of these offenses.
24 In your determination as to the verdicts in the case since
25 you will be considering each offense and indictment

Jury charge

1 separately, your verdicts in this case may be the same as
2 it relates to all of the indictments, or it may be
3 different. That will depend upon your determination of
4 fact and then your application of the law to the facts as
5 you determine those to be.

6 But whatever that determination is, Mr. Foreman,
7 simply indicate the jury's unanimous decision on that
8 particular indictment and sign your name as the foreperson.

9 Now, during your deliberations there may come a time
10 where you have some question about evidence or facts. I am
11 never permitted to answer questions that relate to issues
12 of fact or evidence in the case.

13 Everything that is going to be presented in this case
14 and provided to you has been presented. No additional
15 evidence may be received now that you're going to be going
16 back to begin with your deliberations.

17 So even if there was some other document, some other
18 witness, some other piece of evidence that you wonder
19 about, even if it exists you can't have it. So you are not
20 permitted to have any additional evidence received now that
21 you're going back to begin deliberations.

22 If however you have a question about the testimony of
23 a witness or something that came out during the trial and
24 if that question can be answered by your having testimony
25 replayed, if you will identify the witness we can always

Jury charge

1 bring you back into the courtroom to have testimony
2 replayed if that will help you. And we can have it
3 replayed in whole or in part, whatever the jury needs in
4 order to resolve some issue should one arise.

5 We don't have any transcripts available. You can't
6 get a transcript of a witness' testimony. But if you need
7 to have something replayed we can bring you back into the
8 courtroom for that purpose.

9 So I can't answer questions of fact or evidence. If a
10 question can be answered by testimony replayed, we'll bring
11 you back to do that.

12 If during your deliberations you have any question
13 about the law that's applicable, I can always answer those
14 questions. So if at any time during the course of your
15 deliberations you need me to assist you in clarifying the
16 law, provide you with an additional instruction or
17 clarification of an instruction or provide it to you
18 another time, I can do that. So just let me know if that's
19 the case and I'll respond accordingly.

20 I don't know if we have any smokers on the jury. If
21 we do have some smokers and you want to smoke, you can, but
22 you can't smoke in the jury room. You have to go outside
23 to smoke.

24 So if anybody needs to smoke let the bailiff know.
25 They'll take one of those who need to smoke outside. You

Jury charge

1 are instructed however that deliberations must cease if any
2 juror is absent for any authorized purpose. Deliberations
3 may only be engaged in when all 12 jurors are present so
4 that all may participate.

5 And your lunch should be here shortly. And you can do
6 what you will about that. You can stop and eat, or you can
7 eat and deliberate at the same time. That's up to you.
8 I'm not going to tell you how to do that.

9 Now, I will ask you to go to the jury room with the
10 exception of the two alternates. You'll stay in the
11 courtroom with me. The 12 primary jurors will please go
12 back to your jury room.

13 But do not begin deliberations until I send you word
14 to do so. And in that event I'll send the exhibits and the
15 verdict forms that you will have, Mr. Foreman, on which you
16 will indicate the verdicts.

17 So please go to your jury room, but don't begin
18 deliberations until I send you word.

19 (Whereupon, the jury retired to deliberate at
20 12:42 p.m.)

21 (Whereupon, the alternate jurors were excused.)

22 THE COURT: Are there any exceptions taken to the
23 instruction or requests for additions to the instruction by
24 the state?

25 MR. BARNETTE: None from the state, Your Honor.

Verdict

1 THE COURT: From the defendant?

2 MR. SCHULTZ: None from the defense.

3 THE COURT: None?

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

5 THE COURT: Let me ask y'all to verify the exhibits
6 before they go back, please.

7 (Pause.)

8 THE COURT: All right. All of the exhibits are
9 accounted for?

10 MR. BARNETTE: Yes, sir.

11 MR. SCHULTZ: Yes, sir, Your Honor.

12 THE COURT: Take the exhibits back and tell the jury
13 they can begin deliberations, and I will send them the
14 verdict forms in just a minute.

15 We will be at ease while the jury is deliberating.

16 (Whereupon, the exhibits were submitted to the jury at
17 12:53 p.m.)

18 (Whereupon, a recess was taken.)

19 THE COURT: All right. The jury has reached a
20 decision in Mr. Teamer's case. Are we ready to receive it?

21 MR. BARNETTE: The state is ready, Your Honor.

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

23 THE COURT: All right. Bring them in, please.

24 (Whereupon, the jury returned to the courtroom at
25 3:40 p.m. to report its verdict.)

Verdict

1 THE COURT: Mr. Foreman, have you and your fellow
2 jurors reached a unanimous decision as to each of the
3 separate indictments?

4 THE FOREMAN: Yes, sir, Your Honor, we have.

5 THE COURT: Have you indicated those decisions on the
6 back of the indictment as requested?

7 THE FOREMAN: Yes, sir, Your Honor, we have.

8 THE COURT: Did you sign your name as the foreperson?

9 THE FOREMAN: Yes, sir, Your Honor, I have.

10 THE COURT: If you will, please hand those verdict
11 forms up by way of the bailiff.

12 All right. You may publish the verdicts.

13 THE CLERK: State of South Carolina, County of
14 Spartanburg, State of South Carolina vs. Nathaniel Charles
15 Teamer, Indictment No. 2006-GS-42-1719, burglary first
16 degree, we, the jury, find for the defendant, guilty,
17 signed as foreperson, Reginald Ward, 9/12/07.

18 On Indictment No. 2006-GS-42-1720 for armed robbery,
19 State vs. Nathaniel Charles Teamer, the jury finds not
20 guilty, signed by the foreperson, Reginald Ward, 9/12/07.

21 Indictment No. 2006-GS-42-1732, indictment for D. U.
22 I., felony driving under the influence great bodily injury,
23 verdict is guilty, signed by Reginald Ward, dated 9/12/07.

24 Indictment No. 06-GS-42-1733, indictment for count
25 one, failure to stop when signaled by a law enforcement

Verdict

1 officer with great bodily injury, the jury finds him
2 guilty. Signed by the foreperson, Reginald Ward, 9/12/07.

3 Ladies and gentlemen of the jury, is this your
4 verdicts and still your verdicts? If so, please raise your
5 right hand.

6 (Whereupon, all jurors responded in the affirmative.)

7 THE CLERK: So say you all.

8 THE COURT: Does the defendant wish to have the jury
9 polled?

10 MR. SCHULTZ: Yes, Your Honor, we would.

11 THE COURT: All right. Poll the jury, please, ma'am.

12 THE CLERK: Ladies and gentlemen of the jury, I will
13 be asking you a question. That question is is this your
14 verdict and still your verdict.

15 When I call your name, if you will, please stand and
16 answer yes or no.

17 Juror No. 20, Waylon Davis.

18 THE JUROR: Yes, it is.

19 THE CLERK: Juror No. 155, Reginald Ward.

20 THE JUROR: Yes, it is.

21 THE CLERK: Juror No. 188, Tracy Matheson.

22 THE JUROR: Yes, it is.

23 THE CLERK: Juror No. 23, Elton Dingler.

24 THE JUROR: Yes, it is.

25 THE CLERK: Juror No. 122, Shameka Richards.

Motion

1 THE JUROR: Yes, it is.
2 THE CLERK: Juror No. 43, John Grech.
3 THE JUROR: Yes, it is.
4 THE CLERK: Juror No. 117, Tara Revels.
5 THE JUROR: Yes, it is.
6 THE CLERK: Juror No. 53, Rodney Higgins.
7 THE JUROR: Yes, it is.
8 THE CLERK: Juror No. 198, Tasnim Dalal.
9 THE JUROR: Yes, it is.
10 THE CLERK: Juror 108, Marlin Pitts.
11 THE JUROR: Yes, it is.
12 THE CLERK: Juror No. 91, Robert McMichael.
13 THE JUROR: Yes, it is.
14 THE CLERK: And Juror No. 175, Irene Zimmerman.
15 THE JUROR: Yes, it is.
16 THE CLERK: So say you all.
17 THE COURT: Any other matters to be addressed with the
18 jury present?
19 MR. SCHULTZ: No, Your Honor.
20 (Whereupon, the trial jury was excused.)
21 THE COURT: All right. Any matters to address prior
22 to the imposition of sentence?
23 MR. SCHULTZ: Yes, Your Honor.
24 I would like to renew any motion for a directed
25 verdict and would like to move for a new trial based upon

Sentence

1 all objections noted by the defense.

2 THE COURT: All right. Those motions are each denied.

3 MR. SCHULTZ: That's all I have, Your Honor.

4 MR. BARNETTE: Your Honor, I do have sentencing
5 sheets.

6 THE COURT: All right.

7 MR. BARNETTE: If I understood right, it's guilty on
8 burglary first and felony D. U. I. and failure to stop with
9 great bodily injury.

10 THE COURT: Right.

11 MR. BARNETTE: May we approach for a second, Your
12 Honor?

13 THE COURT: Yes.

14 (Bench conference held off the record.)

15 THE COURT: Mr. Schultz said he didn't need any
16 additional time.

17 MR. BARNETTE: Yes, sir. Okay. May I approach the
18 bench?

19 THE COURT: All right. Anything further on behalf of
20 the state?

21 MR. BARNETTE: Your Honor, I have talked to the
22 victims in the case. They both just wish to see justice
23 served by the Court in this case.

24 I do have his prior record, Your Honor, if you would
25 like to hear it.

Sentence

1 THE COURT: Yeah. Tell me about his record.

2 MR. BARNETTE: Thank you, Your Honor.

3 He's been convicted of possession with intent to
4 distribute marijuana. He received one year suspended to
5 six months and one year's probation. That was on
6 June 27th of 2002.

7 He was convicted of assault with intent to kill. He
8 pled guilty to that on also June 27th of 2000 or 2002. He
9 received a sentence of three years suspended to one year in
10 jail plus five years probation on that.

11 He was convicted of assault and battery of a high and
12 aggravated nature on that, Your Honor. He was sentenced on
13 that June 27th of 2002 and received three years suspended
14 to one year and five years probation on that.

15 He was convicted of another assault and battery of a
16 high and aggravated nature. On that case, Your Honor, he
17 received seven years suspended to five years in jail with
18 five years probation.

19 He was convicted of another assault and battery of a
20 high and aggravated nature, Your Honor. He received seven
21 years suspended to five years, and five years probation on
22 that also.

23 He was convicted of unlawful possession by a pistol of
24 a person under 21 (sic). He received two years suspended
25 to one year, two years probation on that.

Sentence

1 He was also convicted of discharging a firearm into a
2 dwelling. On that he received seven years suspended to
3 five years with five years probation, in this case.

4 I do have the actual copies of the indictments if you
5 would like for me to enter them as a court record, Your
6 Honor. We do have those.

7 THE COURT: That's not necessary.

8 MR. BARNETTE: Thank you, Your Honor.

9 THE COURT: Mr. Teamer, do you agree with what the
10 solicitor has told me about your prior criminal history?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. Mr. Schultz.

13 MR. SCHULTZ: Thank you, Your Honor. May it please
14 the Court.

15 Mr. Teamer is 25 years old. During the course of this
16 trial he has some family here, his mother, if she can stand
17 up. I'm not sure if she wishes to say anything now.

18 THE COURT: Let me ask you to come up here and stand
19 next to Mr. Schultz, please.

20 And tell me your name, please, ma'am.

21 MARY TEAMER: Oh, Mary Teamer.

22 THE COURT: All right. Ms. Teamer.

23 MARY TEAMER: Yes.

24 THE COURT: What would you like to tell me?

25 MARY TEAMER: I would like to say that my son, he's a

Sentence

1 good person. And I am sorry he got in trouble. And I
2 plead for your mercy for him.

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

4 MR. SCHULTZ: Your Honor, that's all I have.

5 THE COURT: Mr. Teamer, is there anything you would
6 like to tell me before the sentence is imposed?

7 THE DEFENDANT: No, sir.

8 THE COURT: All right. On Indictment 2006-1719,
9 that's the indictment for burglary in the first degree,
10 wherein you have been found guilty by a jury of that
11 offense, the Sentence of the Court is you, Nathaniel
12 Charles Teamer, be confined to the South Carolina
13 Department of Corrections for a period of 30 years.

14 Indictment 2006-1732, felony driving under the
15 influence, wherein you have been found guilty by a jury of
16 that offense, Sentence of the Court is you, Nathaniel
17 Charles Teamer, be confined to the South Carolina
18 Department of Corrections for a period of 15 years.

19 Indictment 2006-1733, failing to stop, great bodily
20 injury resulting, Sentence of the Court is you be confined
21 to South Carolina Department of Corrections for a period of
22 ten years.

23 Mr. Teamer, you have a right to appeal the verdicts of
24 the jury and the Sentence of the Court. You must file any
25 notice of your intention to appeal within ten days of

Sentence

476

1 today's date.

2 END OF REQUESTED TRANSCRIPT OF RECORD

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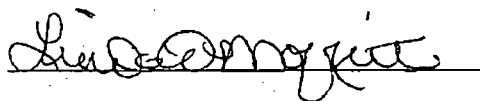
Certificate

CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 10th, 11th and 12th days of September 2007.

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

February 29, 2008



Linda D. Moffitt
Circuit Court Reporter

478

WITNESSES

Spartanburg Public Safety Dept.

[Signature]

ARREST WARRANT NUMBER

K112204

ACTION OF GRAND JURY

True Bill

Amie Lomaca

Foreperson of Grand Jury

Date: *5-11-06*

VERDICT

GUILTY

Foreperson of Petit Jury *Reginald M. Ward*
Date: *9/12/07*

06-CR-42-1719

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

VS.

"Nathaniel" Charles Teamer

Indictment for

BURGLARY, FIRST DEGREE
(Dwelling)

SC Code: 16-11-0311
CDR Code: 0079
Class: FEL/EXM (V)

- 1. SENTENCE MADE ☒
- 2. REPORT ENDED ☒
- 3. CARD FILLED ☒
- 4. INDEXED ☒
- 5. CHECKED WARRANTS ☒
- 6. CHECKED SIGNATURE ☒
- 7. ASSESSMENT AND ☒
CARD MADE
- 8. TRAFFIC VIOLATIONS COPY ☒

Computer

FILED
2006 MAY 15 PM 3:55
MARC KITCHENS

A CERTIFIED COPY

[Signature]

CLERK OF COURT
SPARTANBURG COUNTY
BY *[Signature]* D.C.

DATED

9-13-07

478

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

At a Court of General Sessions, convened on MAY 11 2006, the Grand Jurors of Spartanburg County present upon their oath:

BURGLARY, FIRST DEGREE

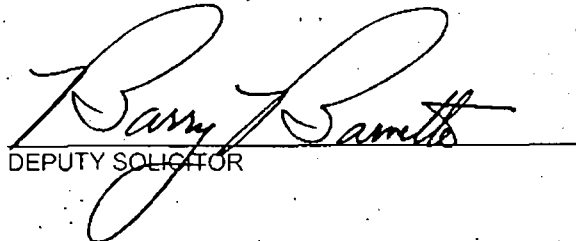
(DWELLING)

The Defendant, "Nathaniel" Charles Teamer, did in Spartanburg County, on or about February 2, 2006, wilfully and intentionally enter the dwelling belonging to Erica Gray located at [REDACTED], Spartanburg, South Carolina without consent and with the intent to commit a crime therein, and either:

- (1) the Defendant did enter in the nighttime and/or
- (2) armed with a deadly weapon; and/or
- (3) caused physical injury to any person who is not a participant in the crime; and/or
- (4) uses or threatens the use of a dangerous instrument; and/or
- (5) displays what is or appears to be a knife, pistol, revolver, rifle, shotgun, machine gun, or other firearms

In violation of Section 16-11-311 and Section 16-1-57, Code of Laws of South Carolina (1976) as amended.

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


DEPUTY SOLICITOR

480

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE

VS. NATHANIEL CHARLES TEAMER

AKA:

Race: B Sex: M Age: 25

DOB: 12/22/1981 SS#:

Address:

City, State, Zip: SPARTANBURG, SC 29304

DL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 06-GS-42-1719

AW#: K112204

Date of Offense: 2/2/2006

S.C. Code §: 16-11-311

CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS

TO: BURGLARY FIRST (1st) DEGREE -

in violation of § 16-11-311 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 initial)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Solicitor

Defendant

Attorney for Defendant

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 30 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$ 100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100.00
\$56-5-2995 (DUI Assessment)	\$12	\$ 12.00
\$35.13 (Public Def/Prob)	\$500	\$ 500.00
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$ 100.00
\$50-21-114(BUI Breath Test Fee)	\$50	\$ 50.00
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 3.75
3% to County (if paid in installments)	\$	128.75
TOTAL	\$	128.75

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, \$35.13 TP

Requires \$500 be paid to Clerk during probation.

KG McKinnon

Clerk of Court/ Deputy Clerk

Court Reporter:

Dorinda Mayhew

PRESIDING JUDGE

Judge Code:

Sentence Date:

7 September 12, 2007

ARREST WARRANT

K- 112204

STATE OF SOUTH CAROLINA

481

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

THE STATE

against

FAMER, CHARLES

DRESS: [REDACTED] SC 29306

ONE: [REDACTED] SSN: [REDACTED]

M: [REDACTED] Race: B Height: [REDACTED] Weight: [REDACTED]

State: [REDACTED] DL #: [REDACTED]

B: [REDACTED] Agency ORI#: [REDACTED]

Secuting Agency: [REDACTED]

Secuting Officer: FORRESTER, H

ense: BURGLARY / BURGLARY (AFTER

JUNE 20, 1985) - FI Offense Code: 0079

de/Ordinance Sec. 16-11-0311

 s, warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of

 The accused
 to be arrested and brought before me to be
 it with according to law.

Signature of Judge

(L.S.)

RETURN

copy of this arrest warrant was delivered to

andant TEAMER, CHARLES

2-15-06

Signature of Constable/Law Enforcement Officer

IN WARRANT TO:

PASLAY

MAGNOLIA STREET

URG, SC 29306

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG COUNTY

AFFIDAVIT CASE # K112204

 Form Approved by
 SC Attorney General
 April 21, 2003
 SCSA 618

 Personally appeared before me the affiant FORRESTER, H who
 being duly sworn deposes and says that defendant TEAMER, CHARLES

did within this county and state on 02/02/06 violate the criminal laws of the

 State of South Carolina (or ordinance of ☒ County/ ☐ Municipality of SPARTANBURG)

in the following particulars:

 DESCRIPTION OF OFFENSE: BURGLARY / BURGLARY (AFTER JUNE 20, 1985) - FI
 16-11-0311

 I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

 THE DEFENDANT DID ENTER THE DWELLING OF ERICA GRAY, [REDACTED]
 SPTBG, SC 29306 WITHOUT CONSENT AND WITH THE INTENT TO COMMIT ACRIBER
 THERIN AND THE DEFENDANT ENTERED IN THE NIGHTTIME.

WARRANT BASED UPON POLICE INVESTIGATION

Signature of Affiant

STATE OF SOUTH CAROLINA

☒ County/ ☐ Municipality of
SPARTANBURG

Affiant's Address SPTBG CITY PD

SPTBG, SC 29306

Affiant's Telephone 596-2065 000-0000

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that

 on 02/02/06 defendant TEAMER, CHARLES
 did violate the criminal laws of the State of South Carolina (or ordinance of

☒ County/ ☐ Municipality of SPARTANBURG) as set forth below:

 DESCRIPTION OF OFFENSE: BURGLARY / BURGLARY (AFTER JUNE 20, 1985) - FI
 16-11-0311

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be given to the defendant at the time of his execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on FEBRUARY 15, 2006

Signature of Issuing Judge

Judge Code: 483

JAMES PASLAY

ORIGINAL

Judge's Address

180 MAGNOLIA STREET

SPARTANBURG, SC 29306

Judge's Telephone 864 596-2564

Issuing Court:

☒ Magistrate☐ Municipal☐ Circuit
 A CERTIFIED COPY
 CLERK OF COURT
 SPARTANBURG COUNTY
 02-20-06

WITNESSES

06-08-42-1732

SCHP

Russells, Jeff

ARREST WARRANT NUMBER

C479968

ACTION OF GRAND JURY
June Bill

Amy E. Curran

Foreperson of Grand Jury
Date: 5-11-06

VERDICT

GUILTY

482

Foreperson of Petit Jury: Reginald McDonald
Date: 9/12/07

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE
VS.

Nathaniel Teamer

Indictment for

DUI/FELONY DRIVING UNDER
INFLUENCE - GREAT BODILY INJURY

SC Code: 56-5-2645

2006 MAY 15 PM 3:55
MARC HITCHENS

- 1. SENTENCE MADE ☒
- 2. REPORT ENDED ☒
- 3. CARD FILED ☒
- 4. INDEXED ☒
- 5. CHECKED WARRANTS ☒
- 6. CHECKED SIGNATURE ☒
- 7. ASSESSMENT AND ☒
- 8. TRAFFIC VIOLATIONS COPY ☒

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

MAY 11 2006

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

DUI/FELONY DRIVING UNDER INFLUENCE- GREAT BODILY INJURY

That, Nathaniel Teamer, did in Spartanburg County on or about February 3, 2006, drive a motor vehicle while under the influence of alcohol, drugs, or a combination of alcohol and drugs, and violated an act forbidden by law or neglected any duty imposed by law in the driving of the vehicle, to wit:

- (1) Driving Left of Center (Sections 56-5-1810 and 56-5-1880), and/or
- (2) Failure to follow right of way restrictions (Art 17, Section 56) and/or
- (3) Failure of driving on roadway laned for traffic (Section 56-5-1900), and/or
- (4) Failure to maintain proper control of vehicle, and/or
- (5) Driver's failure to exercise due care, and/or
- (6) Driving too fast for conditions (Section 56-5-1520 subsection (a)), and/or
- (7) Restriction on Speeding (Article II, Section 56), and/or
- (8) Failure to maintain a proper lookout for other traffic, and/or
- (9) Reckless Driving (Section 56-5-2920) and/or
- (10) Driving without his headlights on.

Which proximately caused great bodily injury to James Young, in violation of §56-5-2645 of *The Code of Laws of South Carolina*, (1976, as amended).

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


DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS
NATHANIEL CHARLES TEAMER
AKA:
Race: B Sex: M Age: 25
DOB: 12/22/1981 SS#: [REDACTED]
Address: [REDACTED]
City, State, Zip: SPARTANBURG, SC 29304
DL# SID#

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 06-GS-42-1732
AMW#: C479968
Date of Offense: 2/3/2006
S.C. Code §: 56-5-2945(A)(1)
CDR Code #: D406

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: FELONY DWI WITH GREAT BODILY INJURY
in violation of § 56-5-294.5(A)(1) of the S.C. Code of Laws, bearing CDR Code # 0406
☒ 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 initial)
The plea is: ☐ Without Negotiations or Recommendation, ☒ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: [Signature] Solicitor

[Signature] Defendant

[Signature] Attorney for Defendant

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 \$ 0; 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 Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Heard, ☐ Waived, ☐ 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	\$	100.00
\$14-1-211(A)(2) (DUI Surcharge)	\$100	\$	_____
\$56-5-2995 (DUI Assessment)	\$12	\$	_____
\$35.13 (Public Def/Prob)	\$500	\$	_____
\$73.3, 1B TP (Law Enforce. Funding)	\$25	\$	25.00
\$33.7, 1B TP (Drug Court Surcharge)	\$100	\$	_____
\$50-21-114 (BUI Breath Test Fee)	\$50	\$	_____
\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
3% to County (if paid in installments)		\$.	3.75
TOTAL		\$	138.75

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, \$35.13 TP

☐ Requires \$500 be paid to Clerk during probation.

... K.G. McKinnon Clerk of Court/ Deputy Clerk
 Court Reporter: Linda Moffitt

PRESIDING JUDGE: [Signature]
 Judge Code: 2
 Sentence Date: September 12, 2007

Form 438
Rev. 3-01

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

UNIFORM TRAFFIC CITATION

STATE OF SOUTH CAROLINA VERSUS

FIRST NAME MIDDLE NAME LAST NAME

NATHANIEL C TEANIER

STREET AND NO. CITY STATE ZIP CODE

SP736 29304

STATE LICENSED DRIVER'S LICENSE NO. DRI. LIC. CLASS

SC

VEH. LIC. NO. STATE MAKE OF VEH. YEAR COMM. VEH. AUTO TRUCK COMB.

HAZ. MT. MOPED MTRCYCL. OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER STREET AND NO.

GEN. Sess. JUS County Courthouse

DATE OF TRIAL TIME OF TRIAL CITY STATE ZIP CODE

4/11/07 4:07 P.M. SP7C SC 29304

VIOLATION - COURT APPEARANCE REQUIRED YES NO VIOLATION SECTION NO.

Felony DWI 56-5-2945

OWNER OF VEHICLE DATE OF ARREST

FEASTER 2/3/06

ADDRESS OF OWNER DATE OF VIOLATION

SP736 2/3/06

BAIL DEPOSITED NAME OF ARRESTING OFFICER RANK

JAIL D K DARTY CCP

DESCRIPTION OF ACCUSED COUNTY NUMBER

RACE SEX BIRTH DATE HT. HAIR WT. EYES SP736 42

DATE BAIL REC'D. BY

20 Judge: Deborah Cole

CASE BEFORE MAGISTRATE MUN. COURT

CIRCUIT COURT FAMILY COURT FEDERAL COURT

NAME OF TRIAL OFFICER

IF DIFFERENT FROM ABOVE.

DEFENDANT: DID NOT APPEAR APPEARED

DISPOSITION

NOLLE PROSSED GUILTY

FORFEITED BOND PLED: NOLO CONTENDERE

TRIAL BY: TRIAL OFFICER JURY

VERDICT OF GUILTY

TRIAL IF ANY NOT GUILTY

JAIL SUSPEND FINE AMT. COLLECTED AMT. SUSPENDED

Long

COMMITTED TO: Vehicle Searched Arrest as Result of Collision

OFFENSE CODE B.A. LEVEL

15000 99 B1000

CERTIFIED CORRECT DATE

Max Kitchen 9/12/07 C 479968

TRIAL OFFICER'S COPY

KG McKunney

482

WITNESSES

Spartanburg Public Safety Dept.

[Signature]

ARREST WARRANT NUMBER

70871DL & Direct Indictment

ACTION OF GRAND JURY

Twee Bill

Amey & Crance
Foreperson of Grand Jury
Date: 5-11-06

VERDICT

Guilty

SAATCHI KITCHEN

17-6 HD 51 AYH 9002

Foreperson of Petit Jury
Date: 9/12/07
[Signature]
#155

Book 45-42-1135

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

VS.

Nathaniel Charles Teamer

Indictment for

COUNT ONE-FAILURE TO STOP WHEN
SIGNALLED BY LAW ENFORCEMENT OFFICER
W/ GREAT BODILY INJURY.

SC Code: 56-5-750 (a) (c) (2)

CDR Code: 2398

Class: FEL/B

- Computer
1. SENTENCE MADE ☒
 2. REPORT ENDED ☒
 3. CARD PULLED ☒
 4. INDEXED ☒
 5. CHECKED WARRANT ☒
 6. CHECKED STATE RETURN ☒
 7. ASSESSMENT ☒
 8. VIOLATIONS COPY ☒

A CERTIFIED COPY
CLERK OF COUNTY
SPARTANBURG COUNTY
CLERK
DATED

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

Count One-Failure to Stop when signaled by a Law Enforcement Officer w/ Great Bodily Injury

The Defendant, Nathaniel Charles Teamer, on or about February 3, 2006, in Spartanburg County, South Carolina while driving on a road, street, or highway in this State, failed to stop when signaled by a law enforcement vehicle by means of a siren or a flashing light. The Defendant violated the provisions of subsection 56-5-750 (A) and violated an act forbidden by law or neglected any duty imposed by law in the driving of the vehicle, to-wit:

- (1) Driving Left of Center (Sections 56-5-1810 and 56-5-1880), and/or
- (2) Failure to follow right of way restrictions (Art 17, Section 56) and/or
- (3) Failure of driving on roadway laned for traffic (Section 56-5-1900), and/or
- (4) Failure to maintain proper control of vehicle, and/or
- (5) Driver's failure to exercise due care, and/or
- (6) Driving too fast for conditions (Section 56-5-1520 subsection (a)), and/or
- (7) Restriction on Speeding (Article II, Section 56), and/or
- (8) Failure to maintain a proper lookout for other traffic, and/or
- (9) Reckless Driving (Section 56-5-2920) and/or
- (10) Driving without his headlights on.

Which proximately caused great bodily injury, in violation of Section 56-5-750 (A) (C) (2) of the Code of Laws of South Carolina (1976, as amended).

ACCEIVED
 CLERK OF COURT
 SPARTANBURG COUNTY
 B.C. 02/09/06
 DATED 02/09/06

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

Barry Barnett
 DEPUTY SOLICITOR

484

WITNESSES

Spartanburg Public Safety Dept.

[Signature]

ARREST WARRANT NUMBER

70871DL & Direct Indictment

ACTION OF GRAND JURY

True Bill

Amey & Cramer

Foreperson of Grand Jury
Date: 5-11-06

VERDICT

SPECIALTY CRIM

FILED 51 MAY 9 2006

Foreperson of Petit Jury
Date: 5-11-06

488

060842-1733

The State of South Carolina

County of Spartanburg

Trey Gowdy, Solicitor

COURT OF GENERAL SESSIONS

MAY 15 2006

TERM

THE STATE

VS.

Nathaniel Charles Teamer

Count Two - NP - Almond - Defendant was found guilty of Burglary 1st on 06-1719, ~~felony~~ FELONY DU1 (601) on 06-1732, and FTS (601) on Count one of this indictment

Indictment for

COUNT ONE-FAILURE TO STOP WHEN
SIGNALLED BY LAW ENFORCEMENT OFFICER
W/ GREAT BODILY INJURY & COUNT TWO-
ATTEMPTING TO LEAVE THE SCENE OF AN
ACCIDENT W/ GREAT BODILY INJURY
SC Code: 56-5-750 (a) (c) (2)
CDR Code: 2398

Class: FELIB

[Signature]
CLERK OF COURT
SPARTANBURG COUNTY
BY *[Signature]*
DATED 9-13-07

*by a jury on 9/12/07 and
received a sentence of 30
years on Burg 1st, 15th year, and
FELONY DU1 (601), and 10 year,
and FTS (601), Grand Juror Cole -
9/12/2007 - *[Signature]**

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on MAY 11 2006 the

Grand Jurors of Spartanburg County present upon their oath:

Count One-Failure to Stop when signaled by a Law Enforcement Officer w/ Great Bodily Injury

The Defendant, Nathaniel Charles Teamer, on or about February 3, 2006, in Spartanburg County, South Carolina while driving on a road, street, or highway in this State, failed to stop when signaled by a law enforcement vehicle by means of a siren or a flashing light. An attempt to increase the speed of a vehicle or in other manner avoid the pursuing law enforcement vehicle when signaled by a siren or a flashing light is prima facie evidence of a violation of this section. Failure to see the flashing lights or to hear the siren does not excuse a failure to stop when the distance between the vehicles and other road conditions are such that it would be reasonable for a driver to hear or see the signals from the law enforcement vehicle. The Defendant violated the provisions of subsection 56-5-750 (A) and violated an act forbidden by law or neglected any duty imposed by law in the driving of the vehicle, to-wit:

- (1) Driving Left of Center (Sections 56-5-1810 and 56-5-1880), and/or
- (2) Failure to follow right of way restrictions (Art 17, Section 56) and/or
- (3) Failure of driving on roadway laned for traffic (Section 56-5-1900), and/or
- (4) Failure to maintain proper control of vehicle, and/or
- (5) Driver's failure to exercise due care, and/or
- (6) Driving too fast for conditions (Section 56-5-1520 subsection (a)), and/or
- (7) Restriction on Speeding (Article II, Section 56), and/or
- (8) Failure to maintain a proper lookout for other traffic, and/or
- (9) Reckless Driving (Section 56-5-2920) and/or
- (10) Driving without his headlights on.

Which proximately caused great bodily injury, in violation of Section 56-5-750 (A) (C) (2) of the Code of Laws of South Carolina (1976, as amended).

Count Two-Attempting to Leave the Scene of an Accident w/ Great Bodily Injury

The Defendant, Nathaniel Charles Teamer, on or about February 3, 2006, in Spartanburg County, South Carolina while driving on a road, street, or highway in this State, attempted to leave the scene of an accident with great bodily injury. He did not immediately stop his vehicle at the scene of the accident or as close to it as possible and/or did not comply with the requirements of Section 56-5-1230 of the South Carolina Code of Laws and/or was attempting to the scene of the accident and was stopped by a law enforcement officer. The accident proximately caused great bodily injury to James Thomas Young in which the defendant attempted to leave the scene of the accident in violation of Section 56-5-1210 (A)(2), Section 56-5-1230 and Section 16-1-80 of the Code of Laws of South Carolina (1976, as amended).

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

A CERTIFIED COPY
[Signature]
 CLERK OF COURT
 SPARTANBURG COUNTY
 BY *[Signature]* D.C.
 DATED *6-13-07*

[Signature]
 DEPUTY SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NATHANIEL TEAMER,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

KATHRINE H. HUDGINS

Appellate Defender

South Carolina Commission on Indigent Defense

Division of Appellate Defense

PO Box 11589

Columbia, S. C. 29211-1589

(803) 734-1343

ATTORNEY FOR APPELLANT

STATEMENT OF THE CASE

In May of 2006, the Spartanburg County Grand Jury indicted Teamer for burglary first degree, armed robbery, felony DUI with great bodily injury and failure to stop when signaled by law enforcement with great bodily injury. On September 10, 2007, Teamer proceeded to jury trial before the Honorable J. Derham Cole. The jury returned a verdict of not guilty of armed robbery. The jury returned verdicts of guilty on the other charges. Judge Cole sentenced Teamer to 30 years for burglary first, 15 years concurrent for felony DUI and 10 years concurrent for failure to stop. A timely notice of intent to appeal was filed on September 19, 2007. This appeal follows.

STATEMENT OF ISSUE ON APPEAL

Did the judge err in refusing to sever the burglary first charge from the charges of felony driving under the influence [DUI] with great bodily injury, and failure to stop when signaled by law enforcement officer with great bodily injury?

TABLE OF AUTHORITIES**Cases**

<u>State v. Anderson</u> , 318 S.C. 395, 458 S.E.2d 56 (Ct. App. 1995).....	5
<u>State v. Tate</u> , 286 S.C. 462, 334 S.E.2d 289 (Ct.App. 1985).....	6
<u>State v. Tucker</u> , 324 S.C. 155, 478 S.E.2d 260 (1996).....	6

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TABLE OF AUTHORITIES.....	2
STATEMENT OF ISSUE ON APPEAL.....	3
STATEMENT OF THE CASE	4
ARGUMENT.....	5
CONCLUSION.....	7
PETITION TO BE RELIEVED AS COUNSEL.....	8

ARGUMENT

The judge erred in refusing to sever the burglary first charge from the charges of felony driving under the influence [DUI] with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury.

Initially, the State intended to try Teamer for murder, assault and battery with intent to kill [ABIK], burglary first degree, armed robbery, felony DUI with great bodily injury and failure to stop with great bodily injury in one trial. (R. p. 11, lines 1-12). Teamer objected and moved to sever the charges. (R. p. 11 lines 15 – p. 12, 13, 14, lines 1-12). Teamer argued that the six separate indictments arose from three separate incidents, the murder and ABIK arising from one incident, the burglary first degree and armed robbery arising from a second incident and the felony DUI and failure to stop arising from a third incident. (R. p. 12, lines 16-21). After hearing argument from both sides (R. pp. 14 – 25), the judge granted the motion to sever as to the murder and ABIK charges but allowed the other charges to be tried together. (R. p. 26, lines 2- p. 27, p. 28, lines 1-16). In regard to the burglary first degree and armed robbery charges being tried with the felony DUI and failure to stop, the judge stated, "It's not so much when he was charged with it. It's the fact that he had been accused of it. The police were aware of his identity of being the perpetrator, and they were aware of that fact and were looking for him at the time that the failing to stop and the felony D.U.I. occurred. So that's what I perceive to be a logical connection between those offenses." (R. p. 28, lines 22 – p. 29, lines 1-3). The judge erred.

A motion for severance is addressed to the trial court and should not be disturbed unless abuse of discretion is shown. State v. Anderson, 318 S.C. 395, 458 S.E.2d 56 (Ct. App. 1995). Charges can be joined in the same indictment and tried together where (1) they arise out of a single chain of circumstances; (2) are proved by the same evidence, (3)

are of the same general nature, and (4) no real right of the defendant has been prejudiced. State v. Tate, 286 S.C. 462, 334 S.E.2d 289 (Cl.App. 1985); State v. Tucker, 324 S.C. 155, 478 S.E.2d 260 (1996).

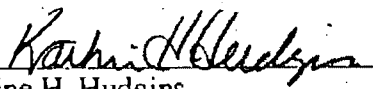
According to the prosecutor, the burglary took place at 11:00 PM. (R. p. 15, lines 5-7). Later, at about 1:00 AM, Officer Timothy Allen St. Louis, Jr. saw a car pull out of the Li'l Cricket Convenience Store with no headlights. (R. p. 319, lines 1-4). A chase ensued and Teamer was eventually arrested for failure to stop and DUI after being involved in an accident with another car. Although witnesses from the burglary incident knew Teamer and had identified him to the police, the later pursuit was not a result of that investigation. At the time of the pursuit when the officer saw the car with no headlights, law enforcement investigating the burglary did not have a description of the car Teamer was driving. (R. p. 23, lines 15-19). The failure to stop and DUI were not connected to the burglary incident. The two incidents did not arise out of a single chain of circumstances.

This case is distinguished from the facts of Tucker where the Court found consolidation proper. In Tucker the subsequent burglaries that were tried with a murder charge were committed solely to avoid capture for the murder charge. The DUI and failure to stop in the present case were simply bad luck on the part of Teamer and not necessarily committed solely to avoid capture on other charges. The two separate incidents are not proved by the same evidence, are not of the same general nature and Teamer was prejudiced by the judge's failure to sever. The judge erred in refusing to sever the burglary first charge from the charges of felony DUI with great bodily injury and failure to stop when signaled by law enforcement officer with great bodily injury.

CONCLUSION

Based on the above argument, Teamer's sentences and convictions should be reversed and the cases remanded for a new trial.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 25th day of November, 2008.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg CountyJ. Derham Cole, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NATHANIEL TEAMER,

APPELLANT

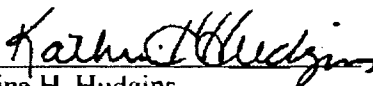
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Nathaniel Teamer states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge J. Derham Cole, which was held on September 12, 2007, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Nathaniel Teamer.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

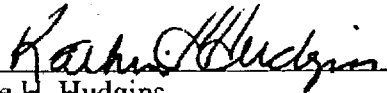
ATTORNEY FOR APPELLANT

This 25th day of November, 2008.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

November 25, 2008



Kathrine H. Hudgins
Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589
Columbia, South Carolina 29211-1589

STATE OF SOUTH CAROLINA

In the Court of Appeals

Appeal from Spartanburg County

J. Derham Cole, Circuit Court Judge

Anders
file

The State,

Respondent,

v.

Nathaniel Teamer,

Appellant.

Appellants Pro Se Supplemental
Brief - Anders v. California

Nathaniel Teamer
McCormick Correctional Institution
386 Redemption Way
McCormick, S.C. 29899