

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. Supreme Court

Appeal from Greenville County

G. Edward Welmaker, Circuit Court Judge

JARED WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001042

APPENDIX

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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

COURT OF GENERAL SESSIONS
2009-GS-23-10022

STATE OF SOUTH CAROLINA,

vs.

TRANSCRIPT OF RECORD

JARED LEE WILLIAMS,
DEFENDANT.

ORIGINAL

September 7 and 8, 2010
Greenville, South Carolina

B E F O R E:

THE HONORABLE D. GARRISON HILL, JUDGE; and a jury.

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

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H. CHASE HARBIN, ESQ.
Attorney for the Defendant

HOLLIE M. JENKINS
Circuit Court Reporter

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 (DW) - Denotes Defense Witness
 (IC) - Denotes In Camera

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All Exhibits were retained by the Clerk of Court for
Greenville County.

P R O C E E D I N G S

THE COURT: This is the case of the State v. Jared Williams.

MR. MOYER: Your Honor, I just want to state that we're just going forward with one of the indictments, 10022, count one.

THE COURT: Just count one?

MR. MOYER: Count one only, not the possession of a weapon.

THE COURT: Okay. Bring the jury up, please.

(Pause.)

(WHEREUPON, the jury panel entered the courtroom.)

THE COURT: Good morning, ladies and gentlemen.

My name is Gary Hill. I'm one of the circuit judges here in Greenville and Pickens County. And I'm glad to be home with you this week serving in a term of General Sessions court.

We are about to begin the trial of the State v. Jared Lee Williams. It's docket number 2009-GS-23-10022.

And, Mr. Williams, if you'd just stand up, sir, so everybody can see you, sir.

Thank you.

This is a criminal case. And I'm going to read to you the indictment that the trial will concern. Before I do that, though, I need to tell you that the indictment is

1 not evidence of anything. It's simply a piece of paper.
2 It's the way the case gets started, and the formal way it
3 can begin. It's the ticket, so to speak, that allows the
4 State and the Solicitor, or the Prosecutor, to come
5 through that courtroom door that you just came through and
6 begin a case against a citizen, and let's a citizen know
7 what he or she is charged with.

8 Now, Mr. Williams has pled not guilty to this
9 indictment. And that puts the burden of proof on the
10 State. And Mr. Williams can only be convicted if the jury
11 unanimously finds that the State has proven each and every
12 element of the crime beyond a reasonable doubt.

13 Mr. Williams doesn't have any burden of proof. He doesn't
14 have to prove himself innocent, or prove himself not
15 guilty, or offer any explanation or evidence whatsoever.

16 So those fundamental principles of criminal law,
17 which are based on our Constitution and justice system,
18 are very important to our proceedings here today. And
19 you'll hear a lot more about them as the case progresses.

20 But, for right now, I want to read to you the
21 allegations in the indictment. And that's all they are at
22 this point. The indictment alleges that Jared Lee
23 Williams did in Greenville County on or about the 7th day
24 of September, 2009, while armed with a deadly weapon or
25 while alleging, either by actions or words, he was armed

1 while using a representation of a deadly weapon, or any
2 object which a person present during the commission of the
3 robbery would reasonably believe to be a deadly weapon did
4 take by means of force or intimidation goods or monies
5 described as money belonging to The Pantry from the person
6 or presence of Stephanie Chatham and/or Rachel Pennington
7 in violation of 16-11-330 of the South Carolina Code of
8 Laws. That's the charge and allegation in the indictment.

9 And, as I said, Mr. Williams has pled not guilty.
10 And he is presumed innocent at this stage, and will be
11 presumed innocent throughout the trial. We are trying now
12 to seat a jury that can be fair and impartial in this
13 matter, and won't have any kind of bias or prejudice about
14 anything concerning this case or anyone involved in it.

15 JURY QUALIFICATION

16 THE COURT: So I have a number of questions I need to
17 ask. The first question is: Is there anyone who is
18 related by blood or marriage, or anyone who has a
19 personal, social, or business relationship with either
20 Jared Lee Williams, or Stephanie Chatham, or Rachel
21 Pennington? If so, please, stand.

22 (There was no response.)

23 THE COURT: Does anyone know anything about this
24 case, other than what you've heard here from me since
25 we've been in this courtroom together? If so, please,

1 stand.

2 (There was no response.)

3 THE COURT: I'm going to read to you a list of people
4 who may testify in this case. And they include Collis
5 Flavell; Gary Rhinehart; Corporal M.P. Austin; Corporal
6 Mike Estes; Ryan Smith of the Sheriff's Office; Mike
7 Jarvis; Mike Fortner and Dave Weiner, all of the Sheriff's
8 Office; Stephanie Fox; Rachel Pennington; Jennifer Lynn
9 Stewart; Joan Byars; Deona McCollum; Lori Buchanan; Kayla
10 Barnett. Is there anyone related by blood or marriage, or
11 kin to in any way any of those people who may testify in
12 this case? If so, please, stand.

13 (There was no response.)

14 THE COURT: Does anybody have any personal, social,
15 or business relationship with any of these potential
16 witnesses? If so, please, stand.

17 (There was no response.)

18 THE COURT: All right. I'm going to ask the lawyers
19 who are going to be involved in this case to identify
20 themselves, and introduce the people at their table.

21 And, Mr. Moyer, yes, sir.

22 MR. MOYER: My name is Mark Moyer. I'm an Assistant
23 Solicitor here in Greenville County. Seated next to me is
24 my legal investigator, Martha Lynch.

25 You'll, also, see seated next to her is Investigator

1 Mike Jarvis with the Greenville County Sheriff's Office.

2 THE COURT: Thank you.

3 Mr. Harbin.

4 MR. HARBIN: My name is Chase Harbin. I'm an
5 attorney here in Greenville representing Mr. Jared
6 Williams.

7 THE COURT: Thank you.

8 Is anyone related by blood or marriage, or kin to in
9 any way any of the lawyers involved in this case, or
10 Ms. Martha Lynch? If so, please, stand.

11 (There was no response.)

12 THE COURT: Does anyone have any personal, social, or
13 business relationship with any of the lawyers or
14 Ms. Lynch? If so, please, stand.

15 (There was no response.)

16 THE COURT: Has anyone ever been employed by the
17 Solicitor's Office for this county or Pickens County under
18 Solicitor Bob Ariail? If so, please, stand.

19 (There was no response.)

20 THE COURT: Has anyone ever had a member of their
21 immediate family be employed by Solicitor Ariail's office?
22 If so, please, stand.

23 (There was no response.)

24 THE COURT: All right. This case involves an alleged
25 violent crime, specifically, armed robbery. And I want to

1 ask a couple of questions. And because the questions do
2 call for sensitive information, if you need to respond,
3 I'll just ask that you come up here and talk to me in a
4 little more private setting with the court reporter and
5 the lawyers.

6 The first question is: Is there anyone who has
7 contributed time or money to any organization whose
8 primary purpose is more aggressive law enforcement or
9 victim's rights?

10 The second question: Is there anyone who has ever
11 been a victim of, or been arrested for, charged with, or
12 convicted of a violent crime?

13 And, also, has anyone ever had a member of their
14 immediate family ever be a victim of a violent crime, or
15 been charged with or convicted of a violent crime?

16 So if you need to respond to those questions, I just
17 ask that you come forward and talk to me up front with the
18 court reporter.

19 (There was no response.)

20 THE COURT: Okay. Is there any further voir dire
21 requested by the State?

22 MR. MOYER: No, Your Honor.

23 THE COURT: From the Defense?

24 MR. HARBIN: No, sir.

25 THE COURT: Okay. We're going to select a jury. The

1 strikes are five and 10.

2 If your name is called, simply stand up where you
3 are. You don't have to come forward, unless you're,
4 actually, chosen. And if you're chosen, Ms. Klein will
5 direct you from that point.

6 JURY SELECTION

7 THE CLERK: Number 27, Jeremy Britt.

8 (WHEREUPON, Jeremy Britt, a white male, stood.)

9 THE CLERK: What says the State?

10 MR. MOYER: Please present Mr. Britt.

11 THE CLERK: What says the Defendant?

12 MR. HARBIN: Please seat Mr. Britt.

13 THE CLERK: You may have a seat in the jury box.

14 Number 135, John Ashley Maroney.

15 (WHEREUPON, John Ashley Maroney, a white male,
16 stood.)

17 THE CLERK: What says the State?

18 MR. MOYER: Please present Mr. Maroney.

19 THE CLERK: What says the Defendant?

20 MR. HARBIN: Please excuse Mr. Maroney.

21 THE CLERK: You're excused from this case. You may
22 just be seated.

23 Number 158, Karen Perea.

24 (WHEREUPON, Karen Perea, a white female, stood.)

25 THE CLERK: What says the State?

1 MR. MOYER: Please present Ms. Perea.

2 THE CLERK: What says the Defendant?

3 MR. HARBIN: Please seat Ms. Perea.

4 THE CLERK: You may have a seat in the jury box0.

5 Number 149, Thomas Norris.

6 (WHEREUPON, Thomas Norris, a white male, stood.)

7 THE CLERK: What says the State?

8 MR. MOYER: Please present Mr. Norris.

9 THE CLERK: What says the Defendant?

10 MR. HARBIN: Please excuse Mr. Norris.

11 THE CLERK: You're excused from this case.

12 Number 213, Delana Adams Wilson.

13 (WHEREUPON, Delana Adams Wilson, a white female,
14 stood.)

15 THE CLERK: What says the State?

16 MR. MOYER: Please present Ms. Wilson.

17 THE CLERK: What says the Defendant?

18 MR. HARBIN: Please seat Ms. Wilson.

19 THE CLERK: You may have a seat in the jury box.

20 Number 94, Ricky Hall.

21 (WHEREUPON, Ricky Hall, a white male, stood.)

22 THE CLERK: What says the State?

23 MR. MOYER: Please present Mr. Hall.

24 THE CLERK: What says the Defendant?

25 MR. HARBIN: Please seat Mr. Hall.

1 THE CLERK: You may have a seat in the jury box.
2 Number 60, Scott Dill.
3 (WHEREUPON, Scott Dill, a white male, stood.)
4 THE CLERK: What says the State?
5 MR. MOYER: Please present Mr. Dill.
6 THE CLERK: What says the Defendant?
7 MR. HARBIN: Please excuse Mr. Dill.
8 THE CLERK: You're excused from this case.
9 Number 30, Harvey Brown.
10 (WHEREUPON, Harvey Brown, a white male, stood.)
11 THE CLERK: What says the State?
12 MR. MOYER: Please present Mr. Brown.
13 THE CLERK: What says the Defendant?
14 MR. HARBIN: Please seat Mr. Brown.
15 THE CLERK: You may have a seat in the jury box.
16 Number 194, Elizabeth Trevino.
17 (WHEREUPON, Elizabeth Trevino, a white female,
18 stood.)
19 THE CLERK: What says the State?
20 MR. MOYER: Please present Ms. Trevino.
21 THE CLERK: What says the Defendant?
22 MR. HARBIN: Please seat Ms. Trevino.
23 THE CLERK: You may have a seat in the jury box.
24 Number 110, Valerie Hill.
25 (WHEREUPON, Valerie Hill, a black female, stood.)

1 THE CLERK: What says the State?

2 MR. MOYER: Please present Ms. Hill.

3 THE CLERK: What says the Defendant?

4 MR. HARBIN: Please seat Ms. Hill.

5 THE CLERK: You may have a seat in the jury box.

6 Number 26, Michael Brickey.

7 (WHEREUPON, Michael Brickey, a white male, stood.)

8 THE CLERK: What says the State?

9 MR. MOYER: Please present Mr. Brickey.

10 THE CLERK: What says the Defendant?

11 MR. HARBIN: Please excuse Mr. Brickey.

12 THE CLERK: You're excused from this case.

13 Number 152, Benjamin Ogles.

14 (WHEREUPON, Benjamin Ogles, a white male, stood.)

15 THE CLERK: What says the State?

16 MR. MOYER: Please excuse the juror from this case.

17 THE CLERK: You're excused from this case.

18 Number 157, Richard Passmore.

19 (WHEREUPON, Richard Passmore, a white male, stood.)

20 THE CLERK: What says the State?

21 MR. MOYER: Please excuse the juror from this case.

22 THE CLERK: You're excused from the case.

23 Number 171, Vicki Roop.

24 (WHEREUPON, Vicki Roop, a white female, stood.)

25 THE CLERK: What says the State?

1 MR. MOYER: Please present Ms. Roop.
2 THE CLERK: What says the Defendant?
3 MR. HARBIN: Please excuse Ms. Roop.
4 THE CLERK: You're excused from this case.
5 Number 172, William Saddoris.
6 (WHEREUPON, William Saddoris, a white male, stood.)
7 THE CLERK: What says the State?
8 MR. MOYER: Please present Mr. Saddoris.
9 THE CLERK: What says the Defendant?
10 MR. HARBIN: Please seat Mr. Saddoris.
11 THE CLERK: You may have a seat in the jury box.
12 Number 220, Lekiya Wright.
13 (WHEREUPON, Lekiya Wright, a black female, stood.)
14 THE CLERK: What says the State?
15 MR. MOYER: Please present Ms. Wright.
16 THE CLERK: What says the Defendant?
17 MR. HARBIN: Please seat Ms. Wright.
18 THE CLERK: You may have a seat in the jury box.
19 Number 162, Richard Powers.
20 (WHEREUPON, Richard Powers, a white male, stood.)
21 THE CLERK: What says the State?
22 MR. MOYER: Please present Mr. Powers.
23 THE CLERK: What says the Defendant?
24 MR. HARBIN: Please excuse Mr. Powers.
25 THE CLERK: You're excused from this case.

1 Number 217, Jennifer Winans.
2 (WHEREUPON, Jennifer Winans, a white female, stood.)
3 THE CLERK: What says the State?
4 MR. MOYER: Please present Ms. Winans.
5 THE CLERK: What says the Defendant?
6 MR. HARBIN: Please seat the juror.
7 THE CLERK: You may have a seat in the jury box.
8 Number 5, James Avery.
9 (WHEREUPON, James Avery, a black male, stood.)
10 THE CLERK: What says the State?
11 MR. MOYER: Please present Mr. Avery.
12 THE CLERK: What says the Defendant?
13 MR. HARBIN: Please seat Mr. Avery.
14 THE CLERK: You may have a seat in the jury box.
15 Number 6, Rebecca Azevedo.
16 (WHEREUPON, Rebecca Azevedo, a white female, stood.)
17 THE CLERK: What says the State?
18 MR. MOYER: Please present Ms. Azevedo.
19 THE CLERK: What says the Defendant?
20 MR. HARBIN: Please seat Ms. Azevedo.
21 THE CLERK: You may have a seat in the jury box.
22 THE COURT: We'll have one alternate. The strikes
23 are one and two.
24 THE CLERK: Number 151, Darlene O'Brien.
25 (WHEREUPON, Darlene O'Brien, a white female, stood.)

1 THE CLERK: What says the State?

2 MR. MOYER: Please present Ms. O'Brien.

3 THE CLERK: What says the Defendant?

4 MR. HARBIN: Please excuse Ms. O'Brien.

5 THE CLERK: You're excused from this case.

6 Number 201, Frankie Watson.

7 (WHEREUPON, Frankie Watson, a white female, stood.)

8 THE CLERK: What says the State?

9 MR. MOYER: Please present Ms. Watson.

10 THE CLERK: What says the Defendant?

11 MR. HARBIN: Please seat Ms. Watson.

12 THE CLERK: You may have a seat in the jury box.

13 THE COURT: Okay. Thank you.

14 Any motions or matters related to the selection
15 process, or the composition of the jury from the State?

16 MR. MOYER: No, Your Honor.

17 THE COURT: From the Defense?

18 MR. HARBIN: No, sir.

19 THE COURT: All right. I find that the process
20 complied with Batson v. Kentucky, and all other
21 Constitutional requirements and statutory requirements.

22 And, ladies and gentlemen, you've been selected to be
23 the jury in the case of Jared Williams. I'm just going to
24 ask that you come back to the jury room at 2:15. We have
25 some matters to take up before we start the trial. But,

1 hopefully, we can start at 2:15.

2 Don't talk about the case. Obviously, you haven't
3 heard any evidence, so don't discuss it with anyone.
4 We'll see you back at 2:15. Mr. Jenkinson will show you
5 the jury room and tell you how to come back and report at
6 2:15.

7 Thank you.

8 (WHEREUPON, the jury was excused from open court at
9 approximately 11:50 a.m.)

10 THE COURT: Okay. And those of you who were not
11 chosen, I've been advised that you need to report back to
12 the jury assembly room.

13 And thank you for your cooperation and patience with
14 us this morning.

15 (WHEREUPON, the remaining jury panel members exited
16 the courtroom.)

17 THE COURT: Yes, sir, Mr. Moyer.

18 MR. MOYER: Thank you, Your Honor.

19 May it please the Court.

20 We had a very brief conversation before we drew the
21 jury in which we let the Court know that there are a
22 number of statements made by the Defendant that the State
23 would seek to introduce. At this time, it's my
24 understanding that the Defense would require the State to
25 have a Jackson v. Denno, and we are prepared to begin, if

1 that's the case.

2 MR. HARBIN: Yes, sir.

3 THE COURT: Yes, sir.

4 Okay. You may call your first witness.

5 MR. MOYER: Thank you, Your Honor.

6 May it please the Court.

7 The State would call Gary Rhinehart to the stand.

8 THE CLERK: Mr. Rhinehart, if you'll step up here.

9 And raise your right hand and place your left hand on
10 the Bible.

11 WHEREUPON,

12 GARY S. RHINEHART,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 And state your full name for the record, please.

17 THE WITNESS: Gary S. Rhinehart.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q Where are you employed?

22 A Greenville City Police Department.

23 Q How long have you worked for the Greenville City
24 Police Department?

25 A Eight years.

1 Q And what is your position with the Sheriff's
2 Department -- I'm sorry, the police department?

3 A Currently?

4 Q Yes.

5 A I'm a narcotics detective.

6 Q Is that what you were doing back in September of 2009?

7 A Yes, sir.

8 Q All right. Were you involved in the investigation of
9 the robbery of The Pantry that occurred on September the
10 7th, 2009?

11 A Yes, sir.

12 Q And, at some point during that night, did you meet
13 with the Defendant?

14 A Yes, sir.

15 Q And where did you meet with him?

16 A It was at a bar off of Gladys Avenue or Gladys Drive.
17 I can't recall the name of the bar. But it was after an
18 officer had stopped the vehicle that had been described as
19 being used in the armed robbery.

20 Q Okay. And how did it come about that you came to
21 meet with him there at that location?

22 A When I arrived on scene -- like I say, the vehicle
23 was described as being used in the armed robbery. When I
24 got there, Corporal Austin had stopped the vehicle. He
25 was already placed -- the Defendant was placed in the back

1 of -- I believe it was Officer Ross' vehicle. And I
2 was -- with the description that was given out, that's why
3 I went over to speak with him.

4 Q All right. So there had been a description given out
5 of the vehicle when the incident took place, when the
6 robbery took place?

7 A Yes, sir.

8 Q And what was the description of the vehicle?

9 A It was a white H3 Hummer.

10 Q Okay. And that was the vehicle that was there at
11 this location where you met with the Defendant?

12 A Yes.

13 Q Okay. Now, did you -- do you recall the rough time
14 period when you -- after the actual robbery took place to
15 when you were out there?

16 A When I met with the Defendant?

17 Q Yes.

18 A It was just shortly after 10 in the evening.

19 Q Okay. So about a little over an hour after the
20 actual robbery took place?

21 A Yes.

22 Q Okay. When you arrived there at Junior's Sports Bar,
23 what was taking place? Where was the Defendant?

24 A He was being placed in the back seat of one of the
25 patrol vehicles.

1 Q Now, before you spoke to the Defendant, was the
2 Defendant advised of his Miranda warnings?

3 A Yes.

4 Q And who read him his rights?

5 A Officer Ross.

6 Q Officer Ross did?

7 A I walked up and found out that the Defendant was in
8 the back of the vehicle. And when I walked up, Officer
9 Ross opened the door and read his Miranda rights to him
10 before I spoke to him.

11 Q And you were present for that?

12 A Yes. I was standing there with him.

13 Q And you heard the rights being given to him?

14 A Yes.

15 Q And what rights were given to him? What were the
16 actual specific rights that were told to the Defendant?

17 A That he had the right to remain silent -- the Miranda
18 rights, he had the right to remain silent. Anything he
19 says can and will be used against you in a court of law.
20 You have the right to have an attorney present before any
21 questioning. You have the right to stop answering any
22 questions at any time.

23 I mean, if I'm not mistaken, Officer Ross, actually,
24 read them from a card.

25 Q Okay. And was the Defendant in handcuffs at this

1 time? Do you remember?

2 A No. I don't think he was in handcuffs at this time.
3 Because I, eventually, asked him if he would give me a
4 statement.

5 Q Okay. But he was in custody; is that correct?

6 A Yes.

7 Q Okay. And the actual location where he was was in
8 the back of this officer's car?

9 A Yes, sir.

10 Q Okay. During the time frame that the Defendant was
11 spoken to both by Officer Ross and by you, did the
12 Defendant appear comfortable?

13 A He appeared very relaxed.

14 Q Was the Defendant told why he was stopped, and why
15 y'all wanted to talk to him?

16 A I don't know if he was told that before I spoke with
17 him or not. I don't know.

18 Q But, at the time you spoke with him, did you give
19 him --

20 A When I spoke with him, I told him why I was there,
21 and why we were there to talk with him, yes.

22 Q Okay. Now, were there any threats, intimidation, or
23 coercion made in order to get the Defendant to sign -- I'm
24 sorry, in order to get the Defendant to talk to you about
25 what had happened?

1 A No. He seemed real willing to give me the
2 information he had at the time.

3 Q Were there any promises made to induce him to speak
4 to you?

5 A No.

6 Q In your opinion, did the Defendant appear to
7 understand the rights?

8 A Yes, sir.

9 Q Now, after being given the Miranda warnings, did the
10 Defendant indicate whether or not he would speak to you?

11 A Yes. He said he would be glad to speak with me.

12 Q And did he, actually, give you a statement in writing?

13 A Yes, he did.

14 Q And how did the statement get put into writing?

15 A I had him -- we have a statement form. And I had --
16 put it on a clipboard, and asked him to write out the
17 statement as to everything, just to tell the story about
18 everything that took place that night.

19 (WHEREUPON, State's Exhibit No. 1 was marked for
20 identification only.)

21 BY MR. MOYER:

22 Q I'm going to hand you what's marked as State's
23 Exhibit No. 1 for purposes of this hearing. Do you
24 recognize what that document is?

25 A Yes, sir.

1 Q What is that?

2 A That's the statement that the Defendant wrote that
3 night.

4 Q Okay. And how do you recognize it?

5 A Well, his name. And, normally, at the -- when I fill
6 out a statement, at the top of it -- at the top of the
7 form, if you look at it, I usually write their name, the
8 case number, the date, and their address. I usually go
9 ahead and try to write all that out myself. So that's my
10 handwriting at the top of the page, and my signature at
11 the bottom.

12 Q And so you recognize that as the statement the
13 Defendant gave you the night of September the 7th, 2009?

14 A Yes, sir.

15 MR. MOYER: At this time, I move to have State's
16 Exhibit No. 1 entered into evidence for purposes of this
17 hearing.

18 MR. HARBIN: No objection, Judge.

19 THE COURT: It's in evidence.

20 (WHEREUPON, State's Exhibit No. 1 was admitted into
21 evidence.)

22 BY MR. MOYER:

23 Q Now, let me ask you, if you would, to publish that
24 statement to the Court.

25 A Do you want me to read it?

1 Q Yes.

2 A Just the part where he wrote, or from top to bottom?

3 Q Let's start off -- is there an actual printed section
4 on the top of the form?

5 A Yeah. It, actually, gives them their rights. It
6 advises them of their rights before they even give a
7 statement.

8 Q Would you go ahead and read those rights?

9 A It says, City of Greenville, County of Greenville,
10 State of South Carolina, and gives the case number.

11 It says, I, Jared Williams, do hereby give freely and
12 voluntarily this statement to G. Rhinehart -- that's
13 myself -- who have identified themselves as officers of
14 the Greenville Police Department, Greenville, South
15 Carolina. I have been advised that I do not have to make
16 this or any other statement, and that what I say can be
17 used against me in a court of law. I have been advised
18 that I have the right to counsel with an attorney of my
19 choice, that if I am financially unable to obtain an
20 attorney, the Court will appoint an attorney to represent
21 me. I have not been threatened or promised any reward to
22 make this statement and do so voluntarily. I understand
23 that I have the right to stop at any time. I hereby waive
24 these rights.

25 Q Let me stop you right there.

1 Now, those rights you just read that are printed on
2 the form, are those the rights that you heard Officer Ross
3 read to the Defendant before you even spoke to him?

4 | A Yes, sir.

5 | Q Okay.

6 A It says, I am 28 years old and I reside at
7 , Mauldin, South Carolina. And it
8 gives a phone number. I dropped -- his statement reads, I
9 dropped Jennifer Stewart off at work at 10:53 a.m. I then
10 went to my apartment to eat some of the food Jennifer
11 cooked me.

12 At about 12:00 p.m., I arrived in Greenville at my
13 buddy, Pete Base's house. I then washed Jennifer
14 Stewart's Hummer for about an hour and a half. After I
15 finished with that, I drove to Auto Zone on Laurens Road.
16 At Auto Zone, they informed me that one of Jennifer's
17 taillights had gone out. I paid to get it fixed and then
18 went to Burger King with my buddy, Chris, and his
19 girlfriend, Amanda.

20 After that, it was about 2:00 p.m. I parked downtown
21 and went into Falls Park for a minute. I thought there
22 might be some girls down there. I then went back to my
23 friend's house, Pete. I stayed there until 6:00 p.m. I
24 then went back to my apartment and rested.

25 My friend, Wade, knocked on my door at about 8:30,

1 8:45. I can't remember exactly. He then came back about
2 30 to 45 minutes later and only stayed for a minute. At
3 9:45, I left my apartment to come pick up Jennifer
4 Stewart -- to come pick Jennifer Stewart up.

5 I pulled into Junior's parking lot, and the police
6 drew guns on me and told me to get out. When Wade came to
7 my apartment, he asked to borrow Jennifer's Hummer,
8 because he said he needed to grab some stuff from the
9 store. I was kind of hesitant because it wasn't my car,
10 but I agreed because Wade seemed like he needed to go
11 really bad.

12 That was the end of the statement.

13 Q Okay. Now, after he gave you that statement, did you
14 ask him where -- this individual that he had mentioned
15 by the name of Wade, did you ask him where this person
16 lived?

17 A Yes.

18 Q Did he tell you?

19 A Yes.

20 Q Did you do anything to attempt to try to locate this
21 person?

22 A I did. I asked the Defendant if he could show me
23 exactly where this Wade lived. And, at that time, myself,
24 Officer Ross, and the Defendant met with the Mauldin
25 Police Department, and two of their officers. And we went

1 to an apartment complex over there.

2 And we, actually, got him out of the car. And he
3 walked us over and pointed out the apartment that Wade,
4 supposedly, lived in. After that, we had him sit back in
5 the car with an officer while we went and knocked on the
6 door.

7 Q And then after that, what did you do with the
8 Defendant after you were unable to locate this individual
9 Wade?

10 A Nobody was at the apartment. So, at that point, he
11 was arrested and taken to the detention center.

12 Q And what was he arrested for?

13 A I think it was a traffic violation, or something like
14 that. I can't remember right off on that end, because I
15 concentrated more on the robbery.

16 Q Was it for the robbery?

17 A No.

18 Q So it was a minor traffic violation having to do
19 with -- unrelated to the robbery?

20 A Right.

21 Q And you took him to the law enforcement center, and
22 he was booked into the jail that night?

23 A Yes.

24 Q Did he -- at any point during the time after you
25 started talking to him until after you dropped him off at

1 the law enforcement center, did he ever invoke the Miranda
2 rights?

3 A No.

4 Q Did he ever indicate that he no longer wished to
5 speak to law enforcement?

6 A No.

7 Q Okay. You knew he could read and write?

8 A Yes.

9 MR. MOYER: Please answer any questions that Defense
10 counsel may have.

11 THE COURT: Mr. Harbin.

12 MR. HARBIN: No questions for this witness, Judge.

13 THE COURT: All right. Thank you, Mr. Rhinehart.

14 MR. MOYER: Your Honor, at this time, the State would
15 call Investigator Mike Fortner.

16 THE CLERK: Mr. Fortner, if you'll place your left
17 hand on the Bible and raise your right hand.

18 WHEREUPON,

19 MIKE FORTNER,

20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 You may be seated.

23 State your name for the record, please.

24 THE WITNESS: Mike Fortner.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

BY MR. MOYER:

Q Investigator Fortner, where are you employed?

A The Greenville County Sheriff's Office.

Q And you can -- what is your position with the Sheriff's Office?

A Investigator, currently, in robbery.

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

A Almost 17 years.

Q One moment, please.

Let me ask you this, did you come into contact with the Defendant in this case, Jared Williams, on September the 8th, 2009?

A Yes, I did.

Q Where and when was it that you came in contact with him?

A Investigator Collis Flavell stopped by our office -- he's an investigator with the City. He stopped by our office to let us know that they had pulled a guy over in a white Hummer the night before. We, also, had a case involving a white Hummer. He let us know that this individual had -- or, at least, was saying he had loaned his car out to some people the night before.

So I went ahead and went over to the detention center and signed out the Defendant. And I brought him over to

1 our office so we could speak to him about who it was he
2 was loaning the car out to.

3 Q Let me stop you real quickly. You're saying the
4 county, also, had a case involving a white Hummer. What
5 kind of case?

6 A A robbery case.

7 Q And how much earlier? How long prior?

8 A That, I'm not real sure about, the same day, I
9 believe. But the timeframe between the two robberies, I'm
10 not sure of.

11 Q Now, when you went to speak with him, he was in jail
12 on what charge?

13 A He was in jail -- the city had arrested him for a
14 driving under suspension charge.

15 Q Okay. So he wasn't in jail under any other -- under
16 an armed robbery or --

17 A Not an armed robbery, just for driving under
18 suspension, yes.

19 Q Now, when you went to meet with him then, you spoke
20 to him in his jail cell?

21 A Well, what we do is we call over to the detention
22 center and ask to have an inmate pulled so that we can --
23 whatever different reasons, in this case, it was to
24 interview him. They bring them over to the area that they
25 refer to as transport. And we walk over there. It's just

1 across the parking lot from our office. We walk over
2 there.

3 And what I, normally, do when I sign somebody out
4 before I take them out in a case like this where I just
5 want to talk to them, and I don't have any charges on them
6 myself, I just ask them, Are you willing to go over and
7 talk to me? Because I don't want to take the time up of
8 signing them out, walking them across the parking lot only
9 for them to tell me they don't want to talk to me.

10 So once he told me he was willing to talk to me, I
11 signed him out.

12 Q So for this particular Defendant, did you tell him
13 that he had to accompany you over to your office?

14 A No, sir, I did not.

15 Q So when you asked him if he was willing to go with
16 you, what was his response?

17 A Yes, that he would.

18 Q And you took him over to what location?

19 A I took him over to my office, which is located in the
20 basement of the law enforcement center.

21 Q Can you tell us a little bit about your office. How
22 big it is? How many people are in there?

23 A Yeah. It's probably -- it's pretty much a square
24 office, maybe 20 feet -- I don't know, maybe 25 by 25,
25 something like that. It's got five desks in it, four

1 investigators, one sergeant.

2 Q Now, were you going to conduct the actual interview
3 with the Defendant, or were you getting him for someone
4 else?

5 A I was, actually, getting him for Investigator Jarvis.
6 It was, actually, his case. Why I went over to get him,
7 instead of Investigator Jarvis, I don't remember exactly.
8 He wasn't in the office at the time.

9 So I was just going over there to get him to have him
10 in our office ready to go before Investigator Jarvis got
11 there.

12 Q Now, before you turned him over to Investigator
13 Jarvis, did you have a conversation with him?

14 A Yes, I did.

15 Q And what was the content or --

16 A Well, we just, basically, talked about where he used
17 to live at, where he moved here from, why he moved here,
18 that sort of thing. And while we were talking, he, also,
19 brought up the Hummer, that he had loaned it out to people
20 before.

21 Q And then you turned him over to Investigator Jarvis?

22 A Correct. When Investigator Jarvis got in the office
23 and he was ready to conduct an investigation, I moved him
24 over to his desk.

25 Q And that was right next to where you were?

1 A His desk is in front of mine, yes.

2 Q So within very close proximity?

3 A Oh, yes, very close.

4 Q How was the Defendant acting? Can you describe his
5 demeanor?

6 A He was cooperating with us. I mean, he wasn't
7 combative in any way. Like I said, he was indicating that
8 he had loaned the vehicle out to people. He does it
9 routinely, which isn't unusual for people to do that. So
10 he was being cooperative with us.

11 Q So you were close enough that you could overhear the
12 conversation that was going on between Investigator Jarvis
13 and the Defendant?

14 A Yes, sir, I could.

15 Q At any point, did you ever hear something that caused
16 you to interrupt their conversation?

17 A Yes, I did.

18 Q And what was that?

19 A While having the conversation with Investigator
20 Jarvis, he mentioned that he was, in fact, involved with
21 the robbery involved with the Greenville City case. At
22 that time, I interrupted and notified Investigator Jarvis,
23 since he was not in the office at the time when I first
24 brought him over there, that I had not read him his rights
25 or anything, that we were interviewing him as a witness

1 since he pretty much the night before showed no connection
2 with the robbery, or anything like that. And the time
3 frame between the city robbery when he was found with the
4 car, the car could have, certainly, been passed around
5 during that time frame.

6 Q Now, at this point, were you aware that he had been
7 given his Miranda warnings the night before by the city
8 officers?

9 A I was not, no, sir.

10 Q Okay. Were you aware whether or not he was
11 considered a suspect by the city officers?

12 A According to Collis Flavell, he was not considered a
13 suspect. He was simply, that night, saying he had loaned
14 the car out.

15 Q So you were not aware of whether or not he was --

16 A Right.

17 Q And then you were present -- or you overheard
18 Investigator Jarvis give the Defendant his Miranda
19 warnings at that point?

20 A Yes, sir, I did.

21 MR. MOYER: Your Honor, I have no further questions
22 for this witness at this time.

23 THE COURT: Thank you.

24 Cross-examination.

25 MR. HARBIN: No, sir. None for this witness, Judge.

1 THE COURT: All right. Thank you, Mr. Fortner.

2 MR. MOYER: Thank you.

3 The State would call Mike Jarvis to the stand.

4 THE CLERK: Mr. Jarvis, place your left hand on the
5 Bible and raise your right hand.

6 WHEREUPON,

7 MICHAEL STEVEN JARVIS,
8 after first having been duly sworn, testified as follows:

9 THE CLERK: Thank you.

10 You may be seated.

11 State your name for the record, please.

12 THE WITNESS: Michael Steven Jarvis.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MR. MOYER:

16 Q Investigator Jarvis, where are you employed?

17 A The Greenville County Sheriff's Office.

18 Q What is your position with the Sheriff's Office?

19 A I'm an investigator.

20 Q How long have you been with the Sheriff's Office?

21 A 13 years.

22 Q Okay. Now, did you meet with the Defendant, Jared
23 Williams, as Investigator Fortner described just a few
24 minutes ago?

25 A Yes.

1 Q Okay. And there's been a little mention of an armed
2 robbery that occurred in the county.

3 A Correct.

4 Q Are you familiar with the details of that armed
5 robbery?

6 A Yes. I was assigned a case, I think it was seven or
7 eight days prior to this incident. And it was an armed
8 robbery involving a white Hummer.

9 Q And you said it was -- do you recall the date of that
10 incident?

11 A Yeah. It was the 31st of August, which would have
12 been seven or eight days before.

13 Q And in what way did it involve a white Hummer?

14 A A witness that I had spoken with had described the
15 suspect getting into a white Hummer.

16 Q And are you aware of the fact that the Defendant, the
17 night before, had been stopped regarding another armed
18 robbery in a white Hummer?

19 A That's correct.

20 Q Now, when you -- I assume you were briefed on the
21 events of the night previous by Investigator Flavell?

22 A That's correct.

23 Q Were you aware that the Defendant had been making a
24 claim that he had loaned the Hummer out to somebody else?

25 A Correct.

1 Q And is that what you wanted to talk to him about?

2 A Exactly. That was my goal was to find out and
3 identify this person that he was saying that he had loaned
4 the vehicle to. Because that was going to be very likely
5 my suspect in the case I was working with the county.

6 Q Okay. Now, as you started talking to him, did he
7 give a name of the person he, supposedly, loaned the
8 vehicle out to?

9 A Yes. He said his name was "Wade."

10 Q And did you -- as you were talking to the Defendant,
11 did he continue to stick to that explanation of the night
12 before that he had loaned the vehicle out to this person
13 named Wade?

14 A Yes.

15 Q Did he give you a last name?

16 A No, he did not.

17 Q Did he give you any other indicators about this
18 person, like where this person lived?

19 A He did say that he lived in the same apartment
20 complex where he was living at the time, which is -- I
21 believe it's in Mauldin.

22 Q Okay. Now, did you and Investigator Weiner attempt
23 to find out who this person Wade may be?

24 A Yes. Well, while I was speaking with the Defendant,
25 Investigator Weiner began to see if we could figure out

1 who Wade was. And we began to look at persons named Wade
2 who might have an address associated with those same
3 apartments.

4 Q And did you find somebody?

5 A Yes.

6 Q Or did Investigator Weiner find somebody?

7 A Yes. Investigator Weiner found the picture of a
8 gentleman named Wade Gambrell who lived at that apartment
9 complex.

10 Q And, actually, had an address for that apartment
11 complex?

12 A Correct.

13 Q And were y'all able to pull up a photograph of this
14 person, Wade Gambrell?

15 A Yes. Investigator Weiner pulled up a picture on his
16 computer. And he had the Defendant look at the picture of
17 Wade Gambrell on the computer, and asked him if that was
18 the person -- Wade Gambrell, if that was the person he had
19 loaned the vehicle to the night prior.

20 Q Okay. And what was the Defendant's reaction when
21 that question was asked?

22 A He said that that was, in fact, the person he had
23 loaned the vehicle to.

24 Q And did y'all do any further checking and find out
25 any significant information about this person, Wade

1 Gambrell?

2 A Yes. After he identified Wade Gambrell, we began to
3 look into his background a little bit further. And
4 Investigator Weiner figured out that Wade Gambrell was,
5 currently, incarcerated at the Greenville County Detention
6 Center, and had been there for a couple of weeks.

7 Q Okay. Did y'all tell that information to the
8 Defendant?

9 A Yes. We told the Defendant that he had been in jail
10 for a couple of weeks. And I asked him that -- I'm sorry,
11 that Wade Gambrell had been in there for a couple of
12 weeks. And I asked the Defendant why he was lying about
13 who had the vehicle.

14 Q And what was his reaction to that?

15 A He kind of hung his head down, and said that he had
16 been the one who had robbed The Pantry.

17 Q And that was the incident from the night previous,
18 The Pantry?

19 A Correct.

20 Q What was the type of convenience store of your case,
21 from August 31st?

22 A It was, also, a convenience store. It was Sunoco.

23 Q Okay. At that point, did Investigator Jarvis
24 interrupt you all as he testified to a moment ago?

25 A Investigator Fortner, yes.

1 Q I'm sorry.

2 A Investigator Fortner interrupted me and said he had
3 not read him his Miranda rights yet. And so, at that
4 point, I stopped asking him any questions. And I read the
5 Defendant his Miranda rights and, also, had him sign the
6 Miranda waiver.

7 MR. MOYER: Okay. Now, let me get these marked.

8 (WHEREUPON, State's Exhibit Nos. 2 and 3 were marked
9 for identification only.)

10 BY MR. MOYER:

11 Q Let me hand you what's been marked as State's Exhibit
12 No. 3.

13 A Yes. That's the waiver of rights form I read to the
14 Defendant that day, and he signed it, and I, also, signed.

15 Q And how -- do you recognize it by your signature?

16 A Yes.

17 Q And is it in substantially the same condition now as
18 it was on the date when you showed it to the Defendant,
19 and it was signed by the two of you?

20 A Yes.

21 MR. MOYER: Your Honor, I move, at this time, to have
22 State's Exhibit No. 3 entered into evidence for this
23 hearing.

24 MR. HARBIN: No objection.

25 THE COURT: It's in evidence.

1 (WHEREUPON, State's Exhibit No. 3 was admitted into
2 evidence.)

3 BY MR. MOYER:

4 Q So tell us about -- you went over that form with the
5 Defendant at that time?

6 A That's correct.

7 Q And would you tell us how you went about that
8 process, going over that form and obtaining the
9 signatures?

10 A I, basically, just read it to him. I turned it so he
11 could see it, and I read out loud line by line. I read
12 down to the portion where it said, Waiver of Rights. And
13 I stopped there and asked if he had any questions up to
14 that point. He did not have any questions.

15 And then I continued on to read the last paragraph,
16 which is the Waiver of Rights. And he advised that he
17 understood that as well, and that he did not want a lawyer
18 at that time. And I asked him if he was willing to sign
19 this Waiver of Rights. And he agreed to sign it. And I,
20 also, signed it as well.

21 Q Okay. Did he appear to have any trouble
22 understanding his rights while you were talking to him?

23 A No, sir.

24 Q Did his answers to your questions appear to be
25 rational and responsive?

1 A Yes.

2 Q Were there any threats, intimidation, or coercion
3 made in order to get him to sign that form?

4 A No, sir.

5 Q Were any promises made to him or hope of reward held
6 out?

7 A No, sir.

8 Q So he did sign that form indicating he understood his
9 rights to you?

10 A Correct.

11 Q Now, after that, did you go about having an actual
12 statement taken in written form?

13 A Yes.

14 Q Okay. Let me show you what's marked as State's
15 Exhibit No. 2, and ask if you recognize that document?

16 A Yes. This is the statement that I took on that date
17 after he was Mirandized.

18 Q And how do you recognize it?

19 A It's got my signature on it.

20 Q Is that statement in substantially the same condition
21 now as it was when you took it from the Defendant?

22 A Yes.

23 Q Any additions, deletions, or changes made?

24 A No.

25 MR. MOYER: Your Honor, I would move to have State's

1 Exhibit No. 2 entered into evidence for purposes of this
2 hearing.

3 MR. HARBIN: No objection, Judge.

4 THE COURT: It's in evidence.

5 (WHEREUPON, State's Exhibit No. 2 was admitted into
6 evidence.)

7 BY MR. MOYER:

8 Q Tell us how you went about, actually, getting that
9 statement into written form.

10 A Once I completed the Miranda rights, I spoke with the
11 Defendant a little bit further and tried to gather some
12 information before we, actually, did the statement. It
13 was during that time that he admitted that he was the one
14 that robbed The Pantry and, also, the Sunoco.

15 What I did was I asked him if he was willing to let
16 me type the statement for him. And what I did was I just
17 turned my computer to where he could see the computer and
18 could see everything I was typing. And I asked him if
19 there was anything that was incorrect, that if we needed
20 to add anything or delete anything, we would do so before
21 completing the statement. But he sat next to me as I
22 typed the statement out for him.

23 Q Okay. And you typed it out for him as he gave you
24 the statement?

25 A Correct.

1 Q Now, after you finished having that typed out, did
2 you show the document to the Defendant?

3 A Actually, as we were doing the statement, we got
4 about halfway through, and it was at that time that he
5 asked for a lawyer. So I stopped the interview, stopped
6 the statement. And it was at that point that he was taken
7 back over to the detention center.

8 Q Okay. Now, was it your intention to talk to him
9 about both of these armed robberies?

10 A It was. And the reason that -- in the statement, it,
11 initially, talks about the incident that happened at the
12 Sunoco in the county, which I was investigating. But I
13 was doing it in chronological order. I was going to take
14 a statement from that one first, and then move along to
15 the one that happened in the city the night before.

16 Q So did he give you pretty much a complete accounting
17 of your -- of the county case, the one from August 31st?

18 A Yes, all the way up to him going inside the store.
19 But he had talked about that prior to giving the
20 statement.

21 Q Okay. Verbally?

22 A Uh-huh.

23 Q And would you, actually, publish the statement that
24 he gave you?

25 A Sure.

1 Do you want me to read the paragraph above it?

2 Q Actually, you can start just where you started
3 typing.

4 A Okay. I am 28 years old and I reside at
5 , Mauldin, South Carolina. 29662. I
6 have a 12th grade education, and I can read and write. I
7 am giving this statement to Investigator Mike Jarvis. I
8 am allowing him to type this statement for me. I am in my
9 right mind and know what I am doing. No promises or
10 threats have been made to me. I am not under the
11 influence of any drugs or alcohol at this time. I am
12 giving the statement freely and voluntarily.

13 Last Monday, August 31st, 2009, I was at my
14 apartment. At about 7:00 p.m., some guys came over to my
15 apartment, Snoop, Loco, and Trey came over to my
16 apartment. Their real names are David Kwot, Antoine
17 Mitchell, and Christopher Cobb. They are some guys that I
18 met at the apartments where I live at. I met them around
19 May of this year. They came over and told me in so many
20 words that they wanted me to hit a lick. By this, I knew
21 that they wanted me to rob something. I knew that they
22 were involved in some things like this in the past. They
23 told me that they would show me the place that they wanted
24 me to rob. They were very convincing when they talked to
25 me. The money was appealing, also.

1 We got into my girlfriend's white Hummer. Her name
2 is Jennifer Stewart. I drove to the area where they would
3 show me where they wanted me to do the lick at. They took
4 me to a convenience store near a Dairy Queen, which is
5 behind the convenience store. I don't remember the store.
6 They pointed the store out and told me where to park.
7 They told me to park behind the gas station, but in front
8 of Dairy Queen. After they showed me what they wanted me
9 to do, I took them to some apartments behind the Spinx
10 station on Highway 123.

11 When I dropped them off there, before they left,
12 Snoop gave me a black BB gun that shoots little pellets.
13 As soon as I dropped them off, I drove back over to the
14 store. They told me that somebody would be watching me,
15 but I didn't believe them. I did believe, though, that
16 they would get back to -- that word would get back to them
17 if I didn't do it. I went and parked behind the store. I
18 was wearing blue pants, gray hooded sweatshirt, a black
19 rag over my face, and some rubber plastic gloves. I had
20 the BB gun.

21 And it was at that point that he said he did not wish
22 to give any more of the statement, and asked for a lawyer.
23 And that's when the statement was stopped.

24 Q And then you printed it out?

25 A Correct.

1 Q And he didn't sign it?

2 A Correct.

3 Q Now, although he refused to sign the form and told
4 you he didn't wish to speak to you any further, did he
5 ever tell you that any of that information he gave you was
6 not true, or that he wanted to delete it?

7 A No.

8 Q So he never said that. And you were typing that just
9 as he was telling it to you?

10 A Correct.

11 Q Before he told you that he wished to no longer talk
12 to you about these incidents, did you ask him where the
13 gun was?

14 A Yes.

15 Q And what did he tell you about that?

16 A He told me it was in his apartment.

17 Q And the same with the clothing?

18 A Correct.

19 MR. MOYER: I have no further questions for this
20 witness.

21 THE COURT: Cross-examination.

22 CROSS-EXAMINATION

23 BY MR. HARBIN:

24 Q Just to be clear, Investigator Jarvis, you're,
25 essentially, typing -- maybe not quite as well as the

1 court reporter -- but you're typing as he's speaking to
2 you?

3 A Correct.

4 Q So before the written statement is completed and
5 finished, he invokes his Miranda rights and it's
6 terminated at that point; is that correct?

7 A Correct.

8 Q Okay. And so he didn't necessarily refuse to sign so
9 much as he invoked the Miranda rights, and you kind of
10 followed whatever protocol to terminate the interview at
11 that point?

12 A Correct.

13 MR. HARBIN: No further questions, Judge.

14 MR. MOYER: I have no further witnesses.

15 THE COURT: All right. Thank you, Mr. Jarvis.

16 THE WITNESS: Thank you.

17 THE COURT: Yes, sir.

18 MR. MOYER: Your Honor, I have no further witnesses
19 for this issue.

20 MR. HARBIN: No witnesses, Judge, just motions.

21 THE COURT: Any argument related to the admissibility
22 of the statement at this time?

23 MR. HARBIN: I assume the State is moving to have all
24 the statements entered, Judge.

25 Is that correct?

1 MR. MOYER: Yes.

2 MR. HARBIN: Judge, I would make a motion to -- I
3 guess there's two statements in question, one that was
4 given in the patrol car, which we don't challenge.

5 The second statement that was given to Investigator
6 Jarvis, it would be our position that not only was my
7 client in custody at the time -- and I'll take the Court
8 back to the point where he drives into the parking lot.
9 He is received by multiple police cars, sat in a patrol
10 car, you know, handcuffed, and taken to the jail at some
11 point. And by a witness statement, he is stopped because
12 he is allegedly involved in an armed robbery.

13 So it is known to law enforcement, at that point,
14 that he is a suspect in an armed robbery. Whether or not
15 he is simply booked under a driving under suspension, it
16 is already known that he is a suspect for an armed
17 robbery. When Investigator Fortner goes to get my client
18 from lock up over -- and transport him over to the office,
19 it would be our position that that knowledge is imputed to
20 law enforcement, in general.

21 Secondly, I would say the reasonableness standard for
22 voluntariness of a statement is a subjective standard, not
23 an objective standard. In other words, whether or not the
24 police knew of a particular involvement with the prior
25 robbery that Investigator Jarvis was, originally,

1 investigating or not, my client is still in custody, in
2 handcuffs. He had been told he was a suspect in this
3 robbery. He wasn't Mirandized at the appropriate time,
4 which would have been at the beginning of the interview.

5 So I guess our argument would be that you can't
6 simply cure the lack of Miranda when the interview starts
7 by giving it midway through. So, based on that, we would
8 ask that the second statement given to Investigator Jarvis
9 be disallowed.

10 THE COURT: Thank you, Mr. Harbin.

11 Yes, sir.

12 MR. MOYER: Your Honor, my response to that is that
13 all of the statements that you heard, both verbal and
14 written, should be admissible in this trial for two
15 reasons. First off, because the Miranda requirement was
16 met. And, secondly, because even if the Court would find
17 it had not been, it wouldn't be necessary in this case.

18 I would argue to you that the Miranda requirement was
19 met in that the Defendant was given his Miranda warnings
20 the night before. He was given his Miranda warnings both
21 verbally by the officer and, also, when he gave the
22 statement, it was written on the top of the form. So he
23 had it both ways. He voluntarily waived those Miranda
24 warnings, told the officers he wished to speak to them,
25 and when -- and he spoke to them freely and voluntarily

1 over a course of a period of time.

2 There's no doubt that when a suspect voluntarily
3 makes a knowing and intelligent waiver of his Miranda
4 warnings of his Constitutional rights that that waiver
5 remains valid through all subsequent interviews until the
6 suspect manifests a desire to revoke that.

7 THE COURT: What case is that?

8 MR. MOYER: I am quoting that from -- I believe that
9 is Shealy v. Connecticut, Your Honor. It's 397 S.E.2d
10 673. It's a 1990 case from Virginia, in which a defendant
11 continued to be spoken to even after getting -- having his
12 Miranda warning read the following day. I couldn't find
13 any cases exactly on point as far as a second-day
14 interview in South Carolina.

15 However, logic would dictate that simply the fact
16 that, you know, over a period of time of an evening passes
17 that it would not -- that it would change the fact. He
18 was given his Miranda warnings. He waived them. He spoke
19 to the police officers. He never at any point told the
20 officers he no longer wished to speak to them, or that he
21 wished to invoke his Constitutional rights.

22 THE COURT: I wonder if there's some kind of parallel
23 to if someone does invoke them -- according to the United
24 States Supreme Court, they can be reproached 14 days
25 later. I wonder if the same holds true for a valid

1 reading of the rights and waiver, if that's only 14 days,
2 too.

3 MR. MOYER: I can't answer that, I'll be honest.

4 THE COURT: I wonder, do they have to regive them in
5 14 days, or is it after a certain time? Is it like a
6 carton of milk, does it expire? I don't know.

7 MR. MOYER: And I'll be honest, Your Honor, I didn't
8 really think of this in terms of that. So I can't answer
9 your question right now. This was just overnight, so it
10 was just a period of a few hours.

11 THE COURT: What time was the interview the next day?
12 I don't know if I remember hearing the exact time.

13 MR. MOYER: I don't think he did state the exact
14 time, Your Honor. But the time of the interview is,
15 actually, on one of the documents that's in evidence.

16 The Miranda warnings were given at 10:40 in the
17 morning, according to State's Exhibit No. 3, on September
18 the 8th of 2009, when the second Miranda warnings were
19 given in writing. So Investigator Rhinehart testified
20 that he spoke to the Defendant sometime after 10:00 p.m.
21 in the evening. And Investigator Fortner testified he got
22 the Defendant early in the morning. And we know there's a
23 period of conversation. And by the time they, finally,
24 got to the Defendant making this statement that he was
25 involved, it was 10:40. So it was under 12 hours.

1 THE COURT: So is the -- and I don't have the benefit
2 of knowing about these issues beforehand. But my memory
3 is that the Fifth Amendment is not offense specific, is
4 it?

5 MR. MOYER: That's my belief, yes, Your Honor.

6 THE COURT: So, in other words, if they were
7 investigating him for The Pantry robbery the night before,
8 which I think the evidence indicates, as long as he was
9 validly advised of his Miranda rights, that would cover
10 any offense that he subsequently might be approached about
11 within a reasonable time frame; is that right?

12 MR. MOYER: Yes, Your Honor.

13 And, granted, I will concede that the investigators
14 were -- even though they were focused on the county case,
15 there was some dialogue about both cases during that
16 conversation.

17 THE COURT: Okay.

18 MR. MOYER: However, there's no question that the
19 reason they went to go get him was to talk about this
20 county case that happened a week previous. And due to the
21 overlap and all the details and similarities, there's no
22 way they could really talk to him about that without
23 talking about the incident from the night before as well.

24 But I don't think there's any question that that was
25 the intent of the officers was to talk about their case.

1 And that being the case, as Your Honor did mention, it
2 would be a different, certainly, offense.

3 And if I could continue on my further line of
4 argument.

5 THE COURT: Sure.

6 MR. MOYER: In addition to the Miranda warnings being
7 given the night before, the officers did do a written --
8 got a written Miranda waiver as soon as the Defendant made
9 a comment that he was involved in the robbery. And so the
10 Defendant was covered, also, by giving his Miranda
11 warnings at that time. And then he continued on to give
12 the written statement.

13 My final argument on this point, Your Honor, would be
14 that even if the Court looked at the situation and felt
15 that the Defendant had not been adequately given his
16 Miranda warnings, in this situation, Miranda warnings
17 really wouldn't have been required. I would concede he
18 was in custody. There's no question about that. He was
19 in jail. However, the interrogation -- I would argue that
20 the interrogation requirement was not met. And the
21 interrogation for purposes under these circumstances does
22 not simply mean to question him. But interrogation has --
23 the legal meaning of it is questioning on behalf of the
24 police as intended to elicit an incriminating response.

25 These officers, when they got the Defendant from the

1 jail that morning, they asked him if he would accompany
2 them. And he agreed to come accompany them, to come with
3 them. And they merely started talking to him about this
4 statement he had given them about this other individual
5 involved named Wade. It then progressed beyond just a
6 mere question -- fact finding sort of line of questioning
7 to the Defendant making these incriminating responses.

8 At which time, the officers immediately gave the
9 Miranda warnings. To look at it otherwise, Your Honor,
10 would require that any time officers went to the law
11 enforcement center to talk to any suspect about an
12 unrelated case, they would have to give Miranda warnings
13 just in case the Defendant might happen to out of the blue
14 give an incriminating response.

15 THE COURT: Well, they're not exactly over there for
16 a social call, are they, Mr. Moyer?

17 MR. MOYER: No.

18 There's no question they were there to further their
19 investigation. But when they were talking to him, they
20 thought -- they were under the belief that he had
21 information about another individual. And so the line of
22 questioning wasn't intended to elicit an incriminating
23 response. It was merely to gather information from him.

24 But I'll back away from that with my final point. I
25 think it's clear that the Defendant was given his Miranda

1 warnings, not once, but twice, that he knowingly and
2 voluntarily waived those rights and he talked to the
3 officers.

4 In conclusion, I would argue that under either
5 analysis, these statements should be entered into
6 evidence.

7 THE COURT: Thank you, sir.

8 Yes, Mr. Harbin.

9 MR. HARBIN: Just quickly. I would distinguish as
10 far as the lapse of time, the 14-day case, that I'm
11 vaguely familiar with. I believe in that case, it was the
12 same officer that re-approached the subject. And, in this
13 case, there's different law enforcement officials
14 approaching, at least, on the surface about a different
15 case, although it touches upon the original, I guess, the
16 common link being the white Hummer at the beginning of
17 this story.

18 I would go back and reassert that having known that
19 he was in custody, that he was a suspect in the previous
20 robbery, that they were going to be asking him about
21 that -- or, excuse me, about this other robbery, and
22 whether or not he was a primary suspect, certainly, he was
23 among potential suspects. He was the guy driving the car
24 that was noted, that he would be required to be Mirandized
25 at the time. You can't cure it midway through.

1 And, as an alternative, Judge, I would ask that if
2 the Court finds that the statement itself -- that the
3 verbal statement is admissible that the Solicitor not be
4 allowed to present the memorialized version, because he
5 did not sign it. He doesn't know what's on that piece of
6 paper. And that's simply belts and suspenders.

7 If the Court finds the statement was admissible, the
8 one that was given to Investigator Jarvis, our alternative
9 motion would be that only Investigator Jarvis is allowed
10 to recount that verbally, but not allowed to put in a
11 written statement as if it was verified, signed, and
12 delivered by the Defendant.

13 THE COURT: Now, what would be the basis for that
14 objection?

15 MR. HARBIN: Well, Judge, apparently -- excuse me,
16 according to Investigator Jarvis, he invoked his Miranda
17 rights prior to the completion of the written statement.
18 And, as his testimony recounted, he is typing as he's
19 talking. And there's no way for my client to know what's
20 on that particular piece of paper prior to its
21 admissibility to the jury.

22 So our alternative motion would be that if you find
23 the statement was voluntary, then he can sit up on the
24 stand and say what he heard. But it's a little -- I guess
25 it's almost too prejudicial and it's no more probative

1 than the words coming out of Investigator Jarvis' mouth
2 and prejudicial in that it is impliedly endorsed by my
3 client if it's written.

4 THE COURT: Okay. Yes, sir.

5 MR. MOYER: This is -- since this is a new argument,
6 I would like to respond briefly. I think that would be a
7 question for the jury.

8 THE COURT: I agree.

9 I think the jury would have to determine -- if we got
10 that far and Investigator Jarvis stated that that's what
11 he had typed up to that point, that would be for the jury
12 to determine the credibility.

13 Okay. Well, thank you for your arguments.

14 I'm going to -- we'll reconvene at 2:15. In the
15 meantime, I'm going to do a little research myself and see
16 you back then.

17 MR. HARBIN: Thank you, Judge.

18 MR. MOYER: And, Your Honor, there is one other one
19 issue. We don't have to take it up now.

20 THE COURT: Yes. I didn't realize that. Go ahead.

21 MR. MOYER: The other issue, Your Honor, would be
22 evidence of this prior armed robbery being brought out
23 during the course of this trial.

24 THE COURT: Right.

25 MR. MOYER: And I'm not sure if the Defense is

1 objecting to that or not. But, if so, we would like to
2 make that argument as well.

3 MR. HARBIN: Judge, I believe we would object to it.
4 But I guess, noting that objection, I'll let Mr. Moyer
5 make his address to the Court to begin with.

6 MR. MOYER: Your Honor, you've heard pretty much what
7 the testimony would be capsulized in his statement. And
8 there would, also, be some other testimony about that
9 previous armed robbery. And I, basically, have two bases
10 for why that evidence should be admitted into this case.
11 One would be -- the Rule would be 404(b) motive, identity,
12 common scheme or plan, absence of statement or intent.

13 The other argument would be under an analysis of just
14 res gestae that the evidence is necessary for the jury to
15 receive the full presentation of the case. To give you a
16 brief overview of what you will hear in this case. The
17 September 7, 2009, robbery, it was a convenience store.
18 The Defendant was dressed in a gray hoodie or a light gray
19 hoodie pull over, had the hood up, had a black mask
20 covering everything except his eyes. He drove a white
21 Hummer that was loaned to him by a woman he had been
22 dating. He was seen leaving the incident. Witnesses got
23 a tag number. And an hour later, he was stopped in the
24 vehicle. He told officers, again, as you heard, that he
25 loaned it out to a friend. That would be the essential

1 facts from the September the 7th robbery.

2 On the one that happened a week before, the details
3 are almost exactly the same. It was a convenience store.
4 The Defendant was dressed identically, the same hoodie,
5 same mask, you know. He had a black gun just like he did
6 in the other incident. He was seen leaving in a white
7 Hummer.

8 And so when -- as you've heard, they were so similar
9 that when the city officers made the stop of the Defendant
10 in the white Hummer, they automatically went to the county
11 officers and said, hey, we know y'all have a case very
12 similar to this and you need to look into this, which
13 spurred them into moving forward by talking to him.

14 The Defendant then when he gave his statement to the
15 county officers, as you have heard, he pretty much
16 confessed in tandem, I did the robberies. I was wearing
17 such and such. I was using the gun. He kind of, in
18 essence, confessed to both together when he got caught in
19 that lie.

20 And so the two arguments, Your Honor, would be that a
21 jury has a right to hear the full presentation of the case
22 without fragmentation. And I'm taking that language from
23 State v. Rice, which is, actually, a Greenville case I
24 tried back in -- several years ago.

25 In that case, the analysis was whether or not two

1 separate incidents could be, actually, tried together.
2 And the Court kind of in its analysis of it explained --
3 after upholding the decision explained that it was not --
4 there was no prejudice to the Defendant. Because even if
5 that case -- those two cases in that instance could not be
6 tried together, they could, at least, have been brought
7 out -- or they could have been brought out under this res
8 gestae argument that in order for a jury to have an
9 accurate portrayal of the case that they would need to
10 hear both sets of circumstances.

11 And that's what we have here. In order for the jury
12 to understand the context by which this Defendant gave
13 this confession, they're going to have to know why the
14 Greenville County officers were talking to him. And
15 they're going to have to hear the give and take that was
16 given, the discussion of the details of the facts.
17 Otherwise, it would leave such a disjointed understanding
18 with the jury about how the Defendant came about
19 confessing to this crime. So that would be one argument.

20 My other argument, Your Honor, is under Rule 404(b).
21 I would say this is a classic example of why a previous
22 incident should be brought out. It shows a common scheme
23 or plan. The same clothing, same gun, same MO,
24 convenience store, he gets away in a white Hummer. It
25 goes to show identity, clearly. He -- as I said, he

1 confesses to the one crime in writing where he talks about
2 how he used the vehicle in this way and was wearing what
3 he was wearing. It goes to show what his motive was that
4 night.

5 So, Your Honor, under either of those analysis, I
6 would argue that the facts of the previous case should be
7 admissible in this case that's before you.

8 THE COURT: Thank you.

9 Yes, sir, Mr. Harbin.

10 MR. HARBIN: Yes, sir.

11 And this is going to kind of touch on our previous
12 discussion of the fact that the Solicitor is stressing the
13 fact that he confesses in writing and kind of underscores
14 my objection to why the writing itself would be
15 objectionable. If he doesn't sign it and endorse it,
16 it's, essentially, hearsay at that point.

17 But to address this, specifically, I don't know that
18 it is not very easy for us to simply skip over small bits
19 and pieces and not have a disjointed story for the jury.
20 Where the probative value comes in in telling the jury
21 he's accused of an additional crime, I'm not clear on. I
22 understand, of course, if you have similar instances with
23 similar hoodies and sweatshirts, and guns, and that kind
24 of thing. I understand that that makes sense. However,
25 it's not been proven that was him either. So it seems to

1 be much, much more prejudicial than it is probative. And,
2 of course, whether it comes in through 404, it still has
3 to meet 403.

4 I would suggest to the Court that it is possible for
5 Investigator Jarvis or Investigator Fortner to explain to
6 the jury that they were simply following up on a lead or
7 mention that they were aware of a common -- you know, a
8 vehicle that they were interested in questioning him.
9 And, as a result of that questioning, then if the Court
10 chooses to admit the statement we were previously
11 discussing, then they could bring that out without simply
12 telling the jury, I was investigating another robbery and
13 he confessed to the other robbery, too.

14 It really seems like it starts prejudicing the
15 jury -- excuse me, my client more than it helps the jury
16 decide whether or not it is, indeed, my client involved
17 here. I believe I touched on everything I need to say.

18 THE COURT: Any response, Mr. Moyer?

19 MR. MOYER: No, Your Honor, nothing further.

20 THE COURT: Well, we'll just reconvene at 2:15.

21 And thank you for your arguments.

22 (WHEREUPON, a lunch break was taken.)

23 THE COURT: Looking at some of the case law over the
24 break and thinking through the arguments that you both
25 made, I've concluded that Mr. Williams was properly

1 advised of his Miranda rights on the initial interview at
2 Junior's Sports Bar, I believe is what it's called. I
3 find that -- and nobody disputes he was in custody at that
4 time, and he was interrogated by Investigator Rhinehart.
5 I find that Investigator Rhinehart's testimony was highly
6 credible.

7 I find that, based on all the circumstances,
8 Mr. Williams was advised of his rights adequately. He
9 appeared to understand those rights. He was not coerced
10 in any manner. He appeared intelligent, aware, and
11 conscious of not only his legal rights, but the
12 consequences of giving them up. And he had adequate time
13 to think through his choices. His will was not overborne
14 and his decision that he made was the product of free and
15 unfettered exercise of his will.

16 I find that this waiver was made approximately at
17 10:00 p.m. on September 7, 2009. I find that Mr. Williams
18 was next approached by Detective Fortner the next morning,
19 somewhere in the range of 12 hours later. He was asked to
20 accompany him back to the office in the basement of the
21 law enforcement center, which is a short journey.

22 Again, the circumstances were of a custodial
23 interrogation. I find that there was no need, at that
24 point, to refresh the Miranda warnings. I find that
25 because they were viably given the night before, they were

1 still in effect. There's no evidence, again, that
2 Mr. Williams' will was overborne, or he was pressured, or
3 coerced in any manner. I find that the State has
4 demonstrated and proven by clear and convincing evidence
5 that the statements that Mr. Williams gave were freely and
6 voluntarily given after being advised of his
7 Constitutional rights and the Miranda litany of rights.

8 I find that case law throughout the country has
9 upheld statements that are made after Miranda warnings
10 were given and there is a gap in time between the
11 advisement of rights and subsequent statement. And I
12 would cite out of the Fourth Circuit the case of the
13 United States v. Frankson, 83 F.3d 79. It's a 1996 case,
14 which states that the mere passage of time, however, does
15 not compromise a Miranda warning. The courts have
16 consistently upheld the integrity of Miranda warnings even
17 in cases where several hours have elapsed in between the
18 warning and the interrogation.

19 It goes on to cite United States v. Diaz out of the
20 Seventh Circuit, which several hours between the warning
21 and cooperation is acceptable. Jarrell v. Balkcom, 735
22 F.2d 1242, out of the Eleventh Circuit, a 1984 case, a
23 three-hour lapse between a warning and cooperation is
24 acceptable. United States v. Ex Rel. Henne v. Fike, 563
25 F.2d 809, Seventh Circuit, 1977, nine hours between a

1 warning and cooperation is acceptable.

2 And this particular Fourth Circuit case of Frankson,
3 they found that the initial Miranda warning was in no way
4 compromised by the passage of two and one half hours of
5 the issuance of his warning and the point which he began
6 to confess his crimes and cooperate with the police.

7 I would, also, cite United States v. Calhoun, 49 F.3d
8 231, Sixth Circuit, 1995, which upheld a waiver because
9 the Miranda warnings given at arrest had not expired at
10 interrogation. Guam v. Dela Pena, 72 F.3d 767, Ninth
11 Circuit, 1995, a 15-hour delay between Miranda warnings
12 and interview. U.S. v. Boyd, 180 F.3d 967, Eighth
13 Circuit, 1999, a waiver valid despite a two-hour delay
14 between Miranda warnings and interview, and U.S. v.
15 Alvarez, 142 F.3d 1243, Tenth Circuit, 1998, two and a
16 half hour delay between warnings and statement.

17 I would, also, cite to United States v. Banner, 356
18 F.3d 478, Second Circuit, 2004. It is well established
19 that once an arrested person has received a proper Miranda
20 warning effective questioning is stopped and later resumed
21 does not necessarily give rise to the need for any
22 warning. We see no reason to think that the fact of
23 resumption of questioning is by agents of a different
24 sovereign means that a new Miranda warning is required.

25 And United States v. Smith, 679 F.2d 410, Unites

1 States District Court out of Delaware, 1988, federal
2 authorities not required to repeat warnings given by state
3 authorities two and a half hours earlier.

4 Here, even though the interview was done by a
5 different officer unaware of the previous Miranda
6 advisement, I think the principle is solid that
7 Mr. Williams having once been given less than 12 hours --
8 or approximately 12 hours before an adequate and valid
9 Miranda warning, which he, the evidence is undisputed,
10 evidently understood and had the capacity to do. There's
11 no evidence that anything that happened after that point
12 up to the point where he was re-interrogated by
13 Investigator Jarvis would have changed the setting, or his
14 psychological makeup, or his ability to understand,
15 comprehend, and have the capacity to understand and
16 comprehend the warning and his legal rights, and the
17 consequences of waiving those rights.

18 So I find that based on all the circumstances that he
19 validly was given, understood, and, subsequently, waived
20 his rights. And the statements are, therefore,
21 admissible. And it will be up to the jury to determine
22 whether they are credible or what weight
23 should be given to them.

24 I do find that once Mr. Williams was escorted over to
25 the law enforcement center and then he became subject to

1 expressed questioning that it did become a custodial
2 interrogation, despite the State's argument to the
3 contrary, which I compliment for his creativity. But I
4 find, under the facts here, it is not persuasive.

5 As to the State's desire to elicit testimony and
6 other evidence regarding the Sunoco robbery and the
7 previous identity of the Defendant, Mr. Williams, as a
8 suspect in that robbery, I find that under Rule 403 that
9 evidence is so prejudicial in the context in which the
10 State is seeking to have it admitted that it vastly
11 outweighs any probative value. I agree with Mr. Harbin
12 that the reason for Investigator Jarvis -- or Investigator
13 Fortner's desire to talk with Mr. Williams can be
14 explained in a neutral manner, certainly, one that
15 wouldn't require a parading before the jury of the
16 separate offense.

17 So, with that, is there anything else before we bring
18 the jury in?

19 MR. MOYER: Not from the State.

20 MR. HARBIN: Judge.

21 THE COURT: Yes, sir.

22 MR. HARBIN: If you could clarify. There was one
23 issue that I addressed about Investigator Jarvis' written
24 version of the oral statement.

25 THE COURT: Yes, sir.

1 Thank you for reminding me.

2 Again, I think it's up to the jury to determine
3 whether -- you're talking about the admissibility of the
4 written confession on the second occasion?

5 MR. HARBIN: Yes, sir, of the document itself.

6 THE COURT: Do we have that nearby?

7 MR. MOYER: Your Honor, I think that will be kept out
8 under your other ruling. Because that written statement
9 pretty much chronicles the Sunoco robbery.

10 Now, there are certain aspects -- just to make sure I
11 understand your ruling correctly. Obviously, I will not
12 seek to admit that written statement now because of your
13 ruling. However, there are some aspects -- some of the
14 content of it, for example, the fact that he admitted to
15 having a gun, the fact that he admitted to having this
16 clothing that matched this description, I would like to
17 elicit that information.

18 MR. HARBIN: Judge, and if it helps, as I understand
19 your ruling, I have no objection to what Mr. Moyer -- the
20 substance of what Investigator Jarvis can recount. I
21 don't know that I have a basis to object, as long as he
22 doesn't bring in the Sunoco robbery.

23 Is that your understanding, Mr. Moyer?

24 MR. MOYER: (Mr. Moyer nodded.)

25 THE COURT: So you're saying you can ask him did he

1 tell you he had a gun and clothing at his apartment from
2 The Pantry robbery; is that right?

3 MR. MOYER: Essentially, during the course of the
4 conversation with the Defendant, did he admit that he
5 had -- or did he tell you about clothing that he had in
6 his possession matching the description of the clothing
7 that was worn at The Pantry?

8 THE COURT: Yes.

9 I don't have any problem with that.

10 MR. HARBIN: Yes, sir.

11 THE COURT: Okay. Are you all ready for the jury?

12 MR. MOYER: Yes, sir.

13 MR. HARBIN: Yes, sir.

14 THE COURT: Bring the jury in, please.

15 (WHEREUPON, the jury came into open court at
16 approximately 2:45 p.m.)

17 INTRODUCTORY REMARKS

18 THE COURT: Good afternoon, ladies and gentlemen.

19 I apologize for the delay of getting started. That
20 was my fault. I didn't correctly estimate how much time
21 we were going to need to resolve some of the issues this
22 morning. And I know it's hard to sit back there not
23 knowing what's going on. And I pledge to you we're not
24 wasting your time. We're trying to make things a little
25 bit easier to go more efficiently once we do get started.

1 So that's what we were doing.

2 I want to thank you for your time this week and for
3 being here. I know this is probably not your first choice
4 of destinations this week. I know you probably groaned
5 when you got the summons in the mail to report for jury
6 service today. But I, also, know that you agree that the
7 right to a jury trial is a valuable and important right.
8 And it's one that was won after a lot of struggle and
9 sacrifice on the part of the founders of our country.

10 And I know that you probably, also, are aware that
11 the founders of our country thought the right to a jury
12 trial was so important they put it not only in the
13 Constitution itself, but in three of the first ten
14 amendments, or the Bill of Rights. And Thomas Jefferson
15 said that the right to a jury trial is probably the most
16 important right of all, because in the end, all of our
17 other rights, ultimately, depend upon it.

18 So thank you for making it possible for these parties
19 here today to exercise their right to a jury trial. And I
20 know you were probably wondering why you were chosen to be
21 on this particular case and to be a juror. I know you
22 understand that you were given the summons to come down
23 because you either are registered to vote, or you have a
24 license to drive, or have an identification card issued by
25 the Department of Transportation.

1 But you may be wondering why you were chosen to sit
2 on this particular case. And the reason is because both
3 sides in this case, both the State and Mr. Jared Williams,
4 believe you can be fair and impartial, and you can decide
5 this case without any kind of bias or prejudice
6 whatsoever.

7 Now, the first thing I want to do is demystify the
8 proceedings a little bit for you. And I usually step down
9 here, so I'm going to try to do that. Pay no attention to
10 the man behind the curtain.

11 The first thing I want to do is introduce some of the
12 people in the courtroom whom you haven't met yet, and tell
13 you what their jobs are and their roles are in this
14 process. And then I'm going to tell you what my job is
15 and what your job is.

16 So you've already met the lawyers in this case. And
17 we have very fine attorneys that are going to be involved
18 in the trial of this case. But some of the people you
19 probably have not met yet are the court reporter. And
20 this is Hollie Jenkins. And she's our court reporter.
21 She takes down everything that is said during the course
22 of a trial, because Circuit Court is a court of record.
23 To her right is Shirley Klein. And, as you saw earlier,
24 she helps with the jury selection. And she's the
25 assistant clerk of court. And she helps run things

1 smoothly and officially. Up on the bench with me is
2 Graham Buckner. He is my law clerk. And he's a recent
3 graduate of the school of law down in Columbia. And he
4 helps me with legal research and issues that arise during
5 trials. I know you've met the bailiffs, Mr. Fuller and
6 Mr. Jenkinson. And they're here for your assistance. And
7 they do an excellent job taking care of your needs while
8 you're serving here at the courthouse.

9 Now, everybody I just introduced to you and,
10 certainly, the lawyers did this and I, certainly, have
11 done it, we have taken an oath to do our job. And you're
12 going to take an oath to do your job as well. And I'm
13 going to ask Ms. Klein to administer that oath. And
14 listen to it, because it's an ancient oath. It's been
15 around a long time. And it kind of tells you in a
16 nutshell your duties as well.

17 So, yes, ma'am.

18 THE CLERK: Ladies and gentlemen, please rise. Raise
19 your right hand for the oath in this case.

20 (WHEREUPON, the jury was sworn at approximately
21 2:50 p.m.)

22 THE CLERK: Thank you.

23 You may be seated.

24 THE COURT: Thank you.

25 Let me tell you about my job, because it's much

1 easier than yours. I'm the judge of the law. And that
2 means that during the course of this trial, if a party
3 objects to evidence and they think evidence is improper, I
4 have to rule on that based on the law. Usually, I can do
5 it right on the spot. Sometimes, we have to take a break
6 if things get a little complicated. But, essentially, if
7 somebody objects during the course of this trial to
8 evidence, please, don't hold it against them for
9 objecting, because that's their job. They have an ethical
10 obligation to object when they think evidence is improper.

11 But if someone objects, they will stand up and say, I
12 object. And then I'll rule on it. If I sustain the
13 objection, that means I think the evidence is improper and
14 you cannot consider it. If I overrule the objection, that
15 means the evidence is proper and you may consider it.

16 The second thing I do, as the judge of the law, is,
17 at the end of the case, I'm going to give you the law that
18 applies to the facts of this case, which you must apply to
19 the facts of this case. And you are the judges of the
20 facts. Your job is much more difficult than mine, as I've
21 said. And you have to determine what the facts are.

22 Now, how do you do that? You do that by weighing and
23 evaluating the evidence you're going to hear during the
24 course of this trial. You must confine your decision as
25 to what the evidence is to -- or, excuse me, as to what

1 the facts are to the evidence. You cannot consider
2 anything else but evidence.

3 And evidence consists of two primary things. The
4 first is the one you're probably most familiar with, and
5 that is sworn witness testimony. I suspect we will have
6 people who will come into this courtroom during the course
7 of this trial who are sworn, and are going to tell you
8 things they know about this case or give you knowledge
9 they have about this case. So sworn testimony is one
10 source of evidence in which you can determine what the
11 facts are.

12 The second source is by way of an exhibit. An
13 exhibit is simply a physical, tangible object. It might
14 be a map, or photograph, or something of that nature. But
15 you'll know it's evidence that you can consider in
16 determining what the facts are, because it will be back in
17 the jury room with you at the end of the trial. And it
18 will have a little sticker on it that says exhibit number
19 so and so. Now, those are the only things you can
20 consider, sworn witness testimony and exhibits.

21 By necessity, you're going to have to -- when you're
22 weighing and evaluating the evidence, you're going to have
23 to determine the credibility of it. In other words, for
24 every witness who testifies and every exhibit that's
25 introduced, you're going to have to determine if it's

1 worthy of belief.

2 Certainly, in the case of a witness, I can give you
3 some guidelines in helping you determine how to weigh or
4 gauge credibility. You may determine how a witness acts
5 on the stand, that is their demeanor. You may consider
6 how their testimony stacks up, as opposed to the other
7 evidence in the case. You may consider whether a witness
8 has some interest in the outcome of this case, or some
9 bias, or prejudice about someone or some issue involved in
10 the case. And you, certainly, can use whatever you use in
11 your day-to-day life to determine whether someone is
12 telling you the truth. Because your common sense does not
13 suddenly evaporate when you walk into the courthouse.

14 Now, ladies and gentlemen, this is a criminal case.
15 And there's certain principles that apply to all criminal
16 cases that are vitally important to our system of justice.
17 I've already gone over them with you earlier when we were
18 having the jury selection, but let me just underline them
19 again to you, because they are so fundamentally important.

20 The first is Mr. Williams, even though he has been
21 charged in an indictment, is presumed innocent. Anyone
22 charged with a crime is presumed innocent of that crime.
23 Mr. Williams has pled not guilty to the crime. And that
24 puts the burden of proof on the State. He can only be
25 convicted if you, the jury, find unanimously that the

1 State has proven each and every element of the crime
2 beyond a reasonable doubt.

3 The State has the burden of proof. The State has to
4 prove to your satisfaction that they have enough evidence
5 to convince you beyond a reasonable doubt of guilt.
6 Mr. Williams doesn't have any burden of proof whatsoever.
7 No one charged with a crime ever does. He is presumed
8 innocent. And not only that, he doesn't have to prove his
9 innocence or prove he's not guilty. That is the State's
10 burden. So keep those principles in mind as we go through
11 the trial of this case.

12 How many of y'all have ever sat as a juror on a
13 criminal case before?

14 (WHEREUPON, a few jurors raised their hands.)

15 THE COURT: So we have a few veterans. Some of you
16 may know from your own experience a little bit about a
17 criminal trial. But let me just tell you the structure of
18 a criminal trial, so you'll know what to expect and to
19 demystify it a little bit further for you.

20 A criminal trial has certain distinct parts. The
21 State has the burden of proof, as I said, so they will go
22 first. In just a few minutes, you're going to hear from
23 Mr. Moyer, who will give you an opening statement. And
24 that is simply a brief opportunity to determine -- for him
25 to tell you what he thinks the evidence is going to show,

1 and what the issues are going to be in this case. After
2 he finishes, Mr. Harbin, on behalf of Mr. Williams, has
3 the opportunity, but not the obligation, to give an
4 opening statement as well. Because, remember,
5 Mr. Williams doesn't have to prove, or say, or do anything
6 throughout this trial.

7 After you've heard the opening statements, we move
8 into the presentation of evidence. And, again, because
9 the State has the burden of proof, they will call their
10 witnesses first. Mr. Williams will have a chance to
11 confront that evidence. After the State finishes their
12 presentation of evidence, Mr. Williams will have the
13 opportunity, but, again, not the obligation, to present
14 any evidence he wishes to.

15 And then we'll move into the closing argument portion
16 of the trial where the lawyers will tell you what they
17 think the evidence has shown, and what your verdict should
18 be. Then I will give you the instructions on the law.
19 And then you will have the case in your hands for a
20 decision and for a verdict.

21 Now, it's very important that until we reach that
22 point that you not discuss this case with anyone. We went
23 to a good deal of trouble this morning, and so did you,
24 trying to find a jury that could be fair and impartial.
25 We want to keep you open-minded throughout this process.

1 So don't talk about this case with anyone, or discuss
2 it with anyone, or do any kind of outside investigation.
3 For goodness sakes, don't get on the Internet and start
4 poking around. Because that would not be in keeping with
5 your oath to confine your decision to the evidence and the
6 law.

7 A trial is often like a jigsaw puzzle. And the
8 lawyers have to present it one piece at a time. So don't
9 talk about the case until you've heard all the evidence,
10 until you've heard the closing arguments, and until you've
11 been given the law that you must apply to the facts of
12 this case. Because only then will you have the tools you
13 need to do your job.

14 Now, I want to thank you for your attention to me.

15 At this time, we will have the opening statement by
16 the State.

17 Mr. Moyer.

18 MR. MOYER: Thank you, Your Honor.

19 May it please the Court.

20 THE COURT: Yes, sir.

21 OPENING STATEMENTS

22 MR. MOYER: Ladies and gentlemen of the jury, once
23 again, I'll introduce myself. I'm Mark Moyer. I'm an
24 assistant solicitor. I work in the Thirteenth Circuit,
25 which is comprised of Greenville and Pickens County. I

1 work, specifically, in Greenville County, obviously. And
2 it's my responsibility as a prosecutor, as an assistant
3 solicitor, to represent the State in criminal cases. And
4 that is what we're here for today, as you have heard many
5 times.

6 I'm just going to take a minute to give you an
7 overview of the evidence that you're going to hear as this
8 case proceeds. The incident happened exactly a year ago
9 today. It was September the 7th of 2009. You're going to
10 hear on that date that there was a robbery of a
11 convenience store on Woodruff Road. You will hear it
12 referred to mostly as The Pantry, although, at the time,
13 the actual name on the top of the store was Kangaroo. It
14 had recently changed from the Pantry to Kangaroo in name,
15 although it was still owned by the Pantry Corporation.

16 You're going to hear that it was close to 9:00 in the
17 evening. It was pretty quiet. There weren't any
18 customers in the store. There were, however, two people
19 in addition to the clerk in the store at the time. You
20 will hear that a man by the name of John Pennington had a
21 contract to do floors for convenience stores like The
22 Pantry. And that he was there buffing floors, cleaning
23 up. And, on this particular night, his wife accompanied
24 him as well, because Mr. Pennington had hurt himself. And
25 under doctor's orders, he wasn't supposed to do heavy

1 lifting, so his wife came along to help him that night.

2 And you will hear that shortly before 9:00 p.m. in
3 the evening on that night, Mrs. Pennington was standing
4 close to the front door. And she was chatting with the
5 clerk who was behind the counter. You'll hear that around
6 that time, she heard the door behind her open. She turned
7 to glance behind her shoulder to see who was there. And
8 there was a gun pointed in her face. It was a large black
9 pistol, a handgun.

10 You're going to hear that the person holding that
11 gun, later determined to be this Defendant, was covered
12 head to toe. He had a mask covering his face all except
13 for eye holes. He had a light gray sweatshirt-type
14 apparel on his top with a hoodie that he had covering him.
15 He even had gloves on.

16 And you're going to hear testimony that he told
17 Mrs. Pennington, as he was pointing the pistol at her, to
18 get on the floor. You'll hear that Mrs. Pennington was so
19 shocked and stunned that she just stood there. You'll
20 hear that the Defendant, at that time, moved around in
21 front of her, still pointing the pistol at her, and told
22 her get on the floor again. You will hear that, once
23 again, she just stood there.

24 The testimony will be that the Defendant then reached
25 out and put his hand on Mrs. Pennington's shoulder to show

1 her that he meant business and, actually, put pressure on
2 her shoulder to have her get on the floor. At that time,
3 she did so. When she got on the floor, you'll hear
4 testimony that the Defendant told her to put her hands on
5 her head, and that she did so.

6 It was at that time you'll hear that the Defendant
7 turned his attention to the clerk, who was behind the
8 counter. And he pointed the pistol at her. And he said,
9 Give me all the money, give me the money. The clerk
10 obeyed, and she gave him money out of the cash register.
11 You will hear it was somewhere under the \$70 to \$75 range.
12 And the clerk remembered there weren't any \$20 bills. The
13 Defendant got the money and ran out.

14 You're going to hear testimony that this case was
15 solved by some neighbors who kept a very close watch on
16 their community. You're going to hear that shortly before
17 this incident took place, a couple of ladies were out for
18 a walk. It's Old Sulphur Springs Road. It's the road
19 that travels down past the convenience store. And there's
20 a small community of homes, most of which belong to a
21 family -- a group of -- they're related and have lived
22 there for a very long time.

23 And you're going to hear that on this night, two
24 ladies were out for a walk, as they often did in the
25 evening. And they were in the parking lot of the

1 physicians office there called Internal Medicine
2 Associates when they saw a vehicle that just bothered
3 them, something just didn't seem right. There was a white
4 Hummer that drove by. And there was something about it
5 that made them feel uneasy.

6 And you'll hear testimony that the Hummer then pulled
7 over to the side of the road and stopped, further making
8 the ladies feel uncomfortable. You'll hear they went home
9 and they kept talking about it. They talked about it with
10 their mother. And they got -- and over the next period of
11 time, they, actually, drove up and down the road several
12 times to see if that Hummer was still there.

13 And you'll hear they even went up to the convenience
14 store on one occasion to tell the clerk, listen, there's a
15 car parked down the side of the road here that makes us
16 feel a little uneasy, and we just wanted to tell you about
17 it. And you're going to hear that they got the tag number
18 of the vehicle at that time. They went back home. And
19 you're going to hear that shortly after that, that Hummer
20 came flying down the road past them. They knew something
21 was up. The robbery, at that point, had taken place. And
22 the Defendant was fleeing the scene.

23 Well, they went to the convenience store. The
24 officers got there quickly. They gave the information to
25 the officers. And you're going to hear that something

1 called a BOLO went out, be on the lookout for this white
2 Hummer and this tag number.

3 A little over an hour later, the vehicle is spotted
4 by an officer close to Haywood Mall. It was kind of back
5 behind the mall, between Woodruff Road and the mall, and
6 that vehicle was stopped. It matched the description,
7 same tag number, . And you're going to hear that
8 the officers started following the vehicle. And that
9 vehicle pulled into a sports bar called Junior's. He
10 pulled up into a parking space. You'll heard that other
11 officers showed up as backup.

12 This Defendant was the lone person seated in that
13 vehicle. The officers talked to him that night. They
14 searched him. They found in his pocket, his front pocket,
15 \$68 in cash, no \$20 bills. You're going to hear that, as
16 they talked to the Defendant that night, he told the
17 officers that he didn't know what they were talking about,
18 that he had -- that the car, actually, belonged to his
19 girlfriend, who worked at the bar. And he had been using
20 it that day. But around the time of the robbery, he had
21 let someone by the name of Wade use the vehicle. He just
22 loaned it out to this guy. He didn't know his last name,
23 but his name was Wade. And he lived in the same apartment
24 complex.

25 You're going to hear testimony that the Defendant

1 kept to this explanation through that night and into the
2 next morning when other officers interviewed the
3 Defendant. And you're going to hear, at that time, these
4 officers kept looking into this Wade person. And they
5 were able to find a man by the name of Wade Gambrell. And
6 they located his photograph. And it just so turned out
7 that this guy named Wade Gambrell, actually, lived in the
8 same apartment complex as the Defendant. And the officers
9 said, Is this the guy you were talking about that you gave
10 the vehicle to? And you're going to hear testimony that
11 the Defendant said, Yes, that's the guy I loaned the
12 vehicle to.

13 And you're going to hear that the officers kept
14 searching. They looked at jail records. And it turned
15 out that this guy, Wade Gambrell, was in jail. It
16 couldn't have been him. At that time, the officers told
17 the Defendant this.

18 And you're going to hear testimony that, at that
19 time, he pretty much just lowered his head, and he
20 admitted to the officers, yes, he had committed the armed
21 robbery the night before. He told the officers that he
22 had a black BB gun pistol. And he told the officers where
23 it was. He told the officers that he had a hoodie and
24 mask, and it was back in his apartment. You're going to
25 hear testimony that the officers went to his apartment.

1 And there in his closet was the hoodie, the mask, and the
2 black BB gun, pistol, realistically. The testimony in
3 this case is going to prove beyond any reasonable doubt
4 that this Defendant committed the armed robbery on
5 September the 7th, 2009.

6 An armed robbery means to take by means of force,
7 violence, or intimidation goods or money from the person
8 of another in the presence of a person while either armed
9 with a deadly weapon, or armed with a representation of a
10 deadly weapon. So in order to commit an armed robbery,
11 you have to either have a real weapon that could inflict
12 serious bodily injury, or something that looks like one
13 and you use it as such. And that is going to be the case
14 in this -- that is going to be the situation in this case
15 today.

16 Thank you very much.

17 THE COURT: Thank you, Mr. Moyer.

18 Yes, sir, Mr. Harbin.

19 MR. HARBIN: Since Mark went over all the facts --
20 excuse me, Mr. Moyer, I'm just going to say a few words,
21 and then have a chance to address you at the end of the
22 case.

23 I'd ask you to be critical, and be very cynical. The
24 burden is on the State here. I would say that there's
25 something about this case, there's something about this

1 case that's just a little too neat. I'm not sure exactly
2 what it is. And that's your job, actually, to figure out
3 whether or not you agree with me or disagree with me. Pay
4 attention to what the evidence is that's presented. Pay
5 attention to what evidence they didn't have or, perhaps,
6 should have had to make your job much easier.

7 Because, at the end of the day, if you have any
8 doubts about this case to which you can assign any reason,
9 you have to find him not guilty. It doesn't mean the
10 officers didn't do a good job. Sometimes, they can only
11 work with what they've got. I'm just asking you to keep
12 an open mind until the end of the case. Like the Judge
13 said, I'll have an opportunity to talk to you again. And,
14 of course, Mr. Moyer will as well. And then you can hear
15 the Judge give you the law.

16 If you can keep an open mind until then, I would
17 appreciate it. And I do believe you will see a couple of
18 very interesting points to take to the jury room to decide
19 for yourselves whether or not the State has carried its
20 burden.

21 THE COURT: Thank you, Mr. Harbin.

22 You may call your first witness, Mr. Moyer.

23 MR. MOYER: Thank you.

24 May it please the Court.

25 The State calls Stephanie Fox.

1 THE CLERK: Ms. Fox, if you'll step up here and raise
2 your right hand.

3 WHEREUPON,

4 STEPHANIE FOX,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 You may be seated.

8 State your full name for the record.

9 THE WITNESS: Stephanie Fox.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. MOYER:

13 Q Ms. Fox, I'm going to ask you questions from over
14 here, and I'm going to stand back here. That way, if I
15 can hear you, I know the jury can hear you as well.

16 Let me just ask you a couple of questions first about
17 your name. What was your name a year ago today?

18 A Stephanie Chatham.

19 Q So you've been married since?

20 A Yes, sir.

21 Q How old are you?

22 A 23.

23 Q Where did you work on September the 7th, 2009?

24 A The Pantry, Kangaroo.

25 Q So tell us about that. You call it the The Pantry,

1 Kangaroo. Does it go by both names?

2 A It goes by the Kangaroo. Our paychecks say The
3 Pantry.

4 Q And that's the corporation that owns Kangaroo?

5 A Yes, sir.

6 Q Didn't it, actually, used to say The Pantry on the
7 store?

8 A It said Kangaroo the whole time I worked there.

9 Q It did. Okay. Now, where is this convenience store?

10 A It's on Woodruff beside Verdae.

11 Q Is that in Greenville County?

12 A Yes, sir.

13 MR. MOYER: I would like to have this marked.

14 (WHEREUPON, State's Exhibit No. 4 was marked for
15 identification only.)

16 BY MR. MOYER:

17 Q Let me show you an aerial photograph that's been
18 marked as State's Exhibit No. 4. I'm going to show it to
19 you briefly now, and ask you, have you had a chance to
20 look this over before right now?

21 A Yes, sir.

22 Q And having looked it over, can you tell the Court
23 whether or not this is a true and accurate representation
24 of the layout of that area where the Kangaroo and the
25 road -- general road layout of that area?

1 A Yes, sir, it is.

2 MR. MOYER: Your Honor, at this time, I move to have
3 State's Exhibit No. 4 entered into evidence.

4 MR. HARBIN: No objection, Judge.

5 THE COURT: Okay. It's in evidence.

6 (WHEREUPON, State's Exhibit No. 4 was admitted into
7 evidence.)

8 BY MR. MOYER:

9 Q Ms. Fox, let me ask you, if you would, to just step
10 down briefly and show the jury -- okay. Can you come
11 around here to the map.

12 Can you point out where Woodruff Road is?

13 A Right here.

14 Q And where is the Kangaroo, The Pantry located?

15 A Right here.

16 Q Right where that star is?

17 A Uh-huh.

18 Q And it looks like a building or something up here
19 closer to the road. Is that like the gas pumps?

20 A Yes.

21 Q Okay. And do you see the road names are, actually,
22 marked there. Are all of those correct? This is Verdae
23 Boulevard down here?

24 A Yes.

25 Q And Old Sulfur Springs Road comes up to Woodruff Road

1 next to The Pantry?

2 A Yes, sir.

3 Q Let me ask you to take your seat again for now.

4 A (Witness complied.)

5 Q Okay. You were you working on the night of September
6 the 7th, 2009?

7 A Yes, sir.

8 Q Now, before the actual robbery took place, did
9 anything unusual or out of the ordinary happen?

10 A One of our regular customers that's in there, at
11 least, twice a day came in there and told me there was a
12 white Hummer sitting on the side of the road. She just
13 wanted me to be careful.

14 Q And do you remember roughly how long before the
15 robbery that was?

16 A About 15 minutes.

17 Q Was anybody else in the store when the robbery took
18 place?

19 A Yes, sir. My cleaning crew was in there that does
20 our floors.

21 Q Two people?

22 A Yes, sir.

23 Q Now, are they here in the courtroom seated on the
24 back row?

25 A Yes, sir.

1 Q The Penningtons?

2 A Yes, sir.

3 Q Other than that, was there anybody else?

4 A No, sir.

5 Q Where were you when the robbery took place?

6 A I was behind the counter.

7 Q What alerted you to the fact -- what was the first
8 thing that made you realize something was going wrong,
9 something was happening?

10 A When he came in there and told Ms. Pennington to get
11 on the ground.

12 Q Did you see him when he first walked in the store?

13 A No.

14 Q So did you hear it first?

15 A I heard it when he walked in, I looked up when he
16 said something.

17 Q So you heard him tell Ms. Pennington to get on the
18 floor?

19 A Yes, sir.

20 Q Did you see the robber at that time?

21 A Yes, sir.

22 Q And where was he standing?

23 A I was behind my counter, and he was in front of my
24 counter near the door.

25 Q How would you describe what he was wearing?

1 A He had on a gray sweatshirt, blue pants, a black
2 mask, and he had latex gloves on.

3 Q The black mask you were talking about, did it cover
4 his face?

5 A Yes, sir.

6 Q Do you remember how much of his face you could see?

7 A All of it -- I mean, it was all covered. All I could
8 see was his eyes.

9 Q And you -- actually, at that time, you thought -- you
10 made an observation about his eyes?

11 A I thought he had baby blue eyes.

12 Q That was what you thought at the time?

13 A (Witness nodded.)

14 Q Now, could you see any other part of his body as far
15 as his -- any other part of his skin?

16 A No, sir.

17 Q Now, what did he -- what did Ms. Pennington do when
18 the Defendant told her to get on the floor?

19 A She got on the floor. Actually, he touched her and
20 pushed her down and she got on the floor. And then he
21 turned to me.

22 Q What did he do when he turned to you?

23 A He told me to give him all the money. I opened my
24 register, gave it to him from the actual till that was in
25 there. He told me to pull the till out so he could see

1 under the drawer. And then I put it back in there and he
2 left.

3 Q Now, Ms. Pennington's husband, where was he?

4 A He was in the back corner of our store.

5 Q So was he visible?

6 A No, sir.

7 Q Now, what was he doing with this pistol?

8 A He had it pointed at me.

9 Q How close was it to you?

10 A Like right here.

11 Q What do you remember about the appearance of the
12 pistol?

13 A It was huge, and it was black.

14 Q Did you believe it to be a real gun?

15 A Yes, sir.

16 Q Did anything that happened during this incident ever
17 cause you to doubt for one minute that it was a real gun?

18 A No, sir.

19 Q Do you remember what color, what it looked like?

20 A It was black.

21 Q So you said you gave him the money?

22 A Yes, sir.

23 Q And what can you tell us about the amount of money
24 you gave him?

25 A It was under \$70. Because we're supposed to keep our

1 tills under \$50. But I had just sold like a carton of
2 cigarettes, so I had a little more. And there was no 20's
3 in my drawer.

4 Q What was going through your mind during this
5 incident, during this robbery?

6 A I was terrified.

7 Q What did he do when he got the money?

8 A He got it and put it in his pocket, and he left.

9 Q Could you tell which way he went?

10 A When he walked out of my door, he went to the left.

11 Q Could you step down and show us on the map which way
12 he went?

13 A He come out of my door and he went this way.

14 Q Towards Old Sulfur Springs Road?

15 A Yes, sir.

16 Q What did you do after he ran out of the store?

17 A I sat there for a minute and gathered my thoughts.
18 And then I pushed both of panic buttons and called 911.

19 Q What did Ms. Pennington do?

20 A She laid there. She was petrified. And then after I
21 realized what had happened, I told her to get up. And she
22 locked our doors.

23 Q She was closer to the door?

24 A She was right in front of the door.

25 Q Did you call 911?

1 A Yes, sir.

2 Q Did the police get there pretty quickly after you
3 called 911?

4 A Yes, sir.

5 MR. MOYER: I'd like to have these marked.

6 (WHEREUPON, State's Exhibit Nos. 5, 6, 7, 8, and 9
7 were marked for identification only.)

8 BY MR. MOYER:

9 Q Ms. Fox, let me hand you two photographs. These are
10 marked as State's Exhibit Nos. 5 and 6. Can you take just
11 a minute to look those over. And do you recognize what is
12 depicted in those two photographs?

13 A Yes, sir.

14 Q What is shown?

15 A Where I used to work.

16 Q Okay. Being the Kangaroo?

17 A Uh-huh.

18 Q And they're just two different angles or views of
19 that Kangaroo?

20 A Yes, sir.

21 Q Are they true and accurate representations of the way
22 Kangaroo looked back on September 7th of 2009?

23 A Yes, sir.

24 MR. MOYER: At this time, I would move to have
25 State's Exhibit Nos. 5 and 6 entered into evidence?

1 MR. HARBIN: No objection.

2 THE COURT: They're in evidence.

3 (WHEREUPON, State's Exhibit Nos. 5 and 6 were
4 admitted into evidence.)

5 BY MR. MOYER:

6 Q Let me ask you to take a look at State's Exhibit Nos.
7 7, 8, and 9. And starting off with State's Exhibit No. 7,
8 can you recognize what is shown in that photograph?

9 A Yes, sir.

10 Q And what is depicted in that photograph?

11 A That's what was covering his face.

12 Q Does that look like to you like the mask or whatever
13 it was covering the robber's face on the night this
14 happened?

15 A Yes, sir.

16 Q Okay. And State's Exhibit No. 8, does the appearance
17 of what is depicted in State's Exhibit No. 8 look familiar
18 to you?

19 A Yes, sir.

20 Q And in what way?

21 A That was the gun that was pointed at me.

22 Q Okay. Does that -- it looks to you similar in all
23 respects to the gun that was pointed at you that night?

24 A Yes, sir.

25 Q And what about State's Exhibit No. 9?

1 A That's the sweatshirt he had on.

2 MR. MOYER: Your Honor, at this time, I would move to
3 have State's Exhibit Nos. 7, 8, and 9 admitted under Rule
4 104(b) subject to further relevance and authenticity being
5 established by later witnesses.

6 MR. HARBIN: No objection.

7 THE COURT: All right.

8 (WHEREUPON, State's Exhibit Nos. 7, 8, and 9 were
9 admitted into evidence.)

10 BY MR. MOYER:

11 Q I'm going to have to ask you to step down one more
12 time, because we're going to show you some pictures behind
13 you. Can you step over here by this microphone. And tell
14 me if you can see well enough.

15 Right now, we're looking at State's Exhibit No. 5.
16 Can you tell the jury what it is you see in that
17 photograph?

18 A That's the Kangaroo store I used to work at.

19 Q And you already testified that when he came out of
20 the Kangaroo, he -- watch the laser pointer. He came in
21 the direction I'm showing now?

22 A Yes, sir.

23 Q Now, State's Exhibit No. 6, is that -- that's, also,
24 the Kangaroo convenience store?

25 A Yes, sir.

1 Q And, once again, the direction I'm using the laser
2 pointer, does that show the direction the robber ran after
3 he took the money from you?

4 A Yes, sir.

5 Q Okay. State's Exhibit No. 4, would you tell the jury
6 what that appears to you to be?

7 A The sweatshirt that he was wearing.

8 Q Is that consistent with the color, the shape,
9 everything of that sweatshirt?

10 A Yes, sir.

11 Q And State's Exhibit No. 7, can you tell the jury what
12 that is?

13 A That's the mask that he had on.

14 Q And that's consistent with what you saw covering the
15 man's face that night?

16 A Yes, sir.

17 Q And, finally, State's Exhibit No. 8, can you tell the
18 jury what is shown in that photograph?

19 A That's the gun that he had.

20 Q Okay. And, once again, that looks consistent with
21 the gun you saw that night?

22 A Yes, sir.

23 Q It was large and black?

24 A (Witness nodded.)

25 Q Okay. You can have a seat.

1 MR. MOYER: I'd like to have this marked.

2 (WHEREUPON, State's Exhibit No. 10 was marked for
3 identification only.)

4 BY MR. MOYER:

5 Q Let me show you what's been marked as State's Exhibit
6 No. 10. And can you take a look at it, and turn it over
7 and see if there's anything on that you recognize?

8 A My signature.

9 Q Okay. And have you had a chance to listen to the
10 contents of that disk before today?

11 A Yes, sir.

12 Q And what did you hear on the disk?

13 A This is where I called 911.

14 Q And have you listened through that tape, is that a
15 true and accurate recording of the conversation you had
16 with 911 operators that night?

17 A Yes, sir.

18 Q There were no additions, deletions, or changes made
19 to it?

20 A No, sir.

21 MR. MOYER: At this time, I move to have State's
22 Exhibit No. 10 admitted into evidence, and published to
23 the jury.

24 MR. HARBIN: No objection, Judge.

25 THE COURT: It's in evidence.

1 (WHEREUPON, State's Exhibit No. 10 was admitted into
2 evidence.)

3 (WHEREUPON, State's Exhibit No. 10 was played in
4 open court.)

5 MR. MOYER: Okay. Please answer any questions the
6 Defense may have.

7 MR. HARBIN: Thank you.

8 May it please the Court.

9 THE COURT: Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. HARBIN:

12 Q Ms. Fox, when Mr. Moyer asked you to identify the
13 pictures up on the big screen behind you, you can correct
14 me if I'm wrong, he asked you to look at the sweatshirt
15 that was pictured and you said that's the sweatshirt he
16 was wearing; is that correct?

17 A Yes, sir.

18 Q And he showed you a picture of the gun, and you said
19 that's the gun he had; is that correct?

20 A Yes, sir.

21 Q And the picture of the mask, which looked like it was
22 kind of a homemade mask, you said that's the mask he was
23 wearing?

24 A Yes, sir.

25 Q Can you tell us how certain you are?

1 A Very certain.

2 MR. HARBIN: No further questions.

3 Thank you, Judge.

4 MR. MOYER: Nothing further, Your Honor.

5 THE COURT: All right. Thank you, Ms. Fox.

6 You may call your next witness.

7 MR. MOYER: The State calls Rachel Pennington.

8 THE CLERK: Mrs. Pennington, if you'll step up here,
9 please. And place your left hand on the Bible and raise
10 your right hand.

11 WHEREUPON,

12 RACHEL LONG PENNINGTON,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 State your full name for the record, please.

17 THE WITNESS: My name is Rachel Long Pennington.

18 DIRECT EXAMINATION

19 BY MR. MOYER:

20 Q Mrs. Pennington, if you could, just move in a little
21 bit to make sure you're turned to the microphone so we can
22 hear you.

23 How old are you?

24 A I am 34.

25 Q Okay. Are you married?

1 A Yes, sir.

2 Q Children?

3 A Yes, sir.

4 Q Let me take you back exactly one year, September 7,
5 2009?

6 A Yes, sir.

7 Q Were you at the Kangaroo/Pantry that night?

8 A Yes, sir.

9 Q What was your reason for being there?

10 A My husband is contracted by Bob's Floor Service to
11 clean certain stores. And that was one of the stores we
12 were cleaning that night.

13 Q Did you usually go with him?

14 A No, sir. That was my first and last time.

15 Q What was your reason for being there that night?

16 A My husband had been in a bad car wreck six weeks
17 earlier and was unable to lift some of the items. And so
18 I was going to help.

19 Q Okay. Now, do you remember what you were doing,
20 where you were close to 9:00 when the incident happened?

21 A My husband was in the back sweeping. I was standing
22 at the front of the doors talking to the cashier. We were
23 just having a conversation about -- I don't even remember,
24 but just talking back and forth.

25 Q And what was the first thing you noticed that made

1 you realize something was happening?

2 A I heard the doorbell go off. And I looked over my
3 shoulder and I saw a gun.

4 Q Tell us about the gun. What did it look like?

5 A It was a big gun. It wasn't the kind that you would
6 put bullets in. It wasn't like a cylinder in it. It
7 looked like it had a magazine you might slide up into the
8 gun.

9 Q And have you taken a look at this photograph, State's
10 Exhibit No. 8, a photograph of the pistol?

11 A Yes, sir.

12 Q Was it consistent with that? Did it look like that?

13 A Yes, sir.

14 Q Was it close to your face?

15 A Yes, sir.

16 Q How close?

17 A Yes.

18 Q You can use your hand.

19 A Within maybe six or eight inches, something like
20 that.

21 Q Did the gun look real?

22 A Yes, sir.

23 Q Did you believe it to be real?

24 A Oh, yes, sir.

25 Q How would you describe how the man holding the gun

1 appeared?

2 A Very calm. He didn't seem like he was -- he wasn't
3 yelling.

4 Q How about his appearance?

5 A Covered up. I could tell you more about the barrel
6 of the gun than I could him. It was just right in my
7 face. Therefore, I was -- and I looked at his eyes and I
8 was just stunned.

9 Q And what did you notice about his eyes?

10 A They were just dark, just a dark color. And I was
11 just frozen.

12 Q Did he have a mask?

13 A Yes, sir.

14 Q You've taken a look at the photograph of this mask,
15 State's Exhibit No. 7. Was it consistent with that? I
16 mean, it covered his face?

17 A Yes. It definitely covered his face.

18 Q Except for his eyes?

19 A Yes, sir.

20 Q Could you see enough of his skin around his eyes to
21 make a judgment as to whether he was white, black, or
22 Hispanic? Were you able to see that?

23 A No, sir.

24 Q Now, what did he say to you?

25 A He told me to get on the ground.

1 Q What did you do?

2 A I stood there.

3 Q And why is that?

4 A I was just frozen. I was like, You've got to be
5 kidding me. And he said, No. And he came around to the
6 front of my face and put his hand on my shoulder, and I
7 went to the ground.

8 Q Okay. His hand was exerting pressure?

9 A Yes, sir.

10 Q And so what happened when you got on the floor?

11 A He told me to put my hands on my head. And --
12 because I had them like this. And he said, Put your hands
13 on your head. And so I went like this.

14 Q So were you lying flat out on the floor?

15 A Yes, sir.

16 Q You were, actually, on your belly?

17 A Yes, sir. My hands were like this.

18 Q Okay. And then he told you to --

19 A Then he told me to be like this.

20 Q Put your hands behind your head?

21 A Yes, sir.

22 Q What was going through your mind when he told you to
23 do that?

24 A Just all kinds of stuff was going through my head.

25 Q You were scared?

1 A Yes, sir, most definitely.

2 Q Now, your husband was in the store as well during the
3 time?

4 A Yes, sir.

5 Q Where was he?

6 A He was on the back aisle over towards the freezers.

7 Q So he was not close by?

8 A No, sir. And I was hoping he would stay there.

9 Q Was he visible?

10 A I could see the handle of his mop or broom, I'm not
11 sure which one he had. But I could not see him.

12 Q So he went down as well, or you don't know?

13 A I don't know.

14 Q You couldn't see him?

15 A No.

16 Q Now, after you got on the floor and put your hands
17 behind your head, what did you hear taking place?

18 A I heard him telling the cashier to give him all the
19 money. I heard a bunch of buttons like maybe her, of
20 course, being scared like I was trying to get the register
21 open. And she got the register open. And I'm assuming he
22 got the money, because he left.

23 Q Could you see him leave?

24 A He sort of jumped over me and went out the door. And
25 I heard the buzzer. And the cashier was hollering at me

1 to get up and lock the door. And I didn't want to move.
2 And she's like, I promise you, I promise you, he's gone.
3 Get up and lock the door. And, by that time, I raised up.
4 And my husband was coming out from around the corner. And
5 I got the door locked.

6 Q And you waited inside there until the police arrived?

7 A Yes, sir.

8 MR. MOYER: I'd like to have this marked.

9 (WHEREUPON, State's Exhibit Nos. 11 and 12 were
10 marked for identification only.)

11 BY MR. MOYER:

12 Q What I'm handing you, Ms. Pennington, is what has
13 been marked as State's Exhibit Nos. 11 and 12. Can you
14 take just a minute to look those over.

15 A (Witness complied.)

16 Q Do you recognize what is depicted in those
17 photographs?

18 A Yes, sir.

19 Q And what is depicted in the photographs?

20 A This is -- the number 11 is a picture of the doors
21 from the outside. And picture 12 is from inside the store
22 as you're facing the cashier, or caddy corner to the
23 cashier's station.

24 Q And are they true and accurate representations of
25 that area of the Kangaroo/Pantry store on September the

1 7th, 2009?

2 A Yes, sir.

3 MR. MOYER: I'd move to have State's Exhibit Nos. 11
4 and 12 entered into evidence.

5 MR. HARBIN: No objection.

6 THE COURT: They're in evidence.

7 (WHEREUPON, State's Exhibit Nos. 11 and 12 were
8 admitted into evidence.)

9 BY MR. MOYER:

10 Q Mrs. Pennington, I'm going to ask you to step around
11 here for just a minute. And we're going to show the
12 pictures behind you. I'm going to hand you a laser
13 pointer that has a button on it, and you can hold that.

14 We're going to show State's Exhibit No. 11 now. You
15 said -- you testified that's the front doors of the
16 Kangaroo, of The Pantry?

17 A Yes, sir.

18 Q Can we see into the store there to see where you
19 were, actually, on the floor? Can you point that out?

20 A Right here.

21 Q Kind of right in front of the door there?

22 A Yes, sir. Because this door right here was locked.
23 And he came in this door. And I was standing right here
24 originally. And he told me to get on the floor. And I
25 got on the floor right there.

1 Q And you might be able to see it a little bit better
2 on State's Exhibit No. 12. Can you point out where the
3 cashier counter is on that exhibit?

4 A Right here.

5 Q Okay. And can you show us where, once again, you
6 were on the floor?

7 A I was right here.

8 Q Okay. And so you had been standing -- can we see
9 where you had been standing when he entered?

10 A I would say just to the right of this right here.
11 Because all of this was out in the floor, and all of it
12 had to be moved in the corner so my husband could come
13 through and mop the floors.

14 Q Okay. You can have a seat back up there at the
15 front.

16 Thank you.

17 A Yes, sir.

18 MR. MOYER: Okay. Please answer any questions the
19 Defense may have.

20 THE WITNESS: Yes, sir.

21 MR. HARBIN: No questions for this witness, Judge.

22 THE COURT: Thank you, Mrs. Pennington.

23 THE WITNESS: Thank you, sir.

24 THE COURT: You may call your next witness.

25 MR. MOYER: The State would call Ms. Deona McCollum.

1 THE CLERK: Step up right here. And raise your right
2 hand and place your left hand on the Bible.

3 WHEREUPON,

4 DEONA MCCOLLUM,
5 after first having been duly sworn, testified as follows:

6 THE CLERK: Thank you.

7 You may be seated.

8 State your full name for the record.

9 THE WITNESS: My name is Deona McCollum.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. MOYER:

13 Q How old are you, ma'am?

14 A I'm 34.

15 Q Where were you living on September 7th of 2009?

16 A I was living off of Old Sulphur Springs Road.

17 Q Who are you living with?

18 A With my parents.

19 Q And you have several relatives that live in that
20 area?

21 A Yes. My grandparents live across the street. And my
22 uncle lives right beside us.

23 Q And you've taken a look at the aerial map?

24 A Uh-huh.

25 Q Can we see the house you were staying at on that map?

1 A Yes.

2 Q Let me move it a little closer to the jury, and ask
3 you to step down.

4 Can you point out where you were staying?

5 A Here is the doctor's office. And there's my uncle's
6 house. And there's my house.

7 Q Okay. You can have a seat again. I'm going to have
8 to ask you to come back in a minute. But you can have a
9 seat now.

10 Now, did you get out and about that evening? Did you
11 leave the house?

12 A Yes. My sister and I were walking. We did that
13 regularly. And we had walked up and down the street. And
14 then we were finishing up and --

15 Q Let me stop you for just a minute. Which sister of
16 yours were you walking with?

17 A Lori Buchanan.

18 Q Ms. Buchanan is seated right here?

19 A Yes.

20 Q And you said you walked up and down the street. What
21 street?

22 A Old Sulphur Springs Road.

23 Q The street you lived on?

24 A Uh-huh.

25 Q Did you have a normal route that you would take?

1 A Yes. We usually would go up and down the street and
2 then we'd go in the doctor's office and walk around. But
3 we were starting to wrap up. It was kind of getting dark.

4 Q And did something catch your attention on this
5 evening?

6 A While we were in the doctor's office walking --

7 Q In the parking lot?

8 A In the parking lot. I noticed a white Hummer go up
9 and down the road. It went up the road, then turned
10 around, and went down the road.

11 Q Why did this catch your attention?

12 A Because it was real pretty. I thought it was a real
13 pretty Hummer. It was shiny.

14 Q Do you see a lot of those around?

15 A No. I just really liked the vehicle.

16 Q So it caught your attention. And you said you saw it
17 more than once?

18 A Yes, at least, twice.

19 Q What did you see it do?

20 A Huh?

21 Q What did the Hummer end up doing?

22 A I would see it go down the road, Old Sulphur Springs
23 Road. And then I saw it come up the road one time. And
24 then as we were leaving the doctor's office to go back
25 down Old Sulphur Springs Road, I saw it pulling in from

1 Woodruff Road. And it parked near the The Pantry. But it
2 was parked on the right-hand side going down Old Sulphur
3 Springs Road.

4 Q And let me ask you to step down. Maybe you can show
5 us a little easier than explaining it.

6 Can you show, first, where it ended up parking, in
7 what general area?

8 A It parked on this side of the road going back down
9 Woodruff Road. Because The Pantry is right here, and then
10 there's brush right there.

11 Q Okay. And which way was it facing? Which direction
12 was it facing?

13 A The Hummer?

14 Q Toward Woodruff Road or down the other way?

15 A Towards this way.

16 Q Going down the map?

17 A Yes.

18 Q And which side of the road? Facing Old Sulphur
19 Springs Road, as we are now, would it be on the left side
20 or the right side?

21 A It would be on the right side.

22 Q Okay. Was it on this side of the road, or this side?

23 A This side.

24 Q So as we face it, it would be kind of on the left?

25 A Yes.

1 Q Okay. Have a seat again.

2 Now, after it pulled over to the side of the road,
3 what -- how did that make you feel? What did you notice
4 about it?

5 A We just felt uneasy. The lights were on, and the car
6 was just parked there. And, at that time, I was six
7 months pregnant. So I was getting tired anyway. And me
8 and my sister just felt uneasy about it.

9 So we started walking back towards my grandparents.
10 And then we turned around and looked, and then the lights
11 were off. And we were like why is somebody just sitting
12 there in this really pretty Hummer on the side of the road
13 with the lights off.

14 Q And it continued to sit there?

15 A Uh-huh.

16 Q So did y'all go back home?

17 A So we got home, and we were telling my mother about
18 it. And she knew Stephanie was working up there that
19 night. And we go in and out of there all the time. So we
20 drove up there, you know, just to tell her something
21 looked suspicious, and to get the tag number.

22 Q And was -- so you drove up Old Sulphur Springs Road?

23 A Uh-huh.

24 Q And was that Hummer still sitting there?

25 A Yes.

1 Q And did you notice anything else about it, or
2 anything going on?

3 A Well, when we were driving up the road, I was in the
4 back seat of my sister's car. And I could see something
5 to the side of where the bushes and everything are. And I
6 looked, and it looked like something white. It looked
7 like a person, but just kind of like something that had
8 white on. I couldn't tell for sure. So we drove on up.
9 My mom got out and went in and told Stephanie that
10 something looked --

11 Q Okay. Well, you weren't present for that
12 conversation, were you?

13 A No. I was sitting in the car.

14 Q Let's let your mom talk about that.

15 A Okay.

16 Q So you stayed in the car?

17 A I stayed in the car.

18 Q So did y'all have a brother you said --

19 A It's my uncle.

20 Q Your uncle?

21 A Yes.

22 Q And what can you tell us about your uncle, his mental
23 condition?

24 A My uncle Johnny has -- he has some mental problems,
25 but --

1 Q Is he mentally retarded?

2 A Yes.

3 Q And he cannot read and write?

4 A No.

5 Q Would he hang out there --

6 A He hangs out there at nighttime usually to watch
7 people, see what's going on, and talk to whoever is
8 closing.

9 Q Was he outside?

10 A Yes.

11 Q Sitting out in front of the Kangaroo?

12 A Yes.

13 Q Now, you mentioned that you saw this person in some
14 kind of light or white covering. I'm going to have to ask
15 you to step down one more time.

16 Can you show us where you saw him?

17 A Kind of behind here. The Pantry is right here, and
18 there's a bunch of brush and trees back there.

19 Q Kind of a wooded overgrown area?

20 A Yes.

21 Q Okay. Thanks.

22 Okay. So did y'all -- after y'all stopped there at
23 The Pantry, did y'all go back home?

24 A Yes. I went back to my grandparents and got into my
25 vehicle. And, as I was driving home, I got out of my car.

1 Because we live right across the street. I was getting
2 out of the car, and I hear this car just flying down our
3 road.

4 Q Down Old Sulphur Springs?

5 A Down Old Sulphur Springs Road. And it was the
6 Hummer. And it sounded like -- we have a really sharp
7 curve. And it sounded like he almost went over, because I
8 could hear the screeching of tires.

9 Q Was it that same Hummer you had seen earlier?

10 A Yes.

11 Q Parked up there?

12 A Uh-huh.

13 Q After that, did y'all go back up to The Pantry?

14 A Yes, we did.

15 Q And the doors were locked at that time?

16 A Yes.

17 Q Y'all waited there for the police to arrive?

18 A Yeah. The police had come.

19 (WHEREUPON, State's Exhibit Nos. 13, 14, 15, 16, and
20 17 were marked for identification only.)

21 BY MR. MOYER:

22 Q I'm going to show you what has been marked as State's
23 Exhibit Nos. 13 through 17. If you could, take a minute
24 to just thumb through those and take a look at them.

25 A (Witness complied.)

1 Q Have you had a chance to look at those photographs
2 before today?

3 A Yes.

4 Q And do you recognize what is depicted in those
5 photographs?

6 A I do.

7 Q What is it?

8 A It's white, and it's real shiny, and it's the same
9 shape.

10 Q Does it look like the Hummer you saw that night?

11 A Yes.

12 Q Parked on Old Sulphur Springs Road?

13 A Yes.

14 MR. MOYER: Your Honor, at this time, I would move to
15 have State's Exhibit Nos. 13 through 17 admitted into
16 evidence, once again, pursuant to rule 104(b) and it's
17 relevancy being established by later witnesses.

18 MR. HARBIN: No objection, Judge.

19 THE COURT: Okay.

20 (WHEREUPON, State's Exhibit Nos. 13, 14, 15, 16, and
21 17 were admitted into evidence.).

22 BY MR. MOYER:

23 Q Let me ask you to step down once again, because we
24 have to show the photographs. If you would, come over
25 here.

1 UNIDENTIFIED JUROR: Can you move this?

2 THE BAILIFF: I've got it.

3 MR. MOYER: Can you move that?

4 THE BAILIFF: I've got it.

5 BY MR. MOYER:

6 Q Ma'am, can you tell the jury what we see in State's
7 Exhibit No. 13?

8 A It's the white Hummer.

9 Q That looks like the Hummer that you saw that night on
10 Old Sulphur Springs Road?

11 A Yes.

12 Q Once again, this vehicle right here?

13 A Yes.

14 Q State's Exhibit No. 14?

15 A Yes.

16 Q Here's State's Exhibit No. 15?

17 A Yes.

18 Q State's Exhibit No. 16?

19 A Yes.

20 Q And State's Exhibit No. 17?

21 A Yes.

22 MR. MOYER: Okay. Thank you.

23 And you can have a seat.

24 Actually, you have to have a seat back up here. Yes,
25 ma'am. I'm sorry.

1 Please answer any questions the Defense may have.

2 MR. HARBIN: May it please the Court.

3 CROSS-EXAMINATION

4 BY MR. HARBIN:

5 Q Ms. McCollum, you wrote in your statement that you
6 saw something with a white shirt. Are you sure it wasn't
7 a piece of trash or poster board? I mean, how certain are
8 you of what you saw?

9 A About 80 percent.

10 Q Okay. Was it because of the relative position off
11 the ground?

12 A Yes.

13 Q So just kind --

14 A Kind of like somebody standing there.

15 Q Okay. And it was, best you could tell, a white
16 T-shirt or white shirt, something like that?

17 A Yes.

18 MR. HARBIN: No further questions.

19 Thank you, Judge.

20 MR. MOYER: Nothing further.

21 THE COURT: Thank you, ma'am.

22 MR. MOYER: The State would call Joan Byars.

23 THE CLERK: Ms. Byars, if you'll step up here. And
24 place your left hand on the Bible and raise your right
25 hand.

1 WHEREUPON,

2 JOAN BYARS,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 And state your full name for the record.

7 THE WITNESS: Joan Byars.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. MOYER:

11 Q Ms. Byars, can you tell the jury how old you are?

12 A 65.

13 Q Thank you, ma'am.

14 And where did you live in September of 2009?

15 A

16 Q And is that -- can we see that house located on the
17 map?

18 A Yes, sir.

19 Q I won't make you get down, but tell me if I'm right.
20 Did you live down this side of the road in this house
21 right here?

22 A Yes. Right behind the medical center.

23 Q Right behind the medical center?

24 A Uh-huh.

25 Q So you lived on that side?

1 A On that side, yes.

2 Q How long have you lived there?

3 A All my life.

4 Q Do you remember the events of September 7, 2007 --
5 I'm sorry, 2009?

6 A I do.

7 Q And did you take a ride in your car up Old Sulphur
8 Springs Road that night to the convenience store after
9 your daughter spotted that Hummer?

10 A First, I went with her in her car.

11 Q Okay. And I didn't ask you this before, but are you
12 related to Ms. McCollum that just testified?

13 A Yes. She's my daughter.

14 Q She's your daughter?

15 A And Lori Buchanan is, also, my daughter.

16 Q Do you remember when they came home from the walk
17 that night?

18 A Yes.

19 Q Do you remember what they were talking about?

20 A Yes. We had a cookout, and we were finishing up.
21 And they had went for a walk. And they came back kind of
22 in a huff. And they said that they was kind of scared,
23 that there was a white Hummer that pulled over to the side
24 of the road.

25 Q So did you take a ride up there?

1 A Yeah. Well, we waited a few minutes doing a few
2 little things. And then we said, Let's go back and see if
3 it's still up there. Because we do look out for the
4 little girls at The Pantry.

5 And, in the meantime, my brother, Johnny, had walked
6 up there. And I wanted to make sure everything was okay.

7 Q And so what did you do when you drove up Old Sulphur
8 Springs Road?

9 A Well, we -- the Hummer was still there. And Deona
10 said -- she was in the back seat. And she said, Oh, it
11 looks like someone is in the field over to the right,
12 which is behind The Pantry.

13 Q Okay.

14 A And so we went on in The Pantry. And my brother was
15 sitting at the front. And I told him, I said, Now,
16 there's a white Hummer sitting out here. I said, There's
17 no lights on. Just be careful. And I went in and told
18 Stephanie the same thing.

19 So we left The Pantry. And I got a pencil. And I
20 said, We're going to get the tag number. And we did.
21 They called it out and I wrote it down.

22 Q Do you remember now what it was?

23 A The tag number?

24 Q Yes, ma'am.

25 A .

1 Q And you told the officer the tag number when the
2 officers showed up?

3 A Well, I wrote it down. And then I went on -- I
4 started to my house. And, in the meantime, my daughter,
5 Deona, called me and said, The Pantry has been robbed.
6 And Lori was going home to her house. And she picked up
7 my brother coming home.

8 Q All right. And then, at that point, you and your
9 daughters drove back on up there?

10 A We turned around and went back to The Pantry. And I
11 was trying to show Stephanie that I had the tag number
12 and -- but she hung up. But then I went ahead and called
13 911. But when I was calling, the law had pulled up then.

14 Q And do you remember telling the officer the tag
15 number?

16 A I gave him the little piece of paper with the tag
17 number on it, yes, sir.

18 Q Okay. And I'm not going to show these on the
19 overhead, but you've taken a look at these photographs of
20 this vehicle?

21 A Yes, sir, I have.

22 Q Does that look like the Hummer you saw that night?

23 A Oh, yes, sir.

24 Q Okay.

25 A It was a very pretty car.

1 MR. MOYER: Yes, ma'am.

2 Please answer any questions the Defense may have.

3 MR. HARBIN: No questions, Judge.

4 Thank you.

5 THE COURT: Thank you, Ms. Byars.

6 MR. MOYER: The State calls Lori Buchanan.

7 THE CLERK: Ms. Buchanan, please, step up here. And
8 place your left hand on the Bible and raise your right
9 hand.

10 WHEREUPON,

11 LORI BUCHANAN,

12 after first having been duly sworn, testified as follows:

13 THE CLERK: Thank you.

14 You may be seated.

15 State your full name for the record, please.

16 THE WITNESS: Lori Buchanan.

17 THE CLERK: Thank you.

18 DIRECT EXAMINATION

19 BY MR. MOYER:

20 Q How old are you, ma'am?

21 A 49.

22 Q Now, I'll keep this short. But are you related to
23 the two ladies that just testified immediately preceding
24 you?

25 A Yes. Joan is my mother. And Deona is my sister.

1 Q And do you remember going out for a walk on September
2 the 7th of 2009, with your sister?

3 A Yes.

4 Q And did you see this Hummer alongside the road as she
5 testified to?

6 A Yes, I did.

7 Q Now, after y'all got back from the walk, did you get
8 in your car and drive up the road for any particular
9 reason?

10 A Yes, I did.

11 Q And what was your purpose for doing that?

12 A I went to check on my uncle to see if he had made it
13 to the store okay. And I knew that Hummer was sitting
14 there. And I wanted to make sure that he had made it to
15 the store okay.

16 Q Okay. And was the Hummer still there?

17 A Yes, sir, it was.

18 Q And did you observe anything? Were any doors open,
19 or did you see anybody associated with the Hummer at any
20 point?

21 A I didn't see anybody in there. When I was going back
22 up to check on my uncle, I didn't see anybody in there.

23 Q Okay. At a later time -- let me back up. Let me
24 stop for one minute. Who was with you on this particular
25 occasion?

1 A My mom and my sister. My sister was in the back
2 seat. And my mom was in the front seat.

3 Q All right. And then when you got back, did you then
4 leave again in your car?

5 A Yes.

6 Q Okay. And who was with you on this occasion?

7 A I was by myself. I was on my way home.

8 Q And what, if anything, did you observe at this time?

9 A I observed my uncle squatted down in the driveway of
10 IMA. He saw me coming up the road, and he was scared to
11 death. And he was waving his arms at me to stop.

12 Q Okay. And he was in the parking lot of Internal
13 Medicine Physicians?

14 A Yes. He had ran that far.

15 Q You picked him up at that time?

16 A I did.

17 Q Now, this is your uncle who -- he's mentally
18 retarded?

19 A Yes, sir.

20 Q And when you saw him up at The Pantry, was he inside
21 or outside?

22 A Outside.

23 Q Is that where he normally stayed when he hung out
24 there?

25 A Yes, sir.

1 Q Was he out front in front of the The Pantry?

2 A Uh-huh, out front.

3 MR. MOYER: Okay. I have no further questions.

4 Please answer any questions that the Defense may
5 have.

6 MR. HARBIN: No questions, Judge.

7 Thank you.

8 THE COURT: Thank you, Ms. Buchanan.

9 Do you want to take a short recess?

10 Ladies and gentlemen, we're just going to take a
11 short recess. Don't talk about the case. And continue to
12 keep an open mind. We'll see you back in about 10
13 minutes.

14 Okay. Thank you.

15 (WHEREUPON, the jury was excused from open court at
16 approximately 3:57 p.m.)

17 THE COURT: We'll be in recess.

18 (WHEREUPON, a break was taken.)

19 THE COURT: Anything before we bring the jury in?

20 MR. MOYER: Do you want to talk about this matter
21 with Mr. Harbin?

22 THE COURT: So Judge Floyd has requested your
23 presence in the morning.

24 MR. HARBIN: Yes, sir.

25 I don't want -- I'd like to be optimistic and give us

1 as much time as we could tomorrow. But then I don't want
2 the jury, or you, or anyone else sitting around waiting.
3 So I'm a little at a loss.

4 MR. MOYER: I suspect I'm only going to have another
5 hour, hour and a half of testimony tomorrow.

6 Do you think 1:00?

7 THE COURT: Do you know how long you're going to need
8 to present anything?

9 MR. HARBIN: At this point, I don't anticipate
10 putting up any witnesses.

11 THE COURT: All right. Well, while I'm thinking
12 about it, and we're all on the same topic, let's --

13 Mr. Williams, I'm just going to ask you some
14 questions, sir.

15 DEFENDANT WILLIAMS: Yes, sir.

16 THE COURT: I'm going to ask that you be sworn in.
17 You can sit right where you are, but I just want to ask
18 you some questions.

19 THE CLERK: Raise your right hand.

20 WHEREUPON,

21 JARED LEE WILLIAMS,
22 after first having been duly sworn, testified as follows:

23 THE CLERK: Thank you.

24 THE COURT: Obviously, the State is still presenting
25 their case. But, as I mentioned earlier and as I know you

1 understand, you have the right to testify in this trial
2 and, of course, present any evidence or defenses you may
3 have. But you, also, have the right not to testify. And
4 I just want to go over with you your rights regarding
5 testifying and not testifying, and making sure you
6 understand them, and understand the consequences of
7 choosing either to testify or not testify.

8 Okay, sir?

9 DEFENDANT WILLIAMS: Yes, Your Honor.

10 THE COURT: And if I say something you don't
11 understand, or if I'm not making sense to you, or you want
12 me to repeat something, just let me know and I will.

13 Okay?

14 DEFENDANT WILLIAMS: Yes, sir.

15 THE COURT: First of all, you have the right to
16 testify and present your side of the story, so to speak,
17 and present evidence through your own testimony. And if
18 you do so, of course, you're subject to being
19 cross-examined just like the State's witnesses have been
20 cross-examined by your lawyer, Mr. Harbin.

21 Is there anything the State would seek to impeach
22 Mr. Williams with if he did take the stand?

23 MR. MOYER: Yes, Your Honor.

24 In 2004, he was convicted in the State of Hawaii for
25 manslaughter, possession, use, or threat to use a firearm

1 in the commission of a felony burglary in the first
2 degree, theft in the first degree, promoting a detrimental
3 drug, and unlawful use of drug paraphernalia. All of
4 which carried more than a potential sentence of more than
5 one year.

6 THE COURT: All right. So if you took the stand,
7 it's likely the jury would learn that you have those
8 previous convictions. Of course, if you didn't take the
9 stand, the jury would not learn about that.

10 But if you did take the stand, you would be subject
11 to being cross-examined about anything that might be
12 relevant to this case, or anything that might shed light
13 on your bias or prejudice of any kind, or your
14 credibility.

15 So you have to make the choice as to whether you want
16 to testify or not. It's your personal choice, nobody else
17 can make it but you. If you choose not to testify, you
18 should know that I will tell the jury, as I've already
19 told them, that you don't have to prove anything in this
20 case. And, in fact, you have the Constitutional right,
21 just as any citizen does, to remain silent. And if you
22 chose to remain silent and claim that right that they
23 could not use that against you in any way, or even discuss
24 that fact during their deliberations, or take it into
25 account whatsoever.

1 If you choose not to testify and you don't present
2 any other evidence, your lawyer gets to make the last
3 closing argument before the jury to have the final word.
4 And if you do testify or present evidence, the State has
5 the right to make the final closing argument.

6 Have you understood all of my questions, sir?

7 DEFENDANT WILLIAMS: Yes, Your Honor.

8 THE COURT: And do you feel like you've had enough
9 time to talk to Mr. Harbin about your right to testify or
10 not to testify?

11 DEFENDANT WILLIAMS: Yes, Your Honor.

12 THE COURT: And, of course, that takes into account a
13 lot of trial strategy. And I'm not going to ask you for
14 your answer today. I just want you to be aware on the
15 record that you understand those rights, which I feel you
16 do, based on your responses and my observations of your
17 demeanor during this questioning. You can tell me
18 tomorrow what you want to do. But I just wanted to go
19 ahead and place that on the record.

20 Anything else before we bring the jury in?

21 MR. MOYER: No, Your Honor.

22 THE COURT: Okay. Thank you.

23 Bring the jury in.

24 (WHEREUPON, the jury came into open court at
25 approximately 4:18 p.m.)

1 THE COURT: Mr. Moyer, you may call your next
2 witness.

3 MR. MOYER: Thank you, Your Honor.

4 May it please the Court.

5 The State calls Mike Estes.

6 THE CLERK: Place your left hand on the Bible and
7 raise your right hand.

8 WHEREUPON,

9 MICHAEL BRUCE ESTES,
10 after first having been duly sworn, testified as follows:

11 THE CLERK: Thank you.

12 You may be seated.

13 State your full name for the record, please.

14 THE WITNESS: Michael Bruce Estes.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MOYER:

18 Q Where are you employed?

19 A The Greenville Police Department.

20 Q How long have you worked for -- how long have you
21 been in law enforcement?

22 A 12 years. Four years, nine months, and 10 days in
23 the military.

24 Q Okay. 12 years total?

25 A 16 altogether.

1 Q 16 altogether. And the last 12 have been with the
2 Greenville Police Department?

3 A Yes, sir.

4 Q Now, what was your position in September of 2009?

5 A Supervisor over uniform patrol.

6 Q Okay. What are your duties in that role?

7 A We, basically, make sure that the guys that are on
8 patrol do what they're supposed to do when they arrive on
9 a crime scene, that they secure the scene, they separate
10 witnesses, secure the witnesses, make sure everybody is
11 okay, and make sure that the crime scene is processed
12 properly and it isn't contaminated.

13 Q Now, were you working on the night of September the
14 7th, 2009?

15 A Yes, sir.

16 Q Did you respond to a call at The Pantry convenience
17 store that night?

18 A Yes, sir.

19 Q This location, is it the location that has been
20 described by the witnesses and is depicted on the aerial
21 map?

22 A Yes, sir.

23 Q Is that in Greenville County?

24 A Yes, sir.

25 Q When did the call go out?

1 A The call went out at 8:55 -- or I was en route to the
2 call. I received the call and said I was on my way at
3 8:55.

4 Q And so after receiving the call and then going en
5 route, was that within a minute or so?

6 A Sure.

7 Q When did you arrive at that location?

8 A 8:57.

9 Q Now, when you arrived, you were the first officer on
10 the scene?

11 A Yes, sir.

12 Q Did you meet with the victims and the witnesses that
13 have testified here today?

14 A Yes, sir.

15 Q What did you notice about the condition or the
16 emotional state of the victims in the case, Ms. Pennington
17 and Ms. Chatham?

18 A The clerk was very -- she seemed scared, just a real
19 blank look on her face. I had been in there previously
20 and had seen her, and that wasn't any -- you know, very,
21 very stoic looking, just like almost shock. It's not a
22 condition that I had seen her in previous to that.

23 Q So you knew her from going there before on other
24 occasions?

25 A Yes.

1 Q All right. And did you speak to the witnesses who
2 saw this vehicle that had been described?

3 A Yes, sir.

4 Q Did you get a description of that vehicle and tag
5 number?

6 A I did. I got the description from one of the ladies
7 that lives on Old Sulphur Springs Road. And it was a --
8 they gave me a white Hummer. And I believe that they gave
9 me the tag number. The numbers and the letters were
10 inverted. So instead of , I think they gave it to
11 me as . And I put that out, broadcast it over the
12 radio.

13 Q But it was the same six letters and numbers?

14 A Yes, sir.

15 Q So you put out -- is that called a BOLO?

16 A Yes, sir.

17 Q What does that mean?

18 A Be on the lookout for that vehicle, that it was the
19 suspect vehicle. It might be the suspect vehicle involved
20 in the armed robbery of The Pantry, the Kangaroo.

21 Q Okay. After that, did you go out and attempt to try
22 to locate this vehicle at all yourself?

23 A Yes. Corporal Austin, actually, located the vehicle.
24 And I responded to the bar over there by the mall, Haywood
25 Mall.

1 Q After he had located the vehicle?

2 A Yes. It was in a parking space.

3 MR. MOYER: All right. Well, please, answer any
4 questions the Defense may have.

5 THE COURT: Cross examination.

6 CROSS-EXAMINATION

7 BY MR. HARBIN:

8 Q Did you, actually, take the written statements from
9 any of the witnesses?

10 A Yes.

11 Q You did?

12 A Yes.

13 Q Which witnesses did you take the written statements
14 from? Do you recall?

15 A I believe I wrote a statement on behalf of one of the
16 witnesses.

17 Q And that would be the uncle that was referred to
18 earlier?

19 A I believe so, yes, sir.

20 Q And did you take Ms. Buchanan's statement, Lori
21 Buchanan?

22 A I might have taken her statement, not, actually,
23 written it, but got her to write it.

24 MR. HARBIN: Judge, may I approach the witness?

25 THE COURT: Sure.

1 BY MR. HARBIN:

2 Q I've just got a photo copy. And it might have your
3 signature, if you recognize --

4 A Absolutely.

5 Q If you can just tell me which ones you did take?

6 A That is Ms. Buchanan's, Ms. Byars, Deona McCollum, I
7 believe, and the other statement that I wrote.

8 Q Is that the uncle that we referred to?

9 A Yes, sir. There were a lot of witnesses.

10 MR. HARBIN: Got you.

11 Thank you, Judge.

12 No further questions.

13 THE COURT: Thank, you Mr. Estes.

14 THE WITNESS: Yes, sir.

15 MR. MOYER: The State calls Mike Austin to the stand.

16 THE CLERK: Place your left hand on the Bible,
17 please, and raise your right hand.

18 WHEREUPON,

19 MICHAEL PERRY AUSTIN,

20 after first having been duly sworn, testified as follows:

21 THE CLERK: Thank you.

22 Please be seated.

23 State your full name for the record.

24 THE WITNESS: Michael Perry Austin.

25 THE CLERK: Thank you.

DIRECT EXAMINATION

1

2

BY MR. MOYER:

3

Q Officer Austin, can you tell the jury where you are employed?

4

5

A With the Greenville City Police Department.

6

Q How long have you been in law enforcement?

7

A A little over 10 years.

8

Q Has it all been with the Greenville Police Department?

9

10

A Yes, sir.

11

Q What was your position in 2009?

12

A I'm a K-9 handler for the City of Greenville.

13

Q And what does that entail? What do you do?

14

A My main function is as a support unit. Whereas calls come out about something in progress, an armed robbery, burglary, something where I can deploy my dog, I would respond to that to help other officers either with drug searches around cars, or tracking humans that may flee from the scene.

15

16

17

18

19

20

Q Now, were you working on the night of September the 7th, 2009?

21

22

A Yes, sir.

23

Q Did you hear the call that went out for this incident somewhere shortly before 9:00 --

24

25

A Yes, sir.

1 Q -- that evening?

2 A Yes, sir.

3 Q All right. When you got that call, what did you do?
4 When you heard the call, what did you do?

5 A When I heard the call, I immediately headed toward
6 that area. And, during that time, it may have been
7 Corporal Estes that BOLO'd that the suspect had left.

8 So, normally, if I know that the suspect has left in
9 a vehicle, there's really not a use for my dog, or for
10 what I do on that particular scene. So I just went to the
11 surrounding area to see if maybe I could locate the
12 vehicle.

13 Q Okay. At some point that evening, did you see a
14 vehicle that matched the description of what you were
15 looking for?

16 A Yes, sir. I had turned onto Woodruff Road going away
17 from Laurens Road on or towards Verdae, or in the
18 direction on Woodruff Road. And, in the distance, I could
19 see a white Hummer out in front of me.

20 Q So what was the vehicle description that you were
21 looking for?

22 A The vehicle description that was told to me via the
23 radio was a white Hummer with chrome rims.

24 Q Did you have a tag number?

25 A Yes, sir.

1 Q What was that?

2 A I believe it was

3 Q Okay. So you first saw a Hummer. And when you saw
4 the -- well, let me back up. You sounded a little bit
5 hesitant. If you had a chance to take a look at your
6 report, would that help you remember whether or not you're
7 correct on the tag number?

8 A Yes.

9 Q Take a look at that document. Do you recognize that?

10 A Yes, sir.

11 Q What is that?

12 A This is a supplemental that I wrote after the
13 incident.

14 Q You wrote it that night when all the events of that
15 night were fresh in your mind?

16 A Yes, sir.

17 Q If you could, just take a look at that, and see if
18 that refreshes your memory as to the tag number you were
19 looking for?

20 A Yes, sir.

21 Q And it was a white Hummer?

22 A Yes, sir.

23 Q So you spotted a white Hummer, you said, off in the
24 distance?

25 A Yes, sir. I was on my way to a call to back someone

1 else up that was at Candleton Village, which is up
2 Woodruff Road.

3 Q And what was the time frame when this was taking
4 place?

5 A This was around 10:00, maybe a little after,
6 somewhere around there. About 10 or 15 minutes after
7 10:00.

8 Q So about an hour or a little more after the actual
9 incident?

10 A Yes, sir.

11 Q Okay. So when you saw this white Hummer off in the
12 distance, what did you do?

13 A I just sped up trying to catch up to the car. I knew
14 we had a tag number on the suspect vehicle. So I was
15 trying to get close enough to see if I could get that tag
16 number to see if it matched the one we were given.

17 Q Were you able to get close enough to it?

18 A Yes, sir.

19 Q And when you got up close enough to the vehicle, what
20 did you note about the tag number that you saw?

21 A It matched the number that we were -- that I believed
22 that we had been given. So I called on the radio to have
23 dispatch confirm that, that the tag I was reading was the
24 same one that had been given to us by witnesses.

25 Q And was it confirmed?

1 A Yes, sir.

2 Q All right. When you had it confirmed -- well, what
3 did the Hummer do as you were following it? What did you
4 do?

5 A Well, I followed the Hummer on to Gladys Drive. And,
6 instead of turning my lights and stuff on right then, I
7 was trying to wait for other units to get there, so I
8 would have several people with me. Because the suspect
9 was supposedly armed during the robbery.

10 Q Okay. Did you turn your blue lights on and siren?

11 A Well, I didn't turn my blue lights on until we turned
12 into the parking lot of Junior's, into the parking lot of
13 the bar.

14 Q So what did the white Hummer -- or the occupant do?

15 A Well, as I turned my lights on, we were, basically,
16 at the main entrance of Junior's. But the Hummer
17 continued going in the parking lot maybe three or four
18 parking places. And I stopped short. I didn't know what
19 was going to happen. So I stopped short to give myself
20 room. And then the Hummer went on and parked normally
21 into a parking place.

22 Q Okay. Did you say anything or do anything while you
23 were waiting for the other officers to arrive?

24 A As I was waiting for the other officers, I got out
25 and got my dog out. And I started giving commands to the

1 driver to stay where he was at and keep his hands outside
2 the window until other officers got there.

3 Q And he did so?

4 A Yes, sir.

5 Q When other officers got there, what did y'all you do?

6 A Once other officers got there, we did what we
7 probably commonly call a felony car stop. That's where we
8 order the person out and onto the ground where they're
9 taken into custody.

10 Q Okay. And is that what you did with --

11 A Yes, sir.

12 Q And who was in the vehicle?

13 A Mr. Williams.

14 Q Okay. The Defendant in this case?

15 A Yes, sir.

16 Q Was there anyone else in that Hummer?

17 A No, sir.

18 Q Okay. What did y'all do with the Defendant when you
19 got him out of the vehicle?

20 A Mr. Williams was placed in the back of Officer
21 Ross -- I believe it was his vehicle. He was placed in
22 the back of that car. And then, during that time or
23 shortly thereafter, I was advised that there may be a
24 second suspect inside the bar.

25 Q Okay. And that was just -- well, did you look around

1 and see if there were any other suspects?

2 A Well, we -- actually, Corporal Estes is the one that
3 gave me that information. So we, basically, already had
4 the building surrounded, because of the other officers
5 there. We just held the perimeter and got everybody to
6 come out of the bar checking their driver's license. And
7 then we cleared the bar.

8 Q And there weren't any other arrests made?

9 A No.

10 Q So this was just kind of a precaution?

11 A Yeah. It was just a precaution from some information
12 we had gotten. And we wanted to make sure that we didn't
13 have someone hiding in the bar.

14 Q But nothing ever came of it?

15 A No.

16 Q Now, at some point, did you get the Defendant out of
17 the vehicle and search him?

18 A Yes, sir, I did.

19 Q And what, if anything, did you find?

20 A I found money in his front left pocket, \$68.

21 Q \$68. And what kind of denominations?

22 A I have it right here. Thirteen \$1 dollar bills,
23 seven \$5 bills, and two \$10 bills.

24 Q So no 20's?

25 A No 20's.

1 Q All right. Did you seize that money?

2 A Yes, sir.

3 Q What did you end up doing with it?

4 A After it was photographed by our crime scene unit, I
5 placed it in property and evidence, and sealed it as it is
6 now.

7 Q Okay. Did you bring it to court today?

8 A Yes, sir. It's been in my custody since I retrieved
9 it from P & E this morning.

10 Q And you can say that the money that you have in front
11 of you is the money you took from this Defendant's pocket?

12 A Yes, sir.

13 Q His left front pocket?

14 A Yes, sir.

15 Q What did you do with the Defendant after -- at the
16 end of the evening? Were you the one that ended up taking
17 him to the law enforcement center?

18 A No, sir. He was transported by another officer.

19 Q Did you meet with him there? Did you have any
20 interaction with him?

21 A I don't recall. I know that I wrote a ticket for
22 driving under suspension first offense. But I'm not
23 sure -- I can't remember now, clearly, if I gave him the
24 ticket there on the scene and then let Detective Rhinehart
25 and Officer Ross take it from there while I went on to

1 P & E.

2 Q But you, sir, actually, got the warrant; is that
3 correct? You, actually, got the ticket for driving under
4 suspension?

5 A Yes. Driving under suspension, I wrote the ticket,
6 yes, sir.

7 MR. MOYER: I'd like to have this marked.

8 (WHEREUPON, State's Exhibit Nos. 18, 19, 20, and 21
9 were marked for identification only.)

10 BY MR. MOYER:

11 Q I'm going to hand you, first off, what is marked as
12 State's Exhibit No. 21. Is that the money you were just
13 talking about a minute ago that you collected from this
14 Defendant's pocket?

15 A Yes, sir.

16 Q Okay. And you can testify that you brought that to
17 court here today?

18 A Yes, sir.

19 Q And you put it into property and evidence on the
20 night this took place?

21 A Yes, sir.

22 Q Okay. Does it look in substantially the same
23 condition now as when you seized that on September the
24 7th?

25 A Yes, sir. And this is the way I put it into property

1 and evidence.

2 Q In fact, it was put in sealed packets?

3 A Yes. These are sealed bags.

4 Q How many different bags are there?

5 A Three different bags.

6 Q One for each of the denominations you spoke of?

7 A Yes, sir.

8 MR. MOYER: Your Honor, at this time, I move to have
9 State's Exhibit No. 21 entered into evidence.

10 MR. HARBIN: No objection.

11 THE COURT: It's in evidence.

12 (WHEREUPON, State's Exhibit No. 21 was admitted into
13 evidence.)

14 MR. MOYER: And, for the record, it's a manila
15 envelope containing three separate bags with denominations
16 of bills within?

17 BY MR. MOYER:

18 Q Let me hand you what's marked as State's Exhibit No.
19 18. Do you recognize what that is?

20 A Yes, sir. That's the Hummer that I stopped that
21 evening.

22 Q And can you see the tag number of that Hummer?

23 A Yes, sir.

24 Q Is that a true and accurate representation of the way
25 the Hummer looked on the night you saw it on September the

1 7th of last year?

2 A Yes, sir.

3 Q And are those photographs, actually, taken at
4 Junior's Sports Bar?

5 A Yes, sir. That's where the vehicle stopped.

6 Q So they were taken that night?

7 A Yes, sir.

8 Q Let me hand you State's Exhibit No. 19. Can you
9 recognize what is depicted in that photograph?

10 A That's the cash money that's in the envelopes that I
11 put in property and evidence.

12 Q And that shows all the different denominations --

13 A Yes.

14 Q -- that was taken that night?

15 A Uh-huh.

16 Q And it's a true and accurate representation of the
17 way that money looked that night?

18 A Yes, sir.

19 Q And State's Exhibit No. 20, do you recognize what
20 that is?

21 A That's Mr. Williams and a clipboard standing outside
22 a patrol car.

23 Q And is that a true and accurate representation of the
24 way the Defendant, Jared Williams, looked on the night of
25 September 7th of 2009?

1 A Yes, sir.

2 MR. MOYER: Your Honor, I would move, at this time,
3 to have State's Exhibit Nos. 18, 19, and 20 entered into
4 evidence.

5 MR. HARBIN: No objection.

6 THE COURT: They're in evidence.

7 (WHEREUPON, State's Exhibit Nos. 18, 19, and 20 were
8 admitted into evidence.)

9 BY MR. MOYER:

10 Q Okay. I don't think I'm going to take the time to
11 show this on the screen behind you. But if you'll just
12 hold that up for the jury. Is the tag number visible in
13 that photograph?

14 A Yes, sir.

15 Q And you can turn it to yourself. Now, what does the
16 tag number say?

17 A DCW, Dose [phonetic], Charlie, Whiskey, 146.

18 MR. MOYER: Please answer any questions the Defense
19 may have.

20 THE WITNESS: Yes, sir.

21 MR. HARBIN: Thank you.

22 CROSS-EXAMINATION

23 BY MR. HARBIN:

24 Q Officer, did you ask -- you took the money directly
25 from his pocket like during a search or something?

1 A Yes, sir. I placed him under arrest for driving
2 under suspension.

3 Q So, basically, you put him in cuffs and pat him down?

4 A Yes.

5 Q Did you ask him where he got the money?

6 A No, I didn't.

7 Q Do you remember him telling you that he worked at
8 Liberty Taproom as a security guard?

9 A I don't remember that, no.

10 Q So if you don't remember that, you probably didn't
11 have an opportunity to confirm or deny where he worked?

12 A No, sir.

13 MR. HARBIN: No further questions.

14 MR. MOYER: Nothing further.

15 THE COURT: All right. Thank you, sir.

16 MR. MOYER: The State would call Jennifer Stewart.

17 THE CLERK: Please place your left hand on the Bible
18 and raise your right hand.

19 WHEREUPON,

20 JENNIFER LYNN STEWART,

21 after first having been duly sworn, testified as follows:

22 THE CLERK: Thank you.

23 You may be seated.

24 State your full name for the record, please.

25 THE WITNESS: Jennifer Lynn Stewart.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MOYER:

4 Q If you could, Ms. Stewart, pull that microphone a
5 little bit closer to you so we can make sure we can hear
6 you. You're a little soft-spoken. Maybe say your name
7 one more time.

8 A Jennifer Lynn Stewart.

9 Q Okay. How old are you?

10 A 31.

11 Q Okay. Where do you -- where did you work in
12 September of 2009?

13 A At Junior's Sports Bar.

14 Q Junior's Sports Bar. Okay. Had you worked there for
15 a few years?

16 A Probably about a year.

17 Q Okay. At that time, you had worked there for about a
18 year. How far did you go in school?

19 A About two years in college.

20 Q And you graduated from Liberty High School; is that
21 right?

22 A Yes, sir.

23 Q Where is Junior's Sports Bar?

24 A It's on Gladys Drive behind Haywood Mall, right next
25 to Coop's Fitness.

1 Q So it's in Greenville County then near Haywood Mall?

2 A Yes.

3 Q All right. Now, do you know the Defendant in this
4 case, Jared Williams?

5 A I do.

6 Q How long had you known him when this incident
7 happened?

8 A I met him in April.

9 Q You met him in April, and this happened in September?

10 A Yes.

11 Q So you knew him, what, four or five months?

12 A Five months.

13 Q And you -- actually, you were dating him some? You
14 had a romantic relationship with him?

15 A (Witness nodded.)

16 Q You have to answer.

17 A Yes, sir.

18 Q Is it ongoing, or is it over?

19 A No, it's over.

20 Q Let me ask you what kind of vehicle you had in
21 September of 2009?

22 A It's a Hummer H3.

23 Q A Hummer H3. And for those who aren't familiar with
24 Hummer's --

25 A It's the smaller Hummer.

1 Q That's the smaller of the Hummers. Did you buy it
2 new?

3 A No. I got it from Car Max.

4 Q How long had you had it at this time?

5 A I had got it in February of 2009.

6 Q Okay. And have you seen the photographs that have
7 been shown up on the screen behind --

8 A Yes.

9 Q And you've taken a look at these before. And I'll
10 just hand you State's Exhibit Nos. 18, 17, 16, and 15.
11 These photographs that are in evidence, are they
12 photographs of your Hummer?

13 A Yes.

14 Q And that's the way it looked in front of Junior's
15 Sports Bar on September the 7th, 2009?

16 A Yes, sir.

17 Q Now, you mentioned you were seeing the Defendant at
18 this time. Would you allow him to use the vehicle?

19 A I would.

20 Q How often would he use it?

21 A Pretty regularly. I worked day shifts at that time
22 on Sunday and Monday. And he wouldn't get it every Sunday
23 and Monday, but it was normal.

24 Q Most Sundays and Mondays?

25 A (Witness nodded.)

1 Q Why on Sundays and Mondays?

2 A Because I was there from 11:00 a.m. to 10:00 at
3 night.

4 Q Is that a shorter shift than usual?

5 A Oh, no, that's normal.

6 Q That's a normal shift?

7 A Uh-huh.

8 MR. MOYER: Your Honor, I would ask the Court to take
9 judicial notice that September the 7th of 2009, was a
10 Monday.

11 MR. HARBIN: No objection, Judge.

12 THE COURT: Okay. So noted.

13 BY MR. MOYER:

14 Q Now, did he use the vehicle on September the 7th of
15 2009?

16 A Yes.

17 Q When did he get it, and how did he get the vehicle
18 that day?

19 A I picked him up around 10:30, 10:45. And I -- and we
20 drove to Junior's, and he dropped me off.

21 Q That morning, you picked him up?

22 A Yes.

23 Q Where did you pick him up?

24 A At his apartments, Lion's Gate.

25 Q Where are those?

1 A In Mauldin.

2 Q In Mauldin. Now, you had been in -- so you have been
3 inside his apartment?

4 A Yes, sir.

5 Q Did more than one person live in the apartment?

6 A His brother.

7 Q Okay. Where was this Defendant's room in the
8 apartment?

9 A You walk down the hallway, and it's the first one on
10 the right.

11 Q Okay. So you said you picked him up at about 10:30
12 to 10:45 that morning?

13 A Uh-huh.

14 Q Then where did y'all go?

15 A He dropped me off at Junior's Sports Bar.

16 Q Did he leave with your car?

17 A Yes, sir.

18 Q Could you say about what time he left with the car
19 that day?

20 A Just right then. I got out and he left.

21 Q So it didn't take real long to get to Junior's from
22 his apartment?

23 A Like 10 or 12 minutes.

24 Q Did you have contact with him throughout the day?

25 A We just would text each other.

1 Q Okay. Other than that, you didn't speak to him? It
2 was mainly text messages?

3 A I don't think I spoke to him that day. I mean, we
4 would talk on the phone some, but it was mainly text
5 messaging.

6 Q And you texted him up until about what time? Do you
7 remember?

8 A What do you mean? Like for him to pick me up or --

9 Q Well, no, before that.

10 A Until about 6:00, I think it was.

11 Q And do you remember you, actually -- do you remember
12 giving a statement on the night this happened?

13 A I do.

14 Q And do you remember putting the different times in
15 your statement?

16 A I do.

17 Q Would it help refresh your memory if you had a chance
18 to look at that statement?

19 A Please.

20 Q Take a look at this. Look it over. And tell us, is
21 that the statement that you gave?

22 A It is.

23 Q Okay. And you texted him up until about what time?

24 A 6:22.

25 Q 6:22. And then there was a gap in time?

1 A Yes.

2 Q And then when was the next text after that?

3 A At 9:43.

4 Q And what was the content of that text? What was that
5 concerning?

6 A Telling him to come pick me up.

7 Q So you texted him to come --

8 A Oh, no, wait. At 9:43, he texted me, when do I need
9 him to come get me. And, at 9:45, he said he was leaving
10 the house. And, at 10:09, he said he was there.

11 Q He was there, being at?

12 A Junior's.

13 Q So let me get this straight. He texted throughout
14 the day until 6:22?

15 A Yes.

16 Q Then you heard from him next at 9:43, and he asked if
17 you wanted him to come pick you up?

18 A Right.

19 Q And you said, yes?

20 A Yes.

21 Q And then he texted you at 10:09?

22 A Yes.

23 Q And he said he was there?

24 A Yes.

25 Q Okay. Now, when you got that text at 10:09, did you

1 go try to meet him, or did you go outside, or do anything?

2 A No. He was going to come in and we were going to --

3 I think we were going to stay there for a little while.

4 I'm not sure.

5 Q Did you happen to go outside, though?

6 A I did.

7 Q And what did you see when you went outside?

8 A We had a security guard or bouncer, and he came and
9 got me and said he saw Jared with -- asked me if Jared had
10 used my car today. I told him, Yeah. And he told me that
11 he thinks he's getting pulled over. So me and the
12 security guard walked out the side door.

13 Q And what did you see when you got outside?

14 A We saw the officer with the dog and the guns pulled,
15 and then like 15 cop cars.

16 Q What was going through your mind at this time?

17 A I didn't know what was going on.

18 Q Did you ever have any notion that something illegal
19 or improper would have been done with your vehicle?

20 A No, not at all.

21 Q Okay. Did you speak to him at all that night?

22 A No.

23 Q You allowed the officers to look through your Hummer
24 that night?

25 A Yes.

1 Q Did you allow them to take photographs and look
2 through your vehicle?

3 A Yeah. I told them to do anything.

4 Q Now, did you visit -- did you talk to the Defendant,
5 visit with him a couple days after this incident?

6 A I did.

7 Q And did you ask him anything about what he had done,
8 or why he had done it?

9 A When I first saw him, he was just crying. He just
10 told me he was sorry.

11 Q He said he was sorry. And he was crying after you
12 asked him the question or --

13 A No, like when he walked into the room or the -- where
14 we could talk.

15 Q When you first saw him?

16 A Yes.

17 Q Now, over the next period of time, weeks, months,
18 whatever, did you have more conversations with him? And
19 did you ask him what he had done, and why he had done it?

20 A We talked. But I don't think I straight out asked
21 him. I don't know.

22 Q Did he have anything to say about it?

23 A To be honest, I don't know. I didn't want to talk to
24 him about that. I mean, I was angry and just didn't
25 understand. I was just --

1 Q You were angry?

2 A I was angry and didn't understand. And I cared about
3 him.

4 Q Did he have anything to say about his financial
5 situation?

6 A I just -- I know he worked at Liberty, but he was
7 only getting like a few shifts. I know he didn't have a
8 lot of money. But like, if we did stuff, I always paid.
9 I never asked him to pay.

10 Q And while you were talking to him, did he say
11 anything about having worries about money, or bills, or
12 anything like that?

13 A We didn't -- I mean, we didn't talk a lot about that
14 kind of stuff.

15 Q You didn't want to, actually, confront the actual
16 issue, is that it?

17 A Yeah. I mean, I know like he didn't have money, I
18 guess. But it just never got brought up. Like we were
19 dating, but we weren't dating seriously.

20 Q Okay. Well, I'm talking about after this incident,
21 after September the 9th of 2009, did he have anything to
22 say about his financial condition?

23 A No. He said he couldn't get a job, like he kept
24 trying to get a job and he couldn't. And that he was
25 broke and didn't know how to ask for help from anybody.

1 Q Okay. Did you take him -- did you take that to mean
2 that he was giving you an explanation for what happened
3 and why he did it?

4 MR. HARBIN: Objection, Judge. That calls for
5 speculation.

6 THE COURT: Sustained.

7 MR. MOYER: I'd like to have these marked.

8 (WHEREUPON, State's Exhibit Nos. 22 and 23 were
9 marked for identification only.)

10 BY MR. MOYER:

11 Q I'm going to hand you two photographs to look at.
12 Let me start with State's Exhibit No. 22. Do you
13 recognize what is shown in that picture?

14 A That's where he lives.

15 Q And State's Exhibit No. 23?

16 A That's his apartment.

17 Q And State's Exhibit No. 22, is that a picture of the
18 outside of his apartment?

19 A It is.

20 Q Is State's Exhibit No. 23 a picture of the inside?

21 A It is.

22 Q And these -- do these look like true and accurate
23 representations of the way his apartment looked like back
24 in September of 2009?

25 A Yes.

1 MR. MOYER: I move to have State's Exhibit Nos. 22
2 and 23 moved into evidence.

3 MR. HARBIN: No objection.

4 THE COURT: They're in evidence.

5 (WHEREUPON, State's Exhibit Nos. 22 and 23 were
6 admitted into evidence.)

7 BY MR. MOYER:

8 Q I'm going to ask you to step down briefly so you
9 don't get blinded.

10 Can you tell the jury what is shown in State's
11 Exhibit No. 22?

12 A It's the outside of his apartment.

13 Q And here's a laser pointer, that button right there.
14 Can you point out which is his apartment?

15 A That one.

16 Q The back left one?

17 A Yeah.

18 Q And State's Exhibit No. 23, is that -- what is that a
19 picture of?

20 A The inside of his apartment.

21 Q Okay. And that's a hallway that leads from --

22 A The living room, and that is his bedroom.

23 Q Okay. The first door on the right there?

24 A Yes.

25 MR. MOYER: Okay. You can have a seat again.

1 Thank you.

2 Please answer any questions the Defense may have.

3 MR. HARBIN: Thank you.

4 CROSS-EXAMINATION

5 BY MR. HARBIN:

6 Q Ms. Stewart, you said you were aware that he was
7 working at Liberty Taproom?

8 A Yes.

9 Q As a bouncer or security?

10 A Yes.

11 Q And you're aware that he gets paid and he gets tipped
12 out from bartenders and wait staff, and whatever else like
13 everybody else?

14 A Yes.

15 Q And that's done in cash, typically, in bars; is that
16 correct?

17 A Well, I know he got a paycheck, but I know he got
18 tipped out.

19 Q What is your job at Junior's?

20 A Bartender.

21 Q Okay. Do you tip out the security there?

22 A No.

23 Q You said that there was a gap in time between 6:22
24 and 9:45. Do you remember telling Mr. Williams that you
25 couldn't text a whole bunch because your boss was there?

1 A Yes.

2 MR. HARBIN: Thank you.

3 No further questions.

4 MR. MOYER: No further questions, Your Honor.

5 THE COURT: Thank you, ma'am.

6 MR. MOYER: The State would call Gary Rhinehart to
7 the stand.

8 THE CLERK: Mr. Rhinehart, if you'll step up here.
9 And place your left hand on the Bible and raise your right
10 hand.

11 WHEREUPON,

12 GARY S. RHINEHART,
13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 State your full name for the record, please.

17 THE WITNESS: Gary S. Rhinehart.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q Where are you employed?

22 A The Greenville Police Department.

23 Q What is your position with the Greenville Police
24 Department?

25 A Currently, I'm a narcotics officer.

1 Q Vice and narcotics, is that what they call it?

2 A Yes, sir.

3 Q Does that explain why we don't see too many of our
4 officers in here?

5 A Yes, sir.

6 Q So you do some undercover work and that sort of
7 thing?

8 A Yes.

9 Q Now, how long have you been with the Greenville
10 Police Department?

11 A Eight years.

12 Q Now, were you involved in the investigation at all of
13 this robbery that happened at the The Pantry on the night
14 of September the 7th, 2009?

15 A Yes, I was.

16 Q And how was it that you got involved with it being
17 that you're in vice and narcotics?

18 A Even vice and narcotics, we have to do what they call
19 weekend duty where -- we're all considered detectives.
20 All detectives, even in vice and narcotics. We have to do
21 what they call weekend duty, which means we'll be on call.
22 We'll be the only on-call detective for that weekend.

23 And this just happened to be a holiday weekend. So
24 it included the Monday that we were there. And what we do
25 is we handle any calls that come out that has to do with

1 crimes against persons, or any type of crime like that.

2 Q So you heard the call go out for this particular
3 armed robbery?

4 A I did.

5 Q And where -- did you respond?

6 A Yes, I did.

7 Q Where did you respond first?

8 A Initially, when the call came out, since I was in an
9 unmarked vehicle, I heard that the call went out and the
10 vehicle possibly went down on Old Sulphur Springs Road.
11 So I went to the other end of that road to try to catch
12 and see if he came out on that end. But I, unfortunately,
13 was not able to.

14 So I went back to the location of the Kangaroo. And
15 that's where I met with Estes.

16 Q Where were you coming from?

17 A At that time when I came back to meet with him --

18 Q No. Let me start over.

19 When you got the call --

20 A I was at the law enforcement center.

21 Q So that's a pretty good hike from there out to --

22 A Yes, sir. It's -- well, at that time of night, I can
23 usually make it pretty quick.

24 Q Like five or 10 minutes?

25 A Yeah, easy.

1 Q Okay. Now, so you went over and -- you, actually,
2 went to The Pantry then and spoke to Sergeant Estes?

3 A Yes.

4 Q After that, did you go out looking for this vehicle?

5 A I did.

6 Q Did you ever -- you didn't find it?

7 A I did not find it.

8 Q Did you hear when the vehicle was discovered by
9 Corporal Austin?

10 A Yes.

11 Q Okay. What did you do when you --

12 A I was, actually, on my way -- since forensics was
13 wrapping up what they were doing there on the scene, I was
14 headed back to the law enforcement center. And that's
15 when I heard the call come out -- or, excuse me, Corporal
16 Austin give the call out that he was behind the vehicle.

17 Q Okay. And did you respond to Junior's Sports Bar?

18 A I did.

19 Q What was taking place when you arrived?

20 A When I arrived, Corporal Austin -- the Defendant was
21 already out of the vehicle. And he was already placed in
22 the backseat of another patrol car. And they were
23 securing the scene when I arrived.

24 Q Okay. Did you speak to the Defendant?

25 A Yes, I did.

1 Q And where was he when you --

2 A At the time I spoke with him, he was in the backseat
3 of -- I think it was Officer Ross' vehicle.

4 Q And, before speaking to him, was the Defendant given
5 his Miranda warnings?

6 A Yes, he was.

7 Q Before you spoke to him?

8 A Yes, he was. Officer Ross had given him his Miranda
9 warnings.

10 Q And Corporal Ross is no longer employed by the
11 Greenville Police Department; right?

12 A No, sir.

13 Q Were you standing there?

14 A I was standing there. He had the rear door open.
15 And he was standing on the side of the door, and I was
16 standing on the side closest to the car.

17 Q So you overheard that whole conversation?

18 A Yes, sir.

19 Q And what can you tell us about the rights that
20 Officer Ross told the Defendant of at that time?

21 A He, actually, read them from a card. A lot of
22 officers carry them, and we try to make it -- some
23 officers try to make it a practice to read it from a card.

24 Q And do you have the same kind of card that he had?

25 A Yes, I do.

1 Q And so can you just tell the jury what the rights
2 were that were given to the Defendant that night using the
3 card that you have?

4 A Yes, sir.

5 It's on a card like this right here. And it says,
6 Suspects rights and Miranda warnings at the top. And then
7 they're numbered.

8 It says, You have the right to remain silent.
9 Anything you say can and will be used against you in a
10 court of law. You have the right to talk to an attorney
11 and have him present with you while you are being
12 questioned. If you cannot afford to hire an attorney, one
13 will be appointed to represent you before any questioning,
14 if you want. You can decide at any time to exercise these
15 rights and not answer any questions or make any
16 statements.

17 Do you understand these rights as I've explained them
18 to you? And having these rights in mind, do you wish to
19 talk to us now?

20 Q And those are the rights that were given to the
21 Defendant?

22 A Yes, sir.

23 Q And when he was being spoken to, he was, actually,
24 seated in the officer's car?

25 A Yes, sir.

1 Q Is that a comfortable place?

2 A I wouldn't say it's a real comfortable place, but he
3 didn't seem to be uncomfortable.

4 Q Okay.

5 A He seemed to be very relaxed.

6 Q Okay. Did -- in your opinion, did the Defendant
7 appear to understand the rights as they were given that
8 night?

9 A Yes.

10 Q And after he was given those rights, did he give any
11 indication as to whether or not he would waive those
12 rights and talk to you about this incident?

13 A Yes. I asked him if he would be willing to talk to
14 me that night. And he said, Yes.

15 Q Were any threats, or intimidation, or coercion made
16 by any officers?

17 A No, sir.

18 Q Were any promises or hope of reward held out to the
19 Defendant to get him to talk to y'all?

20 A No, sir.

21 Q So, in your opinion, he understood his rights and he
22 waived his rights voluntarily?

23 A Yes, sir.

24 Q Now, did he give the statement to you in writing?

25 A Yes, sir, he did.

1 Q And how was that put in writing?

2 A We have forms that we have them write the statement
3 on.

4 Q Okay. And who wrote it? Did he write it himself?

5 A He, actually, wrote it.

6 Q And let me show you State's Exhibit No. 20. Is that
7 a picture of the Defendant as you saw him that night?

8 A Yes, sir.

9 Q And what he is holding there in his hand, is that one
10 of the statement forms?

11 A Yes, sir. It's on a clipboard. And he's, actually,
12 pulled out of the car momentarily to take this photo while
13 he was, actually, writing it. The pen is in his right
14 hand.

15 Q Okay. Let me hand you what's been marked as State's
16 Exhibit No. 1. And could you just take a look over that
17 exhibit, and tell the jury if you recognize that.

18 A Yes, sir. This is the statement he -- a copy of the
19 statement he wrote that night.

20 Q Okay. Is it an exact copy? There's no additions or
21 deletions?

22 A There's no additions or deletions. At the end of
23 it -- like on the second page, if there's -- you see where
24 it ends? We always draw a line through the end of it and
25 put, End of Statement at the bottom so nobody else can add

1 anything to it.

2 Q And how do you recognize that form? Do you see your
3 initials?

4 A My signature is at the bottom, and my handwriting is
5 at the top.

6 Q Is it dated September the --

7 A September 7th, 2009.

8 Q After he finished writing that statement out, did he
9 provide it to you, give it to you?

10 A Yes, sir.

11 MR. MOYER: Your Honor, at this time, I would move to
12 have State's Exhibit No. 1 entered into evidence and
13 published to the jury.

14 MR. HARBIN: No objection.

15 THE COURT: All right. It's in evidence.

16 (WHEREUPON, State's Exhibit No. 1 was admitted into
17 evidence.)

18 BY MR. MOYER:

19 Q Let me ask you just to go ahead and read that
20 statement to the jury.

21 A From -- in its entirety?

22 Q Yes. If you would, start -- are the Miranda warnings
23 listed on that document as well?

24 A Yes.

25 Q If you would, read the Miranda warnings and the

1 statement.

2 A It says -- at the top, it says, I, Jared Williams, do
3 hereby give freely and voluntarily, this statement to G.
4 Rhinehart, who have identified themselves as officers of
5 the Greenville Police Department, Greenville, South
6 Carolina.

7 I have been advised that I do not have to make this
8 or any other statement, and that I -- and that what I say
9 can be used against me in a court of law. I have been
10 advised that I have the right to counsel with an attorney
11 of my choice, that if I am financially unable to obtain an
12 attorney, the Court will appoint an attorney to represent
13 me. I have not been threatened or promised any reward to
14 make this statement. I do so voluntarily. I understand I
15 have the right to stop at any time. And I hereby waive
16 these rights.

17 Q Okay. And then does it go into his statement?

18 A Yes.

19 Q Okay. If you would, read the statement.

20 A It says, I am 28 years old and I reside at
21 , Mauldin, South Carolina. It
22 says, I dropped Jennifer Stewart off at work at 10:53 a.m.
23 I then went to my apartment to eat some of the food
24 Jennifer cooked for me. At about 12 p.m., I arrived in
25 Greenville at my buddy, Pete Base 's house. I then washed

1 Jennifer Stewart's Hummer for about an hour and a half.

2 After I finished with that, I drove to Auto Zone on
3 Laurens Road. At Auto Zone, they informed me that one of
4 Jennifer's taillights had gone out. I paid to get it
5 fixed and then went to Burger King with my buddy, Chris,
6 and his girlfriend, Amanda. After that, it was about 2:00
7 p.m. And I parked downtown and went into Falls Park for a
8 minute. I thought there might be some girls down there.

9 I then went back to my friend's house, Pete. I
10 stayed there until 6:00 p.m. I then went back to my
11 apartment and rested. My friend, Wade, knocked on my door
12 at about 8:30 to 8:45. I can't remember exactly. He then
13 came back about 30 to 45 minutes later, and only stayed
14 for a minute. I left -- at 9:45, I left my apartment to
15 come pick Jennifer Stewart up.

16 I pulled into Junior's parking lot and the police
17 drew guns on me and told me to get out. When Wade came to
18 my apartment, he asked to borrow Jennifer's Hummer because
19 he said he needed to grab some things from the store. I
20 was kind of hesitant because it wasn't my car, but I
21 agreed because he, Wade, seemed like he needed to go
22 really bad.

23 Q Okay. Now, after he gave you this statement, did you
24 talk to the Defendant to try to get any more information
25 about who this Wade fellow might be?

1 A Yes. We -- I asked him if -- to try to further it
2 along and try to verify his story, I asked him if he could
3 show us where Wade lived, and he agreed.

4 So Officer Ross, myself, and the Defendant went to
5 the apartments over there at where he, actually, lived,
6 too. And we asked him -- we, actually, got him out of the
7 car and asked him to physically show us where this guy,
8 Wade, lived.

9 Q What's the rough distance from Junior's to this
10 apartment complex?

11 A Maybe a 10-minute drive. I mean, it's not far.

12 Q And the distance from his apartment to the Kangaroo,
13 would that even be closer?

14 A It's about the same, maybe, you know, just a matter
15 of a turn difference.

16 Q About the same difference, somewhere around a
17 10-minute drive?

18 A Yes.

19 Q And when you got to the apartments, what did you do?

20 A Well, we had contacted the Mauldin Police Department
21 to meet with us first to go over to the apartments. When
22 we got there, we got him out of the car, and asked him if
23 he could show us which apartment Wade lived in.

24 So he pointed out the apartment. And we had him sit
25 back in the car while myself and Mauldin went up and

1 knocked on the door. But we didn't get any answer, no
2 answer at all.

3 Q Did y'all look in windows or --

4 A We tried looking in windows. We -- I can't remember
5 the vehicle description, but I think he said there was --
6 Wade had a girlfriend or something, and he described a
7 car. And the vehicle description he gave wasn't in the
8 lot. And we asked Mauldin if they could keep an eye on
9 the apartment for the rest of the night, and if anybody
10 came home to, please, contact us.

11 Q Okay. Now, what did you do with the Defendant at
12 this point?

13 A At that point, we went ahead and transported him to
14 the detention center where he was placed in on a temporary
15 commitment. Because there are no judges there at night.
16 After a certain time, there are no judges on the scene.

17 Q Okay. So he was arrested at that time for driving
18 under suspension?

19 A Yes, sir.

20 Q Now, at any time while you were meeting with him or
21 while he was in your presence, did he ever invoke his
22 Miranda warnings, or tell you he wished not to talk to
23 you?

24 A No, he did not.

25 MR. MOYER: Okay. Please answer any questions the

1 Defense attorney has.

2 THE COURT: Cross-examination.

3 MR. HARBIN: Thank you.

4 CROSS-EXAMINATION

5 BY MR. HARBIN:

6 Q Detective Rhinehart, why did you take a picture of my
7 client and the clipboard -- the statement and the
8 clipboard?

9 A It wasn't so much as him holding the clipboard as it
10 was just his physical appearance that night.

11 Q Okay. And you said you had --

12 MR. HARBIN: Actually, Mark, is that picture on the
13 table of him holding the clipboard?

14 MR. MOYER: Yes.

15 BY MR. HARBIN:

16 Q And this is an accurate depiction of what you
17 remember him wearing that night, a white T-shirt and
18 blue --

19 A When I saw him, yes, sir.

20 Q Okay. Now, whenever you arrived at Junior's, you
21 chatted with him a while or he wrote that statement, then
22 he rode with you over to Mauldin; is that correct?

23 A Yes, sir.

24 Q Okay. Essentially, he directed you how to get to the
25 apartment complex?

1 A He told us exactly how to get there.

2 Q Okay. He directed you to this fellow Wade's
3 apartment; is that right? Do you remember the number of
4 the apartment?

5 A I do not. I've been trying to remember it, but I
6 can't. I, actually, can't.

7 Q Okay. Did he show you at the time where his
8 apartment was?

9 A No, he did not.

10 Q Okay.

11 A I knew he said, at that time, that his apartment was
12 close, but he didn't say exactly where.

13 Q Okay. But it was in the same complex?

14 A Yes.

15 Q So you and -- who was with you at the time, other
16 than Mr. Williams?

17 A Ross.

18 Q Okay.

19 A Officer Ross and then two Mauldin officers.

20 Q And I guess that's protocol, because you're involved
21 in --

22 A We were going to their jurisdiction, so we had them
23 meet with us.

24 Q You knocked on the door and you got no response. Is
25 that what I remember your testimony being?

1 A Yes, sir, no response.

2 Q Did you make any contact with the neighbors, or the
3 office manager, or anything to try to figure out what was
4 going on?

5 A We did try to knock on the apartment across the hall,
6 but no one came to that door either. And, at that time,
7 with it being late at night, we did not contact the
8 apartment manager.

9 Q And did you follow-up with the apartment manager, or
10 any neighbors, or did Mauldin do that for you or anything
11 like that?

12 A At that point, that night, after we transported him
13 to detention, since the other detectives would be back to
14 work the next morning, I turned everything over to them,
15 and they followed up.

16 MR. HARBIN: Just one second. I'm sorry, Detective.

17 (Pause.)

18 MR. HARBIN: That's all.

19 Thank you.

20 MR. MOYER: Nothing further for this witness.

21 THE COURT: All right. Thank you, Mr. Rhinehart.

22 MR. MOYER: The State would call Michael Fortner to
23 the stand.

24 THE CLERK: Mr. Fortner, place your left hand on the
25 Bible and raise your right hand.

1 WHEREUPON,

2 MICHAEL FORTNER,

3 after first having been duly sworn, testified as follows:

4 THE CLERK: Thank you.

5 You may be seated.

6 State your name for the record, please.

7 THE WITNESS: Michael Fortner.

8 DIRECT EXAMINATION

9 BY MR. MOYER:

10 Q Where do you work, sir?

11 A The Greenville County Sheriff's Office.

12 Q How long have you been in law enforcement?

13 A Approximately 17 years.

14 Q Has it all been with the Sheriff's Office?

15 A Yes, it has been.

16 Q What is your position with the Sheriff's Office now?

17 A Currently, I work investigations.

18 Q Okay. Now, did you come in contact with the
19 Defendant, Jared Williams?

20 A Yes, I did.

21 Q And what was the date that you had this contact with
22 him?

23 A On September 8th, the following day.

24 Q September 8th of 2009?

25 A Yes, sir, 2009.

1 Q Okay. And what time of day was it?

2 A It would have been in the morning, probably somewhere
3 in the neighborhood of 9:30.

4 Q Did you have a conversation with anyone previous to
5 your going over to meet with him?

6 A Yes, I did.

7 Q And who was that?

8 A Investigator Flavell. He's an investigator with the
9 Greenville City Police Department.

10 Q And you're with Greenville County?

11 A I'm with the Greenville County Sheriff's Office.

12 Q And so what was your reason for going to meet with
13 the Defendant on that day?

14 A Investigator Flavell had stopped by our office and
15 informed us that they had a robbery the night before
16 involving an individual with a white Hummer.

17 Q And did you, also, have a case that involved a white
18 Hummer?

19 A Yes, we did.

20 Q And, for that reason, did you wish to speak with him?

21 A Yes. Actually, the case was assigned to one of the
22 other investigators, Investigator Jarvis. At the time, he
23 was not in the office. So I had called and had the
24 Defendant pulled from the detention center so we could
25 pick him up and bring him over to our office.

1 Q Okay. Now, when you went to meet with the Defendant,
2 did you tell him that he had to accompany you, or did you
3 ask him if he would be willing to accompany you back over
4 to your office?

5 A I asked him if he would be willing. Normally, what I
6 do when I go over there, if I'm just wanting to talk with
7 somebody about a case, if I just explain to them who I am,
8 why I'm there to talk to them, and ask them if they're
9 willing to come back over to my office with me to talk to
10 me.

11 Q All right. And when you asked the Defendant if he
12 would be willing to come talk to you, what was his
13 response?

14 A He said he would.

15 Q And where did you take him?

16 A To my office, which is in the basement of the law
17 enforcement center.

18 Q Can you describe the actual location or room where
19 y'all met with him there?

20 A Yes. It's in the basement of the law enforcement
21 center. It's the best access through the back door of the
22 law enforcement center, because it goes right into the
23 basement area. And it's about -- I don't know, I'd say
24 about 25 by 25 feet size room. And there's a total of
25 five desks in there. And there's four investigators, as

1 well as our Sergeant.

2 Q Okay. And before you turned him over to Investigator
3 Jarvis, did you have a conversation with the Defendant?

4 A Yes. I just spoke with him about where he had moved
5 here from and why, and that kind of thing, just, I guess
6 you'd say, chitchat with him.

7 Q And did you have any conversation with him about his
8 use of this white Hummer that belonged to Jennifer
9 Stewart?

10 A Yeah. Well, while we were talking, while we were
11 chitchatting, he mentioned that he had loaned that Hummer
12 out to another individual the night of the Greenville City
13 robbery.

14 Q Okay. Now, you then turned him over to Investigator
15 Jarvis?

16 A That's correct. Investigator Jarvis came in. And
17 then I turned him over to Investigator Jarvis.

18 Q Because that other -- the other case was, actually,
19 assigned to this investigator?

20 A That's correct, yes.

21 Q Was he close by after you turned him over to
22 Investigator Jarvis?

23 A Yes. The Defendant -- Investigator Jarvis' desk
24 is -- it's like his desk is here and mine is right behind
25 his desk.

1 Q Okay. And so you were able to overhear the
2 conversation?

3 A Yes, sir.

4 Q Now, at any point during their conversation, did you
5 overhear something that caused you to interrupt?

6 A Yes, I did.

7 Q And tell us about that.

8 A During the course of their conversation, the
9 Defendant mentioned to Investigator Jarvis that he was, in
10 fact, involved with the Greenville City robbery.

11 Q Okay. And, at that point, what did you do?

12 A I notified Investigator Jarvis that, you know, I had
13 just signed him out to talk to him about this individual
14 that he had loaned the car to. And, because of that, I
15 had not read him his Miranda rights at that time. So I
16 notified Investigator Jarvis that he needed to do that at
17 that time.

18 Q Were you aware that he had been given his Miranda
19 rights the night before by the city officers?

20 A I was not, no, sir.

21 Q Okay. And did you ever hear Investigator Jarvis read
22 or provide the Miranda warnings to the Defendant again?

23 A Yes, I did.

24 MR. MOYER: Okay. Please answer any questions the
25 Defense may have.

1 MR. HARBIN: Thank you.

2 CROSS-EXAMINATION

3 BY MR. HARBIN:

4 Q Investigator Fortner, is it your practice ever to
5 tape record or video record interviews with folks like
6 Mr. Williams?

7 A No. I've never tape recorded an interview or
8 videotaped one, no, sir.

9 MR. HARBIN: One second, Your Honor.

10 THE COURT: Sure.

11 (Pause.)

12 MR. HARBIN: No further questions.

13 Thank you.

14 MR. MOYER: Nothing further.

15 THE COURT: Thank you, sir.

16 MR. MOYER: May we approach real briefly?

17 THE COURT: Sure.

18 (WHEREUPON, a bench conference was held.)

19 THE COURT: All right. Ladies and gentlemen, we're
20 going to go ahead and break for the day.

21 We have a little bit of a scheduling conflict in the
22 morning. It's going to mean that we're not going to be
23 able to get started until 1:00 tomorrow. We made a lot of
24 progress today with the number of witnesses you've heard
25 from, so we're a little bit ahead of schedule. But we're

1 just going to resume at 1:00 tomorrow. And just be back
2 in the jury room at 1:00, and we will start then.

3 So don't talk about the case. As I mentioned this
4 morning, don't do any kind of outside research or
5 investigation. And continue to keep an open mind. You
6 haven't heard all the evidence yet. And you haven't heard
7 closing arguments and you haven't heard the law.

8 So thank you for your cooperation, and patience, and
9 attention. And we'll see you back in the morning. Have a
10 good evening.

11 (WHEREUPON, the jury was excused from open court at
12 approximately 5:18 p.m.)

13 THE COURT: Does anybody need to put anything on the
14 record?

15 MR. MOYER: No, sir.

16 MR. HARBIN: Not from us, Judge.

17 THE COURT: Okay. Thank you.

18 (WHEREUPON, the proceedings were concluded at
19 approximately 5:19 p.m., to be reconvened on
20 Wednesday, September 8, 2010.)
21
22
23
24
25

1 WEDNESDAY, SEPTEMBER 8, 2010

2 THE COURT: Are you ready for the jury?

3 MR. MOYER: Yes, Your Honor.

4 I have just four more witnesses.

5 THE COURT: Okay.

6 MR. MOYER: I just wanted to tell the Court about one
7 of the witnesses I neglected to put on my witness list.
8 It is Captain Jinny Moran. I would propose that Your
9 Honor would just read her name to the jury when they come
10 out to make sure nobody does know her.

11 MR. HARBIN: I don't have any objection to that,
12 Judge.

13 THE COURT: How do you spell her last name?

14 MR. MOYER: M-O-R-A-N.

15 THE COURT: Okay.

16 MR. MOYER: Ms. Jinny, J-I-N-N-Y.

17 THE COURT: All right. You can bring the jury on in.
18 (WHEREUPON, the jury came into open court at
19 approximately 1:45 p.m.)

20 THE COURT: Good afternoon, ladies and gentlemen.

21 Thank you for your patience.

22 The scheduling conflict we had took a little longer
23 to resolve than we anticipated, so that's the reason for
24 the delay.

25 Before we get started, I have been advised that there

1 is another person that may testify in the case whose name
2 was not listed yesterday when I sounded out the names of
3 the potential witnesses. This potential witness is Jinny
4 Moran.

5 And I'm going to ask if any of you are related to
6 Ms. Moran, or have any personal, social, or business
7 relationship with her? If so, raise your hand.

8 (WHEREUPON, there was no response.)

9 THE COURT: Okay. No one responded.

10 Yes, sir, Mr. Moyer.

11 MR. MOYER: Thank you, Your Honor.

12 The State would call Mike Jarvis to the stand.

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

15 WHEREUPON,

16 MICHAEL STEVEN JARVIS,
17 after first having been duly sworn, testified as follows:

18 THE CLERK: Thank you.

19 You may be seated.

20 State your full name for the record.

21 THE WITNESS: Michael Steven Jarvis.

22 THE CLERK: Thank you.

23 DIRECT EXAMINATION

24 BY MR. MOYER:

25 Q Where are you employed?

1 A I'm employed with the Greenville County Sheriff's
2 Office.

3 Q What is your position?

4 A I'm an investigator.

5 Q Okay. In what unit?

6 A The criminal investigations division. At the time of
7 this incident, I was an armed robbery investigator.

8 Q And you're in a different division now?

9 A Yes. I'm a family violence investigator now.

10 Q Did you meet with the Defendant, Jared Williams, on
11 the morning of September 8th of 2009, as Investigator
12 Fortner described yesterday?

13 A Yes, I did.

14 Q And what was the time of day, and how did you come
15 about speaking to him?

16 A It was around 9:30, 10:00 in the morning. And
17 Investigator Fortner had brought Mr. Williams -- or the
18 Defendant -- I'm sorry -- over to our office to speak with
19 me. I was busy doing something else. And I needed to
20 speak with him, the Defendant. And Fortner brought him
21 over to me so I could talk to him.

22 Q Okay. And had you been spoken to by a city detective
23 earlier that morning?

24 A Yes, I had.

25 Q And that -- was it Detective Flavell?

1 A Yes. I spoke with Investigator -- or Detective
2 Collis Flavell. He's with the Greenville City Police
3 Department. And he was telling me about the incident that
4 had occurred at The Pantry the night before involving a
5 white Hummer. And he had passed that information along to
6 me as well.

7 Q Okay. And he was aware that you all, actually, had
8 an unrelated case that, also, involved a white Hummer?

9 A That's correct.

10 Q Is that the reason why you wanted to speak to the
11 Defendant?

12 A Yes. That's the reason I wanted to speak to him.

13 Q Okay. Now, is that common for you all as a city
14 investigator to pass information back and forth?

15 A Yeah. That's pretty common. We keep a pretty good
16 relationship with them. And, obviously, good
17 communications is key to making an arrest and the sharing
18 of information, because the city and county are so close
19 together. So we can compare and see if we're having any
20 similar crimes, or anything like that and share
21 information.

22 Q Okay. Now, did you -- were you made aware from
23 Detective Flavell that the Defendant, the evening before,
24 had gave a statement in which he claimed he allowed
25 another person to use the vehicle?

1 A Yes. That's correct.

2 Q Now, when you met with the Defendant, you met with
3 him there in your office as Investigator Fortner described?

4 A Correct.

5 Q And did you talk to him about what he had done with
6 the Hummer the night before when the robbery of The Pantry
7 took place?

8 A Yes. I was trying to identify the person who he said
9 he had loaned the car to the night before. That was my
10 interest in speaking with him. And he told me that it was
11 an acquaintance of his named Wade that he had loaned the
12 car to the night before.

13 Q And did he have any other information about this
14 individual named Wade?

15 A Yes. He said that he lived at the same apartment
16 complex where he lived at. It was 228 Old Mill Road.
17 It's in Mauldin. It's the apartments there, and that's
18 where he lived at.

19 Q Okay. Did he provide you with a last name?

20 A He didn't provide me with a last name. While I
21 continued to speak with him and try to gather more
22 information, Investigator Weiner, who was, also, in the
23 office -- it's a really small office, so everybody can
24 pretty much hear what everybody else is saying. He began
25 to try to figure out if we could identify, possibly, a

1 person named Wade who lived at this particular apartment
2 complex.

3 Q And did Investigator Weiner locate something, or
4 somebody with that information?

5 A Yes. He located a picture of a person named Wade
6 Gambrell, who had an address of

7 Q Okay. So the same apartment complex?

8 A Correct.

9 Q Was that photograph shown to the Defendant?

10 A Yes. Investigator Weiner turned his computer where
11 the Defendant could see the computer, and asked him if he
12 recognized the person in the picture, if this -- and asked
13 him if this is the Wade -- is this the Wade that you
14 loaned your car to the night before, the white Hummer.

15 Q And what was the Defendant's reaction?

16 A His response was, Yes, that's the person I loaned my
17 car to last night. That's the Wade.

18 Q Okay. Did Investigator Weiner then provide any
19 further information?

20 A Yes. I continued to speak with the Defendant. And
21 Investigator Weiner then advised that the person -- this
22 Wade Gambrell who the Defendant had pointed out and said
23 that he had loaned the car to last night was, actually,
24 incarcerated at the Greenville County Detention Center on
25 the night prior, and had been so for several weeks prior

1 to this incident.

2 Q And he gave that information to the Defendant?

3 A Yes.

4 Q And what was the Defendant's reaction?

5 A His reaction was he kind of shrugged his shoulders a
6 little bit, and kind of dropped down in his chair and hung
7 his head down, almost like he was being deflated. And
8 then he admitted to me that he had been, in fact, involved
9 in the robbery at The Pantry the night before.

10 Q Now, at that point, did you hear from Investigator
11 Jarvis about Miranda warnings like he testified yesterday?

12 A Yes, from Investigator Fortner.

13 Q I'm sorry. Fortner.

14 A Yes. Investigator Fortner said that he had not been
15 Mirandized yet by him since he picked him up. And so I
16 stopped the interview at that time. And then I went
17 through advising the Defendant of his Miranda rights.

18 Q Now, were you aware at that time that he had already
19 been given Miranda warnings the night before by the city
20 officers?

21 A I was not.

22 Q And so did you go ahead and give the Defendant his
23 Miranda warnings at that time?

24 A Yes, I did.

25 Q And how did you go about doing so?

1 A In our office, we have a form that has the Miranda
2 rights written. And so I printed off the form. And I
3 turned it where he could read along with me, laid it down.
4 And I read it out loud to him line by line as he followed
5 along sitting next to me.

6 Q Let me show you State's Exhibit No. 3. Do you
7 recognize that?

8 A Yes. This is the Miranda rights form that I read to
9 the Defendant on the day that I interviewed him.

10 Q And how do you recognize it?

11 A It's got my signature on it. It's, also, got the
12 date.

13 Q Is that form in substantially the same condition as
14 it was when you went over that form with the Defendant a
15 year ago?

16 A Yes, it is.

17 MR. MOYER: Your Honor, at this time, we would move
18 State's Exhibit No. 3 into evidence.

19 MR. HARBIN: No objection, Judge.

20 THE COURT: It's in evidence.

21 (WHEREUPON, State's Exhibit No. 3 was admitted into
22 evidence.)

23 BY MR. MOYER:

24 Q So tell the jury how you went about going over that
25 form with the Defendant?

1 A Okay. Basically, like I said, I just sit next to him
2 where he can see it. He appeared intelligent, appeared to
3 understand what he was reading. He had already let me
4 know that he did have a twelfth-grade education. So there
5 was no question whether he could read or write.

6 So I read out loud each line. And after I finished
7 the first section, which advised all of his rights, I
8 asked him if he understood his rights. And he told me
9 that he understood his rights.

10 After you finish that first section, there's another
11 paragraph, which is the waiver of rights. I read that to
12 him as well. And he said he was willing to talk to me
13 without a lawyer present, and that he understood all of
14 the rights that I had explained to him.

15 Q Okay. Did he seem to have any trouble understanding
16 the rights?

17 A No, sir.

18 Q And would you just read -- publish to the jury the
19 rights that you did read to the Defendant?

20 A Sure. The first section, line by line is, Before we
21 ask you any questions, you must understand your rights.
22 You have the right to remain silent. Anything you say can
23 be used against you in court. You have the right to talk
24 to a lawyer for advice before we ask you any questions,
25 and have him with you during questioning. If you have no

1 money to pay a lawyer's fee, the Court will appoint one to
2 represent you without cost, if you wish.

3 If you decide to answer questions now without a
4 lawyer present, you still have the right to stop answering
5 at any time. You, also, have the right to stop answering
6 at any time until you talk to a lawyer. At this point, I
7 stopped and made sure he understood everything I had read
8 to him so far. And he said that he had.

9 So I continued on to the next section, which is the
10 waiver of rights, that says, I have read this statement of
11 my rights and I understand what my rights are. I'm
12 willing to make a statement and answer questions. I do
13 not want a lawyer at this time. I understand and know
14 what I am doing. No promises or threats have been made to
15 me, and no pressure or coercion of any kind has been used
16 against me.

17 Q Okay. Now, after you went over those rights with the
18 Defendant, did he sign the form?

19 A Yes, he did.

20 Q Stating he wished to waive his rights?

21 A Correct.

22 Q Did you talk to him any more about the robbery of the
23 The Pantry the night before?

24 A Yes, I did.

25 Q Did he give you a written statement?

1 A Yes.

2 Q Of the robbery of The Pantry?

3 A No, not of the robbery of The Pantry.

4 Q But he did tell you -- when you were talking to him,
5 did you ask him who did the robbery?

6 A Yes. After I completed reading the Miranda rights to
7 him, and was sure that he understood all of his rights,
8 and he waived his rights, I, again, asked him about the
9 robbery at The Pantry. And he did say that he was the one
10 who robbed The Pantry.

11 Q Did he say if anyone else was involved in the robbery
12 of The Pantry?

13 A No. He did not implicate anyone else in the robbery
14 of The Pantry.

15 Q Did he admit to borrowing the white Hummer from
16 Jennifer Stewart?

17 A He said he borrowed it from his girlfriend.

18 Q And did he say whether or not he was the one who had
19 been driving the white Hummer?

20 A Yes, he said that he was.

21 Q Did you ask him about the gun that was used in the
22 robbery?

23 A Yes. I asked him where the gun was that he used in
24 the robbery. And he said that it was not a real gun. It
25 was a plastic BB gun. And when I asked him where it was,

1 he said he thought it might still be at his apartment.

2 Q All right. During the course of the conversation
3 with him, did he say whether he had ever worn clothing, or
4 had clothing similar to that described by the victims of
5 The Pantry, specifically, a gray hooded sweatshirt?

6 A Yes. He talked about a gray hooded sweatshirt. He
7 talked about a black rag and, I believe, some blue pants.

8 Q What about gloves?

9 A He, also, talked about some black plastic latex
10 gloves -- I'm sorry. He didn't mention the color, just
11 latex gloves.

12 Q So he did mention he had worn latex gloves?

13 A Yes.

14 Q Now, after retrieving this information from the
15 Defendant, did you participate in the search of the
16 Defendant's residence?

17 A Yes, I did.

18 Q Okay. And what day was that -- did that take place?

19 A That was the same day.

20 Q Okay. And around what time?

21 A It was that afternoon.

22 Q Okay. It was that afternoon the same day?

23 A Yes.

24 Q Okay. And this took place at the address he told you
25 he lived, ?

1 A Yes.

2 Q And who all went there for this?

3 A Myself, Investigator Fortner, and Investigator Collis
4 Flavell -- or Detective Collis Flavell with the city
5 police.

6 Q And do you -- what was the apartment number that he
7 was in?

8 A I believe it was apartment 83. Yes, 83.

9 Q Okay. And to show you State's Exhibit No. 22, can
10 you see his apartment that's shown in that photograph?

11 A Yes.

12 Q Okay. And I'll show you State's Exhibit No. 23. Do
13 you recognize what is shown in that photograph?

14 A It appears to be the hallway in the apartment that we
15 searched.

16 Q Okay. Now, did you collect any of the evidence
17 that -- I'm sorry. Did you take into your custody any of
18 the evidence that was located by the other officers?

19 A Yes.

20 MR. MOYER: I'd like to have this marked.

21 (WHEREUPON, State's Exhibit No. 24 was marked for
22 identification only.)

23 BY MR. MOYER:

24 Q I'm going to hand you State's Exhibit No. 24. And if
25 you could, since it's not in evidence yet, don't show it

1 to the jury. Just hold it down here.

2 Can you look at it and see if you recognize what that
3 is?

4 A Yes. These are two of the items that I placed into
5 evidence that were collected from his apartment pursuant
6 to the search warrant.

7 Q What are they?

8 A A gray hoodie, a sweatshirt with a hood, and it's
9 black -- it's a sleeve that's been cut out of a black
10 T-shirt. And it has two holes in it for eyes.

11 Q And when you collected those items, what did you do
12 with those two items?

13 A I placed them in property and evidence.

14 Q You placed them there yourself?

15 A Yes.

16 Q Okay. And did you bring them to court yesterday and
17 today?

18 A That's correct.

19 Q Those are the actual items that you placed into
20 property and evidence?

21 A Yes, same items.

22 MR. MOYER: Your Honor, at this time, I would move to
23 have State's Exhibit No. 24 entered into evidence.

24 MR. HARBIN: No objection.

25 THE COURT: It's in evidence.

1 (WHEREUPON, State's Exhibit No. 24 was admitted into
2 evidence.)

3 (WHEREUPON, State's Exhibit No. 25 was marked for
4 identification only.)

5 BY MR. MOYER:

6 Q Let me hand you State's Exhibit No. 25. And, once
7 again, if you could hold this under the bar, because it's
8 not in evidence yet. Do you recognize what that is?

9 A Yes.

10 Q And what is that?

11 A It is the BB gun that we recovered, also, from the
12 search warrant --

13 Q From the Defendant's apartment -- I'm sorry. I
14 didn't mean to cut you off.

15 A No. It's the BB gun that we collected from the
16 Defendant's apartment.

17 Q And it was pointed out to you by Investigator
18 Flavell?

19 A That's correct.

20 Q And did you, once again, take that into your custody
21 that day?

22 A I did.

23 Q And what did you do with it?

24 A I, also, placed this into property and evidence as
25 well.

1 Q And did you bring it to court yesterday and today?

2 A Correct.

3 MR. MOYER: Your Honor, I would move to have State's
4 Exhibit No. 25 entered into evidence.

5 MR. HARBIN: No objection, Judge.

6 THE COURT: It's in evidence.

7 (WHEREUPON, State's Exhibit No. 25 was admitted into
8 evidence.)

9 (WHEREUPON, State's Exhibit No. 26 was marked for
10 identification only.)

11 BY MR. MOYER:

12 Q Let me hand you State's Exhibit No. 26. Can you take
13 a look at that, and tell me what State's Exhibit No. 26
14 is.

15 A It looks like it's a Capital One bill. And it is
16 addressed to the Defendant, Jared L. Williams, at
17 at . And this,
18 also, was recovered at the apartment. It was, actually,
19 recovered by myself in the front apartment -- the front
20 bedroom.

21 There were two bedrooms in the apartment. As you go
22 down the hall, there was one to the right, and there was
23 one straight in the back. This was, actually, located in
24 the bedroom that was on the right-hand side.

25 Q Okay. The same bedroom where the clothes and the gun

1 were found?

2 A Correct.

3 Q And, once again, did you put that in property and
4 evidence and bring it to court?

5 A Yes. I, also, placed this in property and evidence
6 and brought it with me today.

7 MR. MOYER: Your Honor, I would move to have State's
8 Exhibit No. 26 entered into evidence.

9 MR. HARBIN: No objection.

10 THE COURT: It's in evidence.

11 (WHEREUPON, State's Exhibit No. 26 was admitted into
12 evidence.)

13 (WHEREUPON, State's Exhibit Nos. 27 and 28 were
14 marked for identification only.)

15 BY MR. MOYER:

16 Q I hand you State's Exhibit Nos. 27 and 28. Can you
17 take a look at those photographs?

18 A Sure.

19 Q And what is depicted in those photographs?

20 A Pictures of where -- the dresser where I located the
21 envelope that had the Capital One bill with the
22 Defendant's name on it.

23 Q Okay. And are they true and accurate representations
24 of the way that dresser looked and the bill that you found
25 looked on September the 8th of 2009?

1 A Yes. Before we moved anything or took anything, we
2 photographed it.

3 MR. MOYER: Okay. I move to have State's Exhibit
4 Nos. 27 and 28 entered into evidence.

5 MR. HARBIN: No objection.

6 THE COURT: They're in evidence.

7 (WHEREUPON, State's Exhibit Nos. 27 and 28 were
8 admitted into evidence.)

9 MR. MOYER: Please answer any questions the Defense
10 might have.

11 THE COURT: Cross-examination.

12 MR. HARBIN: Thank you.

13 CROSS-EXAMINATION

14 BY MR. HARBIN:

15 Q Investigator Jarvis, how are you doing?

16 A Pretty good.

17 Q If I can take you back to when you interviewed my
18 client at your office. I believe you said Investigator
19 Weiner was there with you as well?

20 A Right.

21 Q Just sitting at his desk right in front of you, right
22 across from you, maybe?

23 A Correct.

24 Q When he found the picture of this Wade Gambrell
25 fellow, what form was it in? Did he print it, or was it

1 just on the computer?

2 A It was just on the computer.

3 Q Is that the same screen that we see when we look up
4 somebody on the jail screen or something?

5 A You know, I don't recall if it was like a jail screen
6 picture, or if it was a driver's license picture, but it
7 was blown up.

8 Q I was -- the point of that is whether it's black and
9 white, or a color picture, or pixilated, or --

10 A It would have been in color, yes.

11 Q Okay. When you obtained the search warrant for the
12 apartment, did you -- and during the course of your
13 investigation, did you learn if there was anybody else
14 staying there whose name the apartment was in, that kind
15 of information?

16 A If I recall, I believe the Defendant's brother, also,
17 lived with him. He was in the -- lived in the -- stayed
18 in the back bedroom.

19 Q Okay.

20 A I did not determine who the apartment was rented to.

21 Q Okay. And did you gather any other information on
22 the other -- the brother that lived there with him?

23 A I did not.

24 Q So you're not aware of whether he's older, younger?

25 A No, sir.

1 Q Full brother, half brother, anything like that?

2 A No, sir.

3 Q Did you ever return to the apartment, or was that
4 your one and only trip to the apartment?

5 A That was my one and only trip.

6 Q And there was no follow-up to speak to the brother,
7 neighbors, anything like that?

8 A No, sir.

9 Q Okay. The convenience store, did you have an
10 opportunity to speak with anybody that worked there, or
11 personally yourself -- well, let me ask you a simpler
12 question.

13 Was there a surveillance system at the convenience
14 store?

15 A I'm not sure if there was a surveillance system or
16 not.

17 Q So if anybody looked at it, you don't know?

18 A Correct.

19 Q Okay. Could you describe the contents of the
20 apartment? And by that, I mean, was it -- you know, well
21 furnished? Was it, you know, nice? Was it -- kind of a
22 general description of the apartment.

23 A I think there was -- in the living room, there might
24 have been a few pieces of furniture. In the bedroom, to
25 the right, there was a dresser. And I can't remember if

1 there was a bed, or if it was just a mattress. In the
2 back bedroom, there was just a mattress on the floor.

3 Q Okay.

4 A And clothes everywhere.

5 Q All right. And of the folks that you spoke to, did
6 you speak with any of the witnesses that we heard from
7 yesterday, personally?

8 A No, sir.

9 Q So you weren't able to obtain any particular
10 information from any of them, apart from what we've heard
11 in testimony?

12 A Correct.

13 MR. HARBIN: No further questions.

14 Thank you, Investigator.

15 MR. MOYER: Nothing further.

16 THE COURT: Thank you.

17 You may step down.

18 MR. MOYER: The State calls Investigator David
19 Weiner.

20 THE CLERK: Investigator Weiner, if you'll step up.
21 Raise your right hand and place your left hand on the
22 Bible.

23 WHEREUPON,

24 DAVID WEINER,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 State your full name for the record.

4 THE WITNESS: David Weiner.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. MOYER:

8 Q Where do you work?

9 A The Greenville County Sheriff's Office.

10 Q And what is your position with the Sheriff's Office?

11 A I'm an investigator there, currently, assigned to
12 armed robbery.

13 Q How long have you been with the Sheriff's Office?

14 A A little more than 10 years now.

15 Q Now, were you present in the interview room on
16 September the 8th of 2009, while Investigator Jarvis was
17 interviewing the Defendant in this case, Jared Williams?

18 A Yes, sir.

19 Q And were you present when the Defendant made the
20 statement about loaning the vehicle out to this person
21 named Wade?

22 A Yes, sir.

23 Q When you heard that, what did you do?

24 A We've got a number of systems we can use where I can
25 check driver's license. I can check detention records. I

1 can check what we call -- it's called V-Connect. But,
2 really, what it is, if you've ever been in a car accident,
3 if you've ever been written a ticket, it -- I mean, it's,
4 basically, everything but the library records.

5 If you've got something to do with the county,
6 business, taxes, anything, your name and address is in
7 there. And I can look through that. And I can type in
8 just a first name, or I can type in just an address, or a
9 birth date and come up with results.

10 Q Is that what you did with regard to this person named
11 Wade?

12 A I did. I typed in a first name of Wade. And I
13 started going down the list and came across this Wade
14 Gambrell on Old Mill Road, which matched what the
15 Defendant was telling us.

16 Q And when you found that, did you point it out to
17 Investigator Jarvis and the Defendant?

18 A I did. I pulled up a picture of him on our -- from
19 the detention center. He had prior charges with us.

20 So I pulled up a large color photograph of him from
21 the computer where the Defendant could see it. And, of
22 course, he positively identified that that's Wade, that's
23 the guy I loaned my car to.

24 Q And how confident was he when he picked -- when he
25 said it was this Wade person?

1 A He was almost excited. You could almost hear it in
2 his voice, That's him, that's him.

3 Q So he wasn't hesitating?

4 A There was no hesitation. There was no thinking about
5 it, I've got to get closer to look. As soon as he saw it,
6 he knew it was him.

7 Q Okay. And then you did some further checking?

8 A I did. I'd hate to charge somebody that had a good
9 alibi. So I looked him up. And that's a pretty fantastic
10 alibi for him not to rob the store. He was in our
11 detention center.

12 Q And so when you found that out, you mentioned that to
13 the Defendant?

14 A Correct.

15 Q And do you remember what his reaction was?

16 A Just like Investigator Jarvis said, I just remember
17 his head dropping and looking at his lap. I could kind of
18 see him kind of shaking his head. And that's when he came
19 out and said he was involved.

20 MR. MOYER: I'd like to have this marked.

21 (WHEREUPON, State's Exhibit No. 29 was marked for
22 identification only.)

23 BY MR. MOYER:

24 Q Let me show you State's Exhibit No. 29. Do you
25 recognize what that is?

1 A That's a picture of Wade Gambrell.

2 Q Is that the picture you showed the Defendant on
3 September 8th, 2009?

4 A Not on the paper, it was on my computer, but that's
5 the same picture.

6 Q But that's the picture?

7 A Absolutely.

8 Q And all the biographical information, record numbers,
9 and all that sort of information, it's on the left-hand
10 side there, that all applies to this Wade Gambrell?

11 A Yes, sir. Now, that would not have been displayed to
12 him. All he would have seen is a picture. It's a county
13 computer, maybe a 15-inch, 17-inch screen. And the
14 picture occupied the whole screen, you know, not stretched
15 or anything, cropped to fit. So it was a pretty good size
16 picture. He could see it.

17 Q Was he close to you?

18 A From me to the projector there maybe.

19 MR. MOYER: Your Honor, at this time, I move to have
20 State's Exhibit No. 29 entered into evidence.

21 MR. HARBIN: No objection, Judge.

22 THE COURT: It's in evidence.

23 (WHEREUPON, State's Exhibit No. 29 was admitted into
24 evidence.)

25 MR. MOYER: Please answer any questions the Defense

1 may have.

2 THE WITNESS: Yes, sir.

3 MR. HARBIN: No questions of this witness, Judge.

4 Thank you.

5 THE COURT: Thank you, Mr. Weiner.

6 THE WITNESS: Thank you, sir.

7 MR. MOYER: The State would call Captain Jinny Moran
8 to the stand.

9 THE CLERK: Ms. Moran, place your left hand on the
10 Bible and raise your right hand.

11 WHEREUPON,

12 JINNY MORAN,

13 after first having been duly sworn, testified as follows:

14 THE CLERK: Thank you.

15 You may be seated.

16 State your full name for the record, please.

17 THE WITNESS: Jinny Moran.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q Where are you employed?

22 A The Greenville County Public Safety records
23 management division as the captain of the division.

24 Q And what do your duties and responsibilities entail?

25 A As the records manager, we oversee the records

1 generated by the Sheriff's Office, the police department,
2 and the detention center, as well as county archive
3 records.

4 Q Okay. So that includes records from the law
5 enforcement center -- the Greenville County Detention
6 Center?

7 A Yes.

8 Q Which is commonly referred to as the jail?

9 A Yes.

10 Q Okay. And how long have you worked for the
11 Department of Public Safety?

12 A I've worked for Greenville County for over 28 years
13 now.

14 Q Okay. Now, are -- records of a person's
15 incarceration dates, is that kept in the regularly
16 conducted course of business activity?

17 A Yes. We have paper records and supporting documents
18 signed by the judges. And the information is, also,
19 managed in different computer systems.

20 Q And is it a regular practice of your office and your
21 department to make and to keep those records?

22 A Yes, it is.

23 Q And do you have access to that information as a
24 regular and normal function of your job?

25 A Yes.

1 Q In fact, you testify frequently as to records from
2 the detention center?

3 A Yes.

4 Q Okay. Let me show you what's been marked as State's
5 Exhibit No. 29, which shows a photograph, and other
6 information for an individual by the name of Wade
7 Gambrell. And can you tell the jury whether that person
8 was incarcerated in 2009?

9 A His arrest booking date was July the 9th of 2009.

10 Q And how long was he in jail?

11 A Until October the 5th.

12 Q Of 2009?

13 A Yes.

14 MR. MOYER: I have no further questions of this
15 witness.

16 MR. HARBIN: No questions for this witness, Your
17 Honor.

18 THE COURT: All right. Thank you, Ms. Moran.

19 MR. MOYER: The State would call Detective Collis
20 Flavell.

21 THE CLERK: Mr. Flavell, place your left hand on the
22 Bible and raise your right hand.

23 WHEREUPON,

24 COLLIS FLAVELL,

25 after first having been duly sworn, testified as follows:

1 THE CLERK: Thank you.

2 You may be seated.

3 State your full name for the record, please.

4 THE WITNESS: Collis Flavell.

5 THE CLERK: Thank you.

6 DIRECT EXAMINATION

7 BY MR. MOYER:

8 Q Where do you work?

9 A The Greenville City Police Department.

10 Q And how long have you been in law enforcement?

11 A 18 years.

12 Q Has it all been with the Greenville City Police
13 Department?

14 A Yes.

15 Q And what is your position in the police department?

16 A I'm a detective in the violent crimes unit.

17 Q And did you participate at all in the investigation
18 or, more specifically, the search of the Defendant's
19 apartment, Defendant Jared Williams?

20 A Yes, I did.

21 Q And was the apartment, as Investigator Jarvis
22 described, at Old Mill Apartments?

23 A Yes, it's apartment .

24 Q And looking at State's Exhibit No. 22, is that a
25 picture of the outside of those apartments?

1 A It is.

2 Q And, in looking at it, do you remember which one it
3 was?

4 A I think it was the far door on the left.

5 Q It was ?

6 A Yes.

7 Q Okay. Now, did you collect -- or did you locate any
8 evidence during your search of this particular location?

9 A I did.

10 Q And what did you find, and where did you find it?

11 A In the -- when you walk in the apartment, you walk
12 directly into the living area/dining area. The living
13 area is on the right. The dining area is on the left.
14 And the kitchen was just behind that. Then there's a
15 hallway. There's a bedroom on the right, I believe, a
16 bathroom was on the left, and a bedroom at the far end of
17 the hall.

18 As we were searching, we went to the first bedroom on
19 the right. Inside the closet on the floor, there was a
20 pile of clothes. And I photographed that pile as we
21 unlayered that pile of clothing. We found the gray
22 sweatshirt. There was like a sleeve on a shirt with eye
23 holes cut in it, and an Airsoft plastic type BB pistol.

24 Q And did you point those out to Investigator Jarvis to
25 collect?

1 A I did.

2 Q And you say you, actually, took photographs of those
3 items?

4 A I did.

5 MR. MOYER: I would like to have these marked.

6 (WHEREUPON, State's Exhibit Nos. 30, 31, 32, 33, 34,
7 and 35 were marked for identification only.)

8 BY MR. MOYER:

9 Q Detective Flavell, I want to hand you State's Exhibit
10 Nos. 30 through 35. And can you take a minute and look
11 through each of those photographs, and tell us if you can
12 recognize what that is?

13 A They're photos of the closet I just testified to.

14 Q And the clothing and the gun that you just testified
15 to finding?

16 A Yes.

17 Q Are they a true and accurate representation of the
18 way those items looked when you found them on September
19 8th, 2009?

20 A Yes, they are.

21 MR. MOYER: Your Honor, I move to have State's
22 Exhibit Nos. 30 through 35 entered into evidence.

23 MR. HARBIN: No objection.

24 (WHEREUPON, State's Exhibit Nos. 30, 31, 32, 33, 34,
25 and 35 were admitted into evidence.)

1 BY MR. MOYER:

2 Q Detective Flavell, if I could ask you to step down
3 for just a moment so you won't be blinded. Here is a
4 laser pointer, and there's the button right here.

5 I'm going to ask you -- let's start off with State's
6 Exhibit No. 22. Can you first describe to the jury what
7 it is we see in that photograph?

8 A This is the outside of the apartment building, 81
9 through 88, building #7. And door 83 is right here.

10 Q Okay. State's Exhibit No. 23?

11 A This is a photograph I took once you enter the
12 bedroom down the hallway.

13 Q Does it show the door where the Defendant's room was?

14 A Right here.

15 Q And State's Exhibit No. 30?

16 A That was the closet inside that first bedroom, and
17 that was the pile of clothing that was just inside the
18 closet door.

19 Q Okay. State's Exhibit No. 31?

20 A That's just a closer photograph of that same pile of
21 clothing.

22 Q And is the hoodie observable in that photograph?

23 A This is the hood part of the sweatshirt. This is the
24 actual sweatshirt. It's, actually, turned inside out in
25 this pile of clothing. So the lighter gray is, actually,

1 inside of the sweatshirt.

2 Q State's Exhibit No. 32?

3 A The Airsoft pistol, I believe, with the mask, the
4 shirt-sleeve mask that's laying under the pistol.

5 Q And State's Exhibit No. 33?

6 A It's the pistol. And I moved the mask where the eye
7 holes were visible for the photograph so you could see it,
8 actually, had holes cut in it.

9 Q And is that the handgun up above?

10 A Yes.

11 Q And State's Exhibit No. 34?

12 A This is a photograph of the actual -- this is,
13 actually, taken in the living room. Now, we moved the
14 evidence out. This is the sweatshirt again turned inside
15 out. The darker gray is, actually, the hood. This is,
16 again, the pistol, and then the homemade mask from the
17 shirt sleeve.

18 Q State's Exhibit No. 35?

19 A That's a photograph of the gray hoodie sweatshirt
20 still turned inside out.

21 Q Okay. And these other photographs of the evidence,
22 these are the same items, State's Exhibit 30 -- I'm sorry,
23 State's Exhibit No. 7, is that the mask?

24 A Yes.

25 Q State's Exhibit No. 8?

1 A That's the gun.

2 Q And, once again, State's Exhibit No. 9?

3 A Yes, the hoodie.

4 Q Okay. You can, please, take your seat again.

5 A (Witness complied.)

6 Q I'm going to hand you State's Exhibit No. 24, which
7 is already in evidence and has been testified to as
8 containing two items. Would you just take those items out
9 and show them to the jury. And tell the jury what those
10 particular items are.

11 A This is, actually, the sweatshirt we found in the
12 closet still turned inside out the way it was. And this
13 is the shirt sleeve with the makeshift eye holes cut in
14 it. You slide it over your head.

15 Q If you could, put those back in that bag, please.

16 A (Witness complied.)

17 Q Once again, if you could, show the jury what State's
18 Exhibit No. 25 is.

19 A This is, actually, the Airsoft pistol that was in the
20 closet, along with the magazine that holds the plastic
21 BB's.

22 Q And so can you -- so you described it as an Airsoft
23 BB gun. Is that the brand, Airsoft?

24 A Yes. It shoots rubber pellets instead of steel BB's.
25 It's a BB gun, it just uses rubber.

1 Q And it, actually, has a magazine that goes in and out
2 of it?

3 A Yes.

4 MR. MOYER: All right. Please answer any questions
5 the Defense may have.

6 CROSS-EXAMINATION

7 BY MR. HARBIN:

8 Q The items that you just showed us, specifically, the
9 hoodie and the mask there, they're in the same condition
10 as when they were removed from the apartment; is that
11 correct?

12 A Yes, sir.

13 Q They haven't been laundered, or anything like that?

14 A No, they have not.

15 Q So same size, same shape?

16 A Yes.

17 MR. HARBIN: No further questions.

18 MR. MOYER: Your Honor, I have no further questions
19 of this witness.

20 THE COURT: All right.

21 MR. MOYER: Just one moment, please, Your Honor.

22 THE COURT: Sure.

23 (Pause.)

24 MR. MOYER: Your Honor, at this time, the State would
25 rest.

1 THE COURT: All right. Ladies and gentlemen, the
2 State has concluded its presentation of evidence. And we
3 have to take a short break to take up some legal matters.
4 Please don't discuss the case during the break or talk
5 about it in any way. And continue to keep an open mind.

6 And, if you would, select someone to be the
7 Foreperson of the jury and write their name down, and give
8 it to one of the bailiffs during your break.

9 All right. Thank you very much.

10 (WHEREUPON, the jury was excused from open court at
11 approximately 2:24 p.m.)

12 THE COURT: Any motions or matters at this time?

13 MR. HARBIN: No motions from the Defense, Judge.

14 I would ask for a couple minutes to speak to my
15 client, if I could, about whether he wants to testify or
16 not.

17 THE COURT: Sure. We'll take a brief recess.

18 Thank you.

19 We'll just adjourn until about 20 until 3:00.

20 Thank you.

21 (WHEREUPON, a break was taken.)

22 THE COURT: Mr. Avery has been selected as the
23 Foreman, James Avery.

24 And, Mr. Harbin, how many witnesses?

25 MR. HARBIN: Judge, we are going to rest. We're not

1 going to put up a defense.

2 THE COURT: Mr. Williams, you have chosen not to
3 testify?

4 DEFENDANT WILLIAMS: Yes, Your Honor.

5 THE COURT: And does anybody have any requests to
6 charge or special --

7 MR. MOYER: I don't have anything special or unusual,
8 Your Honor, to ask of you.

9 MR. HARBIN: Nothing from the Defense, Judge.

10 THE COURT: So you just want me to charge armed
11 robbery and nothing else; is that right?

12 MR. HARBIN: I assume somewhere in there is all about
13 reasonable doubt and stuff. That's all we've got, yes,
14 sir.

15 THE COURT: Okay.

16 MR. MOYER: I would assume you have an identity
17 charge.

18 THE COURT: I do have that.

19 MR. MOYER: I was expecting it.

20 THE COURT: Do you want me to charge that?

21 MR. MOYER: Well, I was expecting it.

22 THE COURT: Okay. You can bring the jury on in.
23 Thank you.

24 (WHEREUPON, the jury came into open court at
25 approximately 2:50 p.m.)

1 THE COURT: Okay. Mr. Avery.

2 JUROR #5, JAMES AVERY: Yes.

3 THE COURT: You've been selected to be the Foreman of
4 the jury. And you'll just be the liaison between the
5 Court and the jury. If you have a question you need to
6 ask me, or if any member of the jury has a question, just
7 put it in the form of a written note. And I can respond
8 by a written note, or out here on the record. That's the
9 only way I can communicate with the jury. Hopefully, you
10 won't have any questions. But, in the event you do, that
11 is how it is to be handled.

12 And you'll preside over the deliberations. And, of
13 course, your vote doesn't count any more than anybody
14 else's vote, but we appreciate your service.

15 So, as you saw, the State completed its presentation
16 of evidence. The State rested its case.

17 And, now, as I mentioned earlier, the Defendant,
18 Mr. Williams, has the opportunity, but not the obligation,
19 to present evidence.

20 So, at this time, Mr. Harbin.

21 MR. HARBIN: Judge, the Defense rests.

22 THE COURT: Okay. So you've heard all the evidence
23 you're going to hear in the case. And, now, it is time
24 for the closing arguments. And the State will go first.

25 So, yes, sir, Mr. Moyer.

CLOSING ARGUMENTS

MR. MOYER: Thank you, Your Honor.

May it please the Court.

Mr. Foreman, ladies and gentlemen of the jury, as the Judge just told you, and I told you at the beginning of the case as well, about the different aspects and the different elements of this case. We are now to the closing arguments. The testimony phase of the trial is over. That means there will be no more evidence for you to consider, no more exhibits, photographs, or testimony for you to hear. That part of the case is closed.

We sometimes hear jurors, actually, wanting more, sending questions out saying, can we have this person's statement, or this officer's police report, and so on. Except in very rare situations, witness statements and police reports are not admissible in evidence under the rules of evidence. One example would be a written statement by a defendant. That is one situation where a statement is admissible. But it's a very rare situation.

So the record is closed. You've heard and received all the evidence that you're going to get in this case. Now, it is your time to go back to that jury room in a few minutes, and analyze and talk about all the evidence you heard and come up with a verdict.

Now, His Honor is going to instruct you fully on the

1 law after we finish our arguments. And one area His Honor
2 is going to talk to you about is the law on identity. And
3 I think you will find that that is really the issue that
4 is before you. It's not did an armed robbery take place,
5 but is this the person -- is this Defendant the person who
6 committed it. I think that's where your focus will be.

7 We know an armed robbery happened. If you recall,
8 the law of armed robbery, as I told you at the beginning
9 of the case, an armed robbery means to take by means of
10 force, violence, or intimidation goods or money from
11 another person through use of either a deadly weapon or a
12 representation of a deadly weapon.

13 So, under the law, you can commit an armed robbery
14 with something other than an actual deadly weapon. A hand
15 in a pocket, something that's a representation. If you're
16 acting like it's a real deadly weapon and if the person on
17 the business end of that believes it's a deadly weapon,
18 then that's enough for it to be armed robbery. And the
19 reason for that is evident, I would argue to you, because
20 the person who is on the receiving end of that weapon and
21 if that person does not realize that it is a fake gun, the
22 trauma and the terror is just as real as if it were a
23 deadly weapon.

24 One would hope that Ms. Fox and Ms. Pennington are
25 able to get some sort of solace in the fact that now

1 knowing that the actual implement that was stuck in their
2 faces was a BB gun. We would hope that that would bring
3 them some bit of comfort to know that now. But if this
4 person would have never been caught, that would have stuck
5 with them for the rest of their lives. And it doesn't
6 change how they felt at the time.

7 And you heard both of them testify how terrorized
8 they were by this, how horrifying this was for them. In
9 fact, Ms. Pennington got on the floor because she believed
10 this was a real gun. You heard the 911 tape where
11 Ms. Fox, actually, called 911. And I don't know if you
12 picked up on the shakiness in her voice and how terrified
13 she was. So I think you'll find that there was an armed
14 robbery.

15 So the question before you is this armed robbery
16 happened, but is this Defendant seated over here, Jared
17 Williams, is he the one who committed it? And I would
18 argue to you that there are four solid reasons why you can
19 believe beyond any reasonable doubt that this Defendant
20 did it. And I promise you I didn't plan it this way, but
21 it just so happens that each one of those reasons begins
22 with the letter C. And that is the car, the cash, the
23 clothing, and the confession. If you'll look at those
24 four areas.

25 Let's start off by talking about the car. You heard

1 testimony about the white Hummer. That's sort of been a
2 theme throughout this whole case. You heard testimony
3 that really this case was solved by several ladies in the
4 community, two of whom are seated back here still that we
5 probably each would want to have living in our
6 neighborhood, because they kept an eye on what is going
7 on.

8 And on this particular night, two of the ladies were
9 out for a walk along Old Sulphur Springs Road where they
10 lived down in this area of Old Sulphur Springs Road. And
11 they were taking a walk. And they were going in the
12 parking lot area of Internal Medicine when they saw that
13 Hummer drive by. And, at first, they noticed it because
14 it was pretty. And then they started to feel
15 uncomfortable because it drove by a time or two. And then
16 it stopped and it pulled over to the side of the road, as
17 they testified, right up around this area near the
18 convenience store, which is right here. And it was facing
19 down this way, down Old Sulphur Springs Road, away from
20 Woodruff Road. And it didn't feel right. And they went
21 home and kept talking about it. And they decided they
22 needed to go see if that Hummer is still there. And two
23 or three times they drove up the road.

24 One of the times, they stopped at the convenience
25 store to say something to the relative who you heard

1 about, who would hang out there outside the store, who was
2 mentally handicapped and, also, to Ms. Fox, who is the
3 clerk. They said, Just be careful, there's this white
4 Hummer sitting out there.

5 And then you heard testimony that on one of the
6 occasions they drove by, Deona McCollum said she was
7 seated in the backseat of the car and she saw something.
8 And it was dark and they were driving by, but she saw
9 something that grabbed her attention. And as she recalled
10 it, it looked like a person standing up there in that
11 wooded area in a white shirt.

12 Ladies and gentlemen, I would testify -- I would
13 argue to you that that is significant in this way, because
14 that's totally consistent with what you would expect a
15 robber to do. The person in the white T-shirt -- as we
16 can see the Defendant was, actually, wearing a white
17 T-shirt later that night. The person that's going to
18 commit this robbery does not want to get out of the Hummer
19 dressed ready to commit the robbery with the hood on and
20 with the mask. No, he's got to stage somewhere. And what
21 better area than back here behind the convenience store in
22 this wooded area. And I think it's totally consistent
23 with the facts, ladies and gentlemen, that that's what was
24 going on at that time as they drove by. There he was
25 putting on the mask and putting on the hoodie.

1 You heard testimony that they got the tag number on
2 one of the times they drove by, and they got a good
3 description. And they got back home. And then the
4 robbery happens. And what happens then? The Hummer comes
5 flying down the road. Officers get that information and
6 find this Defendant just about an hour later.

7 And what's significant about that is we heard
8 testimony that the Defendant lived in a location that's
9 about 10 minutes away. It gave him time to go home, drop
10 off the hoodie, and the gun, and the mask at his apartment
11 and then go back to pick up -- give the vehicle back to
12 his girlfriend. He, obviously, is not going to go there
13 with the mask, and the gun, and all in the car, because
14 he's giving the Hummer back to his girlfriend. So he
15 needed to go home. And that's totally consistent.

16 We know that the Hummer belonged to Jennifer Stewart
17 who worked there. We know that she testified that she
18 would allow this Defendant, Jared Williams, whom she was
19 dating, she would allow him to use it usually, at least,
20 twice a week, on Sundays and Mondays, that he would take
21 the vehicle. So we know he had the vehicle. We know he
22 was in the vehicle just an hour later.

23 What else incriminates this Defendant? That would be
24 the cash. Do you remember, ladies and gentlemen, when the
25 Defendant was stopped in that car at 10:10, which was

1 about an hour and 10 minutes after the robbery took place,
2 what did he have in his pocket? He had one dollar bills,
3 and five dollar bills, and 10 dollar bills adding up to
4 \$68. Ms. Fox testified that when this robbery took place,
5 she had somewhere between -- just under \$70, \$75. And
6 that there were no 20's. This Defendant had that money in
7 his front pocket. The coincidence that he would have the
8 exact denominations, the exact amount, and be in the exact
9 vehicle that was the get-away vehicle for this robbery,
10 the coincidence is too great to just be a coincidence.

11 We heard a couple of questions to his girlfriend,
12 Jennifer Fox [sic]. Did he have a job -- I'm sorry, not
13 Jennifer Fox, but Jennifer Stewart. And Jennifer Stewart
14 said, Well, I knew he worked at Liberty, but he only
15 worked a shift or two. And he was talking about how he
16 couldn't find a good job, and he needed money, and he was
17 worried about money. And he got paid in checks, she said,
18 not cash. So the fact that he had that money, the exact
19 amount, in his pocket when he is stopped in the white
20 Hummer an hour after the robbery, I would argue to you is
21 too much to be a coincidence.

22 Now let's move on to the clothing. And I will
23 include within that the pistol in this discussion. We
24 know that when the officers searched that apartment, his
25 apartment, the hoodie, the mask, and the gun were in his

1 room. And the clerk and Ms. Pennington both said, Yeah,
2 that's the hoodie that was being worn. And that looks
3 like the gun that was stuck in my face. And that looks
4 like the mask. And there it is in his very own apartment.

5 And can there be any mistake about it? No.
6 Ms. Stewart, his girlfriend, testified that she had been
7 in his apartment. And she testified that that exact room
8 where those items were found, the first door on the right,
9 that was his bedroom. These items were in his bedroom.

10 Let's talk about why somebody would disguise himself
11 in this meticulous way in a robbery. And this was
12 meticulously done. This Defendant was very careful and
13 meticulous about how well he concealed himself. He wanted
14 to throw off any possible identification. Why would he
15 wear gloves? We knew he wore white Latex gloves that he,
16 obviously, threw away. Well, it's obvious, you're not
17 going to leave behind forensic evidence.

18 As you heard, this is not the kind of case that's
19 going to be solved like a TV case. If this had been on
20 one of those TV shows like Law & Order, or whatever those
21 other shows are called, the forensics people would have
22 been marching in and talking about fingerprints and DNA,
23 and this and that. This is not the kind of case that can
24 be solved that way, because he had gloves on. You're not
25 going to leave behind that kind of evidence. Unlike

1 Hollywood evidence, you can't snag DNA and fingerprints
2 out of the air. And that's why we didn't have that in
3 this case. Because he thought ahead. And he knew he was
4 not going to leave anything like that behind. This is the
5 kind of case that's solved, not by Hollywood evidence, but
6 by real witnesses.

7 Well, why did he wear the hoodie and the mask? He
8 wanted to completely disguise himself completely. And if
9 you take a look at the photographs and if you take a look
10 at the Defendant as you've seen him here in the courtroom,
11 you'll notice that he has a lot of tattoos. You can see
12 both of his arms. You can look at this more closely back
13 in the jury room, but his arms both are covered in
14 tattoos. And you can see him seated in the courtroom,
15 there are tattoos on his neck. These are identifying
16 features. These are features that somebody could come
17 into court and say, yes, I can tell you who did the
18 robbery, because it was this guy with tattoos on his neck,
19 or tattoos on his arms. He had to completely cover
20 himself, his face completely, his arms, and his body. And
21 he was meticulous about it.

22 And that brings me around to talking about one aspect
23 about the description that you probably picked up on. If
24 you didn't, I'll remind you of it. And that is that there
25 was a description given of the Defendant's eyes. Do you

1 remember that? Ms. Pennington testified. Ms. Pennington,
2 as you recall, was the lady there helping her husband do
3 the floors. She was the first person who saw the
4 Defendant. She was standing right by the door. She heard
5 the door open behind her. She glanced over her shoulder,
6 and there was the gun. And she had the back and forth
7 conversation about him telling her to get on the ground,
8 and she just stood there.

9 And he moved around to the front of her still holding
10 the gun, telling her to get on the ground. She just stood
11 there. And, finally, he was, actually, close enough to
12 reach out and put his hand on her shoulder and show her
13 what he meant. You're getting on the ground. She was
14 that close. She described his eyes as dark. That's the
15 way she remembered them.

16 Ms. Fox, on the other hand, she recalled that she
17 thought the man had baby blue eyes. And so we have a
18 discrepancy there between these two descriptions. And I
19 want to talk about that for just a moment.

20 There are, obviously, two possibilities. One is that
21 Ms. Fox was wrong and the eyes were dark like
22 Ms. Pennington said. One of the two is wrong. So it's
23 very possible that she was wrong. And if you recall,
24 Ms. Fox, who was the clerk, was farther away from the
25 Defendant. She was standing behind the counter. She had

1 a counter between herself and the Defendant. You can see
2 in the photographs how it's a raised counter. She was
3 farther away. She did not have the interaction that
4 Ms. Pennington had. And so it's very possible that she
5 was incorrect about that. When you have a gun stuck in
6 your face, one would think the gun is the object of your
7 focus. So she could have been wrong.

8 The other option is that Ms. Fox was right and that
9 the man did have baby blue eyes. We know that the
10 Defendant was meticulous about his disguise. He did not
11 want to be seen. And what better way to throw off an
12 identification than your eyes, especially when that is all
13 you're showing. If the only part of your body you were,
14 actually, revealing is your eyes, what better way to just
15 get one of those cheap non-prescription contact lenses
16 that come in every color under the sun and just throw a
17 couple of those on.

18 We know he was careful. We know he absolutely wanted
19 to disguise himself. We know he took great pains. We
20 know he was sophisticated enough that he could write a
21 statement, that he could date a young lady that had gone
22 to college and had a Hummer. So we know he had the
23 smarts. And we know he took the effort to disguise
24 himself. So it's not unreasonable to think that that is
25 what he did to throw off the identification. But one of

1 the two are the possibility, either Ms. Fox was wrong, or
2 I would argue to you that he took that extra step and
3 covered his -- or obscured himself in that way.

4 And that takes me to my last point, that is the
5 confession. You can feel confident beyond any reasonable
6 doubt that this Defendant committed the crime based on the
7 fact he told these officers that he did the crime. To
8 recap what you just heard a few moments ago, the
9 Defendant, at first, had a story. It was this guy named
10 Wade Gambrell. Well, first off, he just said it was a guy
11 named Wade. And this guy named Wade, I know he lives in
12 my apartment complex. I don't remember his last name.
13 But he came by and I let him use the Hummer. And he came
14 back 30 minutes later and I had the Hummer again. And I
15 went to pick up my girlfriend. I don't know what he did
16 with the Hummer.

17 But, of course, he was caught. He was caught because
18 this guy, Wade Gambrell, whose picture is in this stack
19 somewhere -- I'm not going to paw through it right now --
20 actually, here it is. This guy, Wade Gambrell, when the
21 Defendant was shown the picture and said, Yeah, that's the
22 guy, that's the guy who borrowed the Hummer. It just so
23 turns out he couldn't have done it because he was in jail.

24 And what happened? The Defendant was caught. And
25 his only reaction would be -- could be at that moment was

1 to lower his head and say, You got me. And I want you to
2 think how inconsistent that is with an innocent person.
3 What would a person who didn't commit the crime say in
4 that situation? Well, wait a minute. That can't be. You
5 need to double-check that. That's the guy I gave it to,
6 you know. Your records must be faulty. Let's look into
7 this. You might say that. Or you might say, Well, it
8 sure looked like that guy to me. Is there another guy
9 named Wade? We need to keep looking into this.

10 But that's not what his reaction was, because he was
11 caught. And he didn't have time to plan out his alibi at
12 that time. And he hung his head and said he did it. And
13 he told the officers that he did the crime. He told them
14 that he did it alone. He described the BB pistol that was
15 used. He said he wore a gray hoodie and black mask, which
16 all was corroborated when the officers went to his
17 apartment and found it. But he didn't put it in writing.

18 So the question for you is, do you believe these
19 officers? And, as His Honor told you at the beginning of
20 this case, when you look at the credibility and
21 believability of officers, you can judge them on how they
22 came across on the stand. And you had a chance to look at
23 all three of those officers, Investigator Jarvis, and
24 there was Investigator Weiner, and Investigator Fortner,
25 all of whom testified they heard him say that. And you

1 saw them take the stand. And you were able to stare them
2 in the eyes. And it's up to you to decide do these look
3 like the kind of officers who would lie to you? Do these
4 look like the kind of officers who would get together,
5 risk their jobs and their futures? For what, to frame an
6 innocent person? Is that something they would do?
7 Because that's what it would take. It would take a
8 conspiracy of that scale.

9 His story was unbelievable. How often do you loan
10 your vehicle out? How often do you loan your car out? My
11 best friends, maybe I'll let them use it, if they need it.
12 How about some guy you don't even know his last name?
13 He's just going to show up at your house and you're going
14 to say, sure, take the vehicle. What if it's not even
15 your vehicle? What if it's a Hummer? And what if it
16 belongs to the girl you're dating? You're going to give a
17 vehicle to some guy you don't even know. His story is
18 unbelievable.

19 Those are the four reasons that you can convict, that
20 you have reason to believe beyond any reasonable doubt,
21 the car, the cash in his pocket, the clothing in his
22 apartment, and the confession that he gave. I would argue
23 to you any one of those four items by itself would be
24 enough for you to find this Defendant guilty, but you have
25 four, all four of those. It couldn't be a coincidence.

1 Lightening doesn't strike twice. And it, certainly,
2 doesn't strike four times.

3 In closing, ladies and gentlemen, you have been
4 entrusted by our legal system to be judges of the facts.
5 And it's your responsibility given to you by the
6 legislators of our state and accepted by you when you took
7 that oath at the beginning of this case that you are going
8 to render a fair and just verdict.

9 My argument to you, ladies and gentlemen, is that a
10 fair and just verdict is to hold this man, Jared Williams,
11 responsible for what he did. People have to be held
12 responsible for their decisions. In an orderly society,
13 people who terrorize other people like this man did need
14 to be held responsible for their conduct. This Defendant
15 pointed a pistol directly in two people's faces. He
16 forced one young lady onto the floor and told -- had her
17 put her hands on the back of her head. And you can only
18 imagine the terror and the horror that was going through
19 her mind as she was forced to go on the floor with a man
20 in a mask and a gun.

21 We see this stuff on TV all the time. But when
22 you're confronted with it in reality, it's a completely
23 different thing. Conduct like that has to be stopped.
24 And people who do it have to be held responsible for their
25 actions. And you, ladies and gentlemen, can do that with

1 a guilty verdict, which I ask you to give in this case.

2 Thank you.

3 THE COURT: Thank you, Mr. Moyer.

4 Yes, sir, Mr. Harbin.

5 MR. HARBIN: Thank you, Judge.

6 May it please the Court.

7 THE COURT: Yes, sir.

8 MR. HARBIN: If you all don't mind, I'm going to use
9 some cheat sheets. I tend to forget everything that I'm
10 supposed to bring out. So I apologize if it's not quite
11 as smooth as it is on television.

12 It seems to me in this case -- and I mentioned this
13 in the beginning, that there's something a little bit too
14 clean about this case. I don't know what it is, and I'm
15 not going to promise you that I can explain it fully. I
16 can't.

17 On the one hand, the Prosecutor wants you to believe
18 that my client is meticulous and has planned everything
19 out. He covers his face, he covers his hands, he covers
20 his head. He parks his car around the corner so it can't
21 be seen, I guess, although it seems like it was seen by
22 everybody under the sun, it seems like. But then he wants
23 you to convict him based on this overwhelming evidence
24 found in his apartment.

25 Well, let's be honest, it is overwhelming evidence;

1 right? It matches the exact description from the
2 convenience store clerk. And let's touch on this real
3 quickly. Clearly, a robbery happened. And it's awful
4 that these ladies had to go through that. But you have to
5 put that aside. Because your job is not to decide whether
6 something awful happened, it's to decide whether my client
7 did it.

8 If you recall -- and I can't remember which officer
9 said this now. When Mr. Williams pulls into the bar
10 parking lot, okay, he's got a slew of officers behind him.
11 And they pull him over and they do a felony stop, I
12 believe is what they called it. They unload the whole
13 bar. So they, you know, have everybody put their drinks
14 down, and come outside, and verify who everyone is. And
15 why did they do that? They did that because somebody said
16 there's another suspect in the bar. There might be
17 another suspect in the bar. But they never mentioned that
18 again, ever. It was never brought up again. You empty
19 out an entire bar, but don't ever mention any follow-up on
20 what happened to this alleged other suspect.

21 Now, again, I'm going to raise questions. I can't
22 explain everything. I, certainly, don't know -- I,
23 certainly, don't know how two witnesses, apparently, about
24 the same distance apart from a gunman cannot tell what eye
25 color someone has. But I'll tell you this, the evidence

1 that Mr. Moyer has presented, other than a confession,
2 which is not recorded anywhere, is all circumstantial.

3 The evidence that you heard from the convenience
4 store clerk and the one that was most certain about
5 everything was Ms. Stephanie Fox. If you remember, I gave
6 her the opportunity to come back a little bit about how
7 certain she was. She identified the hoodie. She
8 identified the mask. She identified the gun. And, of
9 course, I wasn't going to ask her exactly about the eyes,
10 because I didn't want her to know exactly where I was
11 going with that, to be honest with you. But, I said, How
12 certain are you? I mean, that was the only question I
13 asked her, how certain are you? And she said -- and I
14 believe this is the quote -- and y'all, if I'm wrong, then
15 whatever you remember. She said, Very certain. I said,
16 How certain are you? Very certain. There's no way to be
17 certain about a gun, and a hoodie, and a mask and not be
18 certain about the eyes.

19 Now, can I explain it? No, I can't. But it's not my
20 job to explain everything, because the burden of proof
21 lies with the State. That might frustrate some of y'all.
22 Because I know that as good citizens, y'all don't want
23 people running around with guns. I get that. I live
24 here, too. But the State is the one that has to answer
25 all these questions. They have to do it through

1 investigation. They have to do it through extrinsic
2 evidence. They have to do it through interviews, whatever
3 it takes.

4 I asked one of the other officers, Who else lived in
5 the apartment? Well, his brother. Where was his brother?
6 Clearly, my client has lied, right, because he gave two
7 different statements. If you believe the second
8 statement, he's got to be a liar. Which one was the lie?
9 Do they bother to follow-up up with where the brother was?
10 He has access to the apartment. Did they ask anybody in
11 this case, one single person how tall was the guy with the
12 gun? How big was he? Was he 5'2"? Was he 7'5"? Was he
13 300 pounds? Was he a buck [phonetic] ten soaking wet?
14 Did anybody ask that? It's very basic police work that
15 wasn't done.

16 Where is the video? The Kangaroo is like -- I'm from
17 Florence. We have Safeway's and you've got 7-Eleven's.
18 They all have surveillance tapes. Now, maybe it doesn't
19 show everything in high-def, but it gives us some idea of
20 something; right? You want to see the tape. Even if it
21 doesn't help you do everything you want it to do, it still
22 helps you eliminate some possibilities. You're asking --
23 you're being asked, rather, to take a man's freedom,
24 potentially; right? He's being charged with armed
25 robbery. This man goes to prison if he's found guilty.

1 And you're not given the most basic direct evidence we
2 have, pictures. They had a picture of the guy. It's in
3 the store somewhere. The officers didn't give it to you.

4 Now, I'm not going to lie to you. I understand
5 there's a whole bunch of evidence against him. And I
6 understand there's a statement that the police officers
7 have given you that he made orally. Now, the question I
8 asked I believe it was Investigator Fortner, Do you audio
9 or video record these statements? And his answer was, No,
10 I've never done that. I don't do it. I don't know why.
11 I've worked with Investigator Fortner and Investigator
12 Jarvis. I have no reason to believe that they would lie.
13 But that makes it more important to have the dad gum thing
14 recorded. Because if the guy's lying, you can -- that's
15 what you're here for. You're here to figure out when
16 somebody is lying.

17 So was he lying the first time or the second time?
18 We have a written statement from the first time. It would
19 be great to have a video or an audio for the second
20 statement, the one in which the whole State's case is
21 hinged. It's simple. Every DUI is recorded. I'm sure
22 there is a recorder on their cell phone, if they wanted to
23 just pick it up and use it.

24 Because I'm not asking you to believe that
25 Investigator Fortner or Jarvis is lying. I don't think

1 they are. But they can't relate to you how he was
2 speaking that day. They can't relate to you whether he
3 had a nervous tick, or whatever. Remember, they didn't
4 ask about anything else. They didn't ask him about the
5 other suspect that was mentioned one time and then never
6 again. Do I know why he would lie? No, I don't. But I
7 know there are significant holes in the State's case. And
8 if you want to put a guy in prison for armed robbery,
9 those holes need to be filled.

10 I asked you at the beginning of this case to be
11 critical, to be cynical. And cynical sounds like a bad
12 word sometimes. But you need to be cynical, because the
13 State has the burden. We don't have the burden. My
14 client doesn't have to prove he's innocent. They have to
15 prove the guilt. So you should be cynical and highly
16 critical of everything you've heard. Ask yourself, would
17 it be nice to have a video surveillance tape? Would that
18 have been a possibility? Would it have been nice to have
19 somebody follow-up with who else lived in the apartment,
20 who had access to the apartment?

21 I ask you to go back in the jury room and give this a
22 fair shake. At first glance, there's a lot of evidence.
23 I think when you begin to talk about it, you begin to
24 discuss with each other exactly what is missing in this
25 case, and start asking yourself -- and y'all might not be

1 able to come up with every answer. And it's not your job
2 to come up with every answer. It just whether or not the
3 State has proven their case beyond all reasonable doubt.
4 That's partly Mr. Moyer's job, and partly the officers
5 job, and partly it's stuff they can't control. You can
6 only work with what you've got; right? But some things
7 they had access to, they didn't give you. Do you want to
8 take this man's freedom based on what they've given you?

9 I appreciate your attention.

10 CHARGE ON THE LAW

11 THE COURT: Ladies and gentlemen, you've heard all
12 the evidence you're going to hear in this case. And, now,
13 it's my obligation to instruct you on the law that you
14 must apply to this case. It's your duty to find the facts
15 from the evidence in this case. And you must then take
16 the law as I give it to you, and apply it to the facts.
17 And you must follow the law as I give it to you.

18 And you should not be concerned with what the law
19 should be, but what the law is. And that means you must
20 not be influenced by any personal likes, or dislikes, or
21 opinions, or prejudice, or undue sympathy. And that means
22 you must decide the case solely on the evidence before you
23 and according to the law. And, you'll recall, you took an
24 oath to do just that when we began this trial yesterday.

25 Now, in following my instructions, you must follow

1 all of them and not single out some and ignore others,
2 because they're all equally important. And you must not
3 read into these instructions or into anything I may have
4 said or done during the course of this trial as any
5 suggestion as to what I think your verdict should be, or
6 what I think the facts are in this case.

7 Because, as I told you at the outset, you are the
8 sole judges of the facts. I can't have an opinion about
9 the facts that I can share with you, or intimate to you in
10 any way. Because you alone are the judges of what the
11 facts are. And just as you would not interfere with my
12 prerogative to tell you what the law is, I'm not going to
13 interfere with your prerogative to tell us what the facts
14 are in this case.

15 Now, how do you determine what the facts are? You do
16 that by evaluating and weighing the evidence you've heard
17 during this trial. There's no way for you to weigh
18 evidence in the literal sense. I can't give you a set of
19 scales to take back in the jury room and weigh the
20 evidence. That, certainly, wouldn't be practical. It is,
21 instead, an entirely mental process.

22 And you weigh and evaluate the evidence by simply
23 using your good common sense, your experiences in life,
24 and your sound judgment. You bring those things to bear
25 on what you've heard during this trial. And after you've

1 done that, you will be able to determine the facts. And
2 when you determine the facts, you take the law that I give
3 you and apply it to those facts and you, ultimately, reach
4 a verdict.

5 Now, ladies and gentlemen, you have to determine the
6 facts from the evidence, as I told you at the beginning.
7 And evidence consists of two sources, sworn witness
8 testimony and exhibits. And I believe we've had both in
9 this case. Anything else is not evidence.

10 What the lawyers say, while very important and while
11 you should give it your upmost consideration, is not
12 evidence. Because the lawyers are not witnesses. So,
13 bear in mind, that what they say is not evidence. And if
14 you remember something differently than the way they
15 recall it, your memory controls. Anything that you may
16 have seen or heard when court is not in session is not
17 evidence and you, certainly, can't consider that in
18 determining what the facts are.

19 Now, in any type of case, there are, also, different
20 types of evidence. And what I'm talking about is direct
21 and circumstantial evidence. And I know you've heard
22 those terms before, but let me define them for you here
23 today.

24 Direct evidence is the testimony of someone who
25 claims to have actual and direct knowledge of a fact, such

1 as an eyewitness. It is evidence that immediately
2 establishes a fact. Circumstantial evidence, on the other
3 hand, is indirect evidence. Or put another way,
4 circumstantial evidence is proof of a chain of facts and
5 circumstances from which you could find another fact
6 exists, even though it has not been proven to you
7 directly.

8 Now, the law makes absolutely no distinction between
9 direct or circumstantial evidence, or between the weight
10 or value to be given to either kind. You're entitled to
11 consider both. Nor is there a greater degree of certainty
12 required of circumstantial evidence. You must consider
13 all the evidence you've heard in this case in light of
14 reason, common sense, and experience. And after weighing
15 the evidence, if you're not convinced of the guilt of the
16 Defendant beyond a reasonable doubt, you must find him not
17 guilty.

18 Now, I told you at the outset that in determining the
19 facts, you would have to determine the credibility or
20 believability of the evidence. So for every witness who
21 testified and every exhibit that has been admitted, you
22 have to determine whether it is worthy of belief. And I
23 gave you some guidelines you can use to do that. I'm not
24 going to repeat them, because I know you heard me the
25 first time.

1 But I will tell you that you may believe everything a
2 witness says. You may believe nothing a witness says on
3 the stand. You may believe parts of a witness' testimony,
4 and disbelieve other parts. You may believe one witness
5 over several, or several over one. You alone are the
6 judges of the facts. And, as part of that obligation and
7 duty, you are the judges of the credibility of the
8 evidence. And I know you will discharge that duty in a
9 sound and logical manner and not arbitrarily.

10 Now, ladies and gentlemen, this is a criminal case.
11 And the mere fact that a person has been arrested, and
12 indicted, and charged is not evidence. The indictment is
13 not a witness. It's not an exhibit. It's not something
14 you can take into account in any manner in determining the
15 facts of the case, or in determining whether Mr. Williams
16 is guilty or not guilty. The indictment is simply the
17 formal way the case begins. And, as I said, it's the way
18 a citizen is notified as to what he is charged with. It
19 is the formal document by which the case is brought into
20 court.

21 Mr. Williams pled not guilty to the indictment. And
22 that plea put the burden of proof on the State. A person
23 charged with committing a crime is never required to prove
24 himself innocent in our state. And I charge you that it
25 is an important rule of law that a Defendant in a criminal

1 trial, no matter what the charge may be, will always be
2 presumed to be innocent of the crime for which the
3 indictment was issued, unless and until guilt has been
4 proven by evidence satisfying you of that guilt beyond a
5 reasonable doubt.

6 Now, the presumption of innocence does not end when
7 you begin your deliberations, but it accompanies the
8 Defendant throughout the trial, unless and until you reach
9 a verdict of guilty based on evidence that satisfies you
10 of that guilt beyond a reasonable doubt. Now, the
11 presumption of innocence is not some legal technicality or
12 empty phrase. It is a substantial right to which every
13 defendant is entitled, unless you, the jury, are satisfied
14 from the evidence of the Defendant's guilt beyond a
15 reasonable doubt.

16 Now, what is a reasonable doubt? Under the law, a
17 reasonable doubt is defined as the kind of doubt that
18 would cause a reasonable, sincere, honest, and
19 conscientious person to hesitate to act in an important
20 matter in their own affairs. Proof beyond a reasonable
21 doubt is proof that leaves you firmly convinced of the
22 Defendant's guilt.

23 Now, the law does not require proof that overcomes
24 every possible doubt. If, based on your view of the
25 evidence, you are firmly convinced that the Defendant is

1 guilty, you must find the Defendant guilty. On the other
2 hand, if you think there is a real possibility that the
3 Defendant is not guilty, you must give the Defendant the
4 benefit of that doubt and find him not guilty.

5 A reasonable doubt may arise from the evidence or
6 from a lack of evidence. And I further tell you that a
7 defendant is entitled to every reasonable doubt that may
8 arise in a case. And what that means is simply this, if
9 upon any issue of fact that is essential to a conviction
10 and a verdict of guilty, you have a reasonable doubt as to
11 how that fact or issue should be resolved, it is your duty
12 to resolve that doubt in favor of Mr. Williams.

13 Now, a statement that is alleged to have been made by
14 Mr. Williams has been admitted into evidence in this case.
15 And while the Court has determined that the statement is
16 admissible, I instruct you that you make the ultimate
17 decision as to whether the Defendant made the statement.
18 If the Defendant did make the statement, you must
19 determine whether it was made by him voluntarily and of
20 his own free will. That means the statement was not
21 caused by pressure, force, fear, threats, coercion, or
22 intimidation, or by hope or promise of leniency or reward
23 of any kind.

24 In determining whether a statement was voluntary, you
25 should consider both the characteristics of the Defendant

1 and details of the questioning. Some of the factors you
2 may consider are the age of the Defendant, his education,
3 or lack of education, his mental ability or capacity, his
4 intelligence, his background and environment, the place
5 and length of detention, the nature of the questioning,
6 the advice or lack thereof of his Constitutional rights,
7 including but not limited to the right to remain silent
8 that any statement could be used against him in a court of
9 law, the right to have a lawyer present, and if he could
10 not afford one, a lawyer would be appointed to represent
11 him without charge, and that he could stop making the
12 statement at any time. You must carefully consider all
13 the surrounding circumstances before you give any weight
14 to an alleged statement made by the Defendant.

15 The State bears the burden of proving beyond a
16 reasonable doubt that the alleged statement was voluntary.
17 If you determine it was, you may give it any further
18 consideration you deem proper. You must decide what
19 weight, if any, should be given to the alleged statement.
20 If you determine it was not the free and voluntary
21 statement of the Defendant, you should not consider the
22 statement at all.

23 Now, the mere fact that a defendant does not testify
24 is not something you may consider in any way in
25 determining the verdict in this case. Everyone has a

1 Constitutional right to remain silent. And if you claim
2 that right, it cannot be held against you in any manner.
3 A defendant has a Constitutional right to remain silent.
4 And the assertion of this right must not be considered by
5 you in your deliberations.

6 So, under your oath, you're to draw no conclusion
7 whatsoever from the fact that Mr. Williams in this case
8 did not testify. That fact should not even be discussed
9 in the jury room, or brought up in any manner directly or
10 indirectly. The burden of proof, as I've said, is on the
11 State. And Mr. Williams has no burden to prove himself
12 innocent or not guilty, or to offer any evidence or
13 explanation whatsoever.

14 Now, ladies and gentlemen, the Defendant, Jared Lee
15 Williams, is charged with armed robbery. In order to
16 prove this offense, the State must, first, prove beyond a
17 reasonable doubt that Mr. Williams took personal property
18 from the person or presence of another. Property is in
19 the presence of a person if it is within the person's
20 reach, inspection, observation, or control so that the
21 person could, if not overcome with violence or prevented
22 by fear, keep possession of the property.

23 The State must, also, prove beyond a reasonable doubt
24 that the Defendant carried the property away intending to
25 permanently deprive the owner of the property, and to keep.

1 the property for the Defendant's own use.

2 Finally, the State must prove beyond a reasonable
3 doubt that the Defendant was armed with a deadly weapon
4 during the robbery or while alleging, either by actions or
5 words, that he was armed while using the representation of
6 a deadly weapon or any object which a person present
7 during the commission of the robbery reasonably believed
8 to be a deadly weapon.

9 A deadly weapon is any article, instrument, or
10 substance that is likely to cause death or great bodily
11 harm. Whether an instrument has been used as a deadly
12 weapon depends on the facts and circumstances of each
13 case. The following are examples, and examples only, of
14 instruments that may be deadly weapons: A pistol, a
15 shotgun, a rifle, a dirk, a dagger, a knife, a slingshot,
16 metal knuckles, a razor, gasoline, a fire bomb, a Molotov
17 cocktail and lighter fluid.

18 A gun may be a deadly weapon even if it is not
19 operating. Ordinary objects may become deadly weapons
20 when the facts show they have been used to inflict serious
21 bodily harm or death. Whether a toy gun, or BB gun, which
22 has the appearance of and/or is believed to be a real gun,
23 is a deadly weapon, is a factual question for you to
24 determine.

25 Now, in order to establish criminal liability,

1 criminal intent is required to be proven by the State
2 beyond a reasonable doubt. Criminal intent is always a
3 matter that must be determined by you, the jury, from the
4 circumstances surrounding the situation. There's no way
5 to prove intent to a mathematical certainty. We can't
6 dissect someone's brain and determine what they had in
7 mind at a particular moment in time.

8 So the law says that criminal intent may be inferred
9 from the circumstances. It is not necessary to establish
10 intent by direct and positive evidence, but it may be
11 established by inference in the same way as any other fact
12 by taking into consideration the acts of the parties, and
13 all the facts and circumstances. Criminal intent is a
14 mental state of conscious wrongdoing. It's up to you to
15 determine what the Defendant intended to do based on the
16 circumstances shown to have existed.

17 Now, the State has the burden of proving identity
18 beyond a reasonable doubt. You must be satisfied beyond a
19 reasonable doubt of the accuracy of the identification of
20 the Defendant before you may convict him. Identification
21 testimony is an expression of belief or impression by a
22 witness. You must determine the accuracy of the
23 identification. You must consider the believability of
24 each identification witness in the same way as any other
25 witness. You must consider whether the witness had an

1 adequate opportunity to observe the offender at the time
2 of the offense. You may consider how long or short a time
3 was available, how far or close the witness was, the
4 lighting conditions, and whether the witness had the
5 chance to see or know the person in the past.

6 Once again, I instruct you that the burden of proof
7 on the State extends to every element of the crime
8 charged. And this includes the burden of proving beyond a
9 reasonable doubt the identity of the Defendant as the
10 person who committed the crime.

11 Now, ladies and gentlemen, you don't serve as jurors
12 to be partisans or advocates for either side. You were
13 chosen because both sides believed you could be fair and
14 impartial, and you could decide this case without any kind
15 of bias or prejudice. You are not partisans or advocates.
16 You're judges, judges of the facts. And your sole
17 interest in this case is to determine what the facts are,
18 to take the law I've just given to you and apply it to
19 those facts, and, ultimately, reach a verdict.

20 If you looked up the word "jury" in the dictionary,
21 you would see it came from an old French word that means a
22 company of people sworn to render a true answer. And you,
23 also, have the obligation and duty to determine whether
24 the State has met its burden of proof in this case. So if
25 you went to that same dictionary and looked up the word

1 "deliberation," you would see it is defined as a weighing
2 up with a view to a decision. Now, I've already talked to
3 you about this idea of weighing and evaluating the
4 evidence.

5 Now, I've prepared a verdict form in this case,
6 Mr. Foreman. And it's very straightforward. It just asks
7 as to the charge of armed robbery, whether you, the jury,
8 unanimously find Mr. Williams guilty or not guilty. Don't
9 place any significance as to which option I put first. I
10 have to put one first, and that doesn't mean anything
11 whatsoever. And, of course, you're only authorized to
12 sign the form when the verdict is unanimous.

13 Now, you each have a vote in this case. And your
14 vote is exactly that, it's your vote and no one else's.
15 Don't be afraid to change your mind if the discussion
16 amongst your peers convinces you that you should, but
17 don't surrender an honestly and consciously held belief
18 simply to get the case over with, or to reach a unanimous
19 verdict. Because, obviously, this case is very important
20 both to Mr. Williams and the State. And they've waited a
21 long time to get to this point.

22 The record is closed. There's not going to be any
23 more witnesses. There's not going to be any more
24 exhibits. So if you don't have something back there with
25 you, I can't give it to you in the form of an exhibit.

1 I appreciate your attention to me. I want to tell
2 you, don't talk about the case until you get the exhibits.
3 That will be the signal you can start deliberations.

4 And, ma'am, you're the alternate. If you'll just
5 stay seated. You can't go in the jury room with the
6 regular jurors at this time.

7 So thank you for your attention. And you may return
8 to the jury room.

9 (WHEREUPON, the jury was excused from open court at
10 approximately 3:36 p.m.)

11 THE COURT: Any objections or --

12 MR. MOYER: Nothing from the State.

13 MR. HARBIN: No, sir.

14 THE COURT: Okay. If you all will just confer about
15 the exhibits, and make sure everything is in order and
16 nothing extraneous is involved, the bailiffs can take them
17 back.

18 (WHEREUPON, the proceedings were recessed at
19 approximately 3:37 p.m.)

20 THE COURT: Okay. Anything before the jury is
21 brought in?

22 I understand we have a verdict.

23 MR. MOYER: Nothing from the State.

24 MR. HARBIN: No, sir.

25 THE COURT: Okay. Thank you.

1 Bring the jury in.

2 (WHEREUPON, the jury came into open court at
3 approximately 4:37 p.m.)

4 THE COURT: Mr. Foreman, has the jury reached a
5 unanimous verdict?

6 JUROR #5, JAMES AVERY: We have.

7 THE COURT: Thank you.

8 If you'll just hand the verdict to Mr. Jenkinson,
9 we'll receive it and publish it.

10 Okay. Yes, ma'am.

11 VERDICT

12 THE CLERK: Your Honor, this is indictment
13 2009-GS-23-10022, the State v. Jared Lee Williams,
14 Defendant. As to the charge of armed robbery, we, the
15 jury, unanimously find the Defendant, Jared Lee Williams,
16 guilty, signed by the Foreman, James Avery.

17 If this is your verdict, so say you all.

18 (WHEREUPON, all jurors indicated in the affirmative.)

19 THE CLERK: Thank you.

20 THE COURT: All right. Any matters or motions before
21 the jury is discharged from the State?

22 MR. MOYER: No, Your Honor.

23 THE COURT: From the Defense?

24 MR. HARBIN: No, sir.

25 THE COURT: Okay. Ladies and gentlemen, thank you

1 for your service.

2 We may have a trial tomorrow. But I've been informed
3 that you don't have to come back tomorrow, because you
4 served on this jury. So we appreciate that. And I know
5 it's not easy to sit there and listen to evidence and to
6 sit in judgment. But I know that if you ever found
7 yourself at one of these tables or a family member found
8 themselves at one of the tables, and I hope you never do,
9 but the last thing you would want to see is if you looked
10 in the jury box at 12 people who didn't have anything
11 better to do.

12 And I know you have a lot of things you could be
13 doing with your jobs, and families, and other aspects of
14 your life. We understand the sacrifice you have to make
15 to come up here and to sometimes sit without knowing
16 what's going on back in the jury room. And I know this
17 trial was a little bit chopped up because of a scheduling
18 conflict. And, for that, I apologize. But I do thank you
19 for your service.

20 You've earned a three-year exemption in Circuit
21 Court. I can't do anything about federal court, or city
22 court, or magistrate court. But in circuit court, you
23 have a three-year exemption. And you're discharged for
24 the week.

25 We will have a sentencing proceeding. If you want to

1 watch that, you're welcome to. The bailiff can show you
2 how to get around the back and come in on that side, if
3 you wish to observe that. But you're, certainly, not
4 required to do.

5 So thank you very much.

6 THE CLERK: Do you need the Foreperson to sign this?

7 THE COURT: Yes.

8 Mr. Avery, she's going to have you sign the
9 indictment here.

10 (WHEREUPON, the jury was excused from open court at
11 4:40 p.m.)

12 THE COURT: Is the State ready for the sentencing?

13 MR. MOYER: Yes.

14 THE COURT: Yes, sir, you may proceed, Mr. Moyer.

15 MR. MOYER: Thank you, Your Honor.

16 May it please the Court.

17 Do you care to hear about the Defendant's record?

18 THE COURT: Yes.

19 MR. MOYER: Okay. The Defendant was convicted in
20 2004 in the State of Hawaii for manslaughter, possession,
21 use, or threat to use a firearm in the commission of a
22 felony, burglary in the first degree, theft in the first
23 degree, promoting a detrimental drug, unlawful use of drug
24 paraphernalia.

25 He was sentenced to -- sentences of eight, five and

1 four years to be served concurrently. And I know he got
2 credit for time served. He had been in jail for a little
3 while, I think, before he pled guilty. But that was in
4 2004.

5 THE COURT: Okay.

6 MR. MOYER: I believe several of the victims would
7 like to address the Court -- at least, one of the victims,
8 if Your Honor --

9 THE COURT: Certainly.

10 Okay. Ma'am, if you'll just state your name for the
11 record. I know you testified earlier in the trial, but if
12 you'll just -- I believe, Ms. Pennington?

13 MS. RACHEL PENNINGTON: Yes, sir.

14 My name is Rachel Pennington.

15 THE COURT: Go ahead.

16 MS. RACHEL PENNINGTON: Thank you for hearing me this
17 afternoon.

18 Mr. Williams put a gun in my face. And that is
19 something that I will never forget. The fear that I still
20 feel today, just being able to see him and look at him. I
21 feel sorry for him. I do. Because I hope that he spends
22 the rest of his life in jail for what he's done to me, and
23 done to other people, and to my family. A lot of my
24 family was not there, just my husband and myself. But he
25 has affected everyone, and I mean everyone. I don't like

1 to go in gas stations anymore. My husband and I, it's put
2 a strain on our marriage, on our relationship with me and
3 my family. I trust no one, and it's all because of what
4 he's done. I've been in therapy just to be around other
5 people.

6 I know that this is hard for him. And I know it's
7 hard for his family. And I feel sorry for his family, I
8 do, for the choices that he's made. I know there's a lot
9 more that I want to say and need to say, but I'll --

10 THE COURT: Take your time, ma'am.

11 MS. RACHEL PENNINGTON: I just don't know why.

12 I want to know why you did it. I mean, why did you
13 do it to the store that I was in? Why did you do what you
14 did before?

15 I mean, everybody has a choice to make in life. And
16 I would never -- there's nothing that would ever happen to
17 me in my life that would make me choose to do something
18 like that to somebody else. I mean, I've had plenty of
19 heartaches in my life. But never once have I thought
20 about taking it out on somebody else, never once. It's
21 just not right.

22 And for \$68, what you have done to me and my family,
23 you've taken food out of our mouths. Because I refused to
24 let my husband go back to that job. That was our home
25 business. That was a family business. And I'm terrified

1 of it. There's no way -- I mean, I would live on the
2 streets before my husband does anything like that again,
3 ever.

4 Thank you.

5 THE COURT: Thank you, Ms. Pennington.

6 MR. MOYER: Ms. Fox does not wish to address the
7 Court.

8 THE COURT: All right. Yes, sir, Mr. Harbin.

9 MR. HARBIN: Thank you, Judge.

10 May it please the Court.

11 It's hard to know what to say at a time like this.
12 I'll do my best to describe what I know of my client
13 through our relationship. And he's been someone that is
14 mild mannered. He listens. He has been respectful to me.
15 And I say that because not all the time do I give, you
16 know, kind of bad news to clients and say it doesn't look
17 good or whatever, and they remain calm and keep that
18 respect.

19 Judge, I believe that he, under different
20 circumstances, may have pled guilty to this. He -- as a
21 defense attorney, I am careful to only ask him certain
22 questions and allow him to proceed to trial if he wishes
23 to proceed to trial. But I think what really got him in
24 this position or led him to this decision to go to trial,
25 Judge, is that Mr. Moyer had an offer originally of 18

1 years that was due I believe -- and you can ask
2 Mr. Moyer -- due in large part to his previous record.
3 And I would like to address that really quickly.

4 He apparently had broken into -- with some other
5 folks, he had broken into a home in Hawaii. They stole
6 the guns and were playing with the guns, for lack of a
7 better term. They were playing with the guns they had
8 gotten from that burglary. And it went off and someone
9 was shot and killed. And he had to plead guilty to those
10 acts. That's what that Hawaii record is.

11 Judge, I don't know a whole lot else to say. He's --
12 from what I know of him -- and it's, obviously, under
13 strange circumstances, he is capable of being a very nice
14 person. Obviously, he's made some poor decisions. But I
15 believe he does have the ability, if he choose to take
16 advantage of it, of being a -- he's a smart fellow. He's
17 nice. He's communicative. And if he decides to take
18 advantage of what opportunities he's going to have in
19 SCDC, get an education, whatever, I believe he can make
20 something of himself when he gets out.

21 Judge, I would ask you to consider -- I'm not sure.
22 Would you like to speak to the Judge?

23 DEFENDANT WILLIAMS: (Defendant Williams nodded.)

24 MR. HARBIN: I would like for you to maybe take a
25 listen to what he's got to say, and consider not

1 sentencing him to the maximum.

2 THE COURT: Yes, sir, Mr. Williams.

3 DEFENDANT WILLIAMS: I've done a lot of things in my
4 past that I'm not proud of. I've chosen a lot of wrong
5 paths and made a lot of bad decisions.

6 My condolences go out to the victims families. I
7 wish I could erase the past, but I can't. I can just move
8 forward from this day. I just felt so much pain at one
9 point that I just didn't know how to address myself. And
10 that's no excuse. But, like I told my attorney, I said,
11 you know, this is God's will, whatever happens happens. I
12 accept full responsibility. And, again, I just apologize
13 to everyone.

14 THE COURT: Thank you, sir.

15 How long has he been in jail since?

16 MR. MOYER: He's been in jail exactly a year.

17 THE COURT: All right. Well, these are the types of
18 crimes that strike at the heart of the community. There's
19 just not much choice on stuff like this.

20 SENTENCE

21 THE COURT: So the sentence is that you be committed
22 to the Department of Corrections for a period of 30 years.
23 Credit for time served.

24 Thank you.

25 *****END OF TRANSCRIPT OF RECORD*****

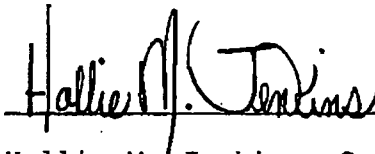
CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

I, HOLLIE JENKINS, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville County, South Carolina, on the 7th and 8th days of September, 2010.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 1, 2012

A handwritten signature in cursive script, reading "Hollie M. Jenkins", is written over a horizontal line.

Hollie M. Jenkins, Court Reporter

My Commission Expires: 09/24/20

FORM 5

STATE OF SOUTH CAROLINA)

County of GREENVILLE)

IN THE COURT OF COMMON PLEAS

JARED LEE WILLIAMS-342691)

Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

APPLICATION FOR

POST-CONVICTION RELIEF

2011-CP-23- 05583

INSTRUCTIONS B READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Greenville County Detention Center
2. Name and location of Court which imposed sentence Greenville County (13th Circuit)
Court of General Sessions/305 E. North St. Greenville SC 29601
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) Warrant No. M-380513 Armed Robbery

- (b) _____
- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Sept. 8, 2010 . 30 years received
- (b) _____
- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
I informed my attorney at the time of sentence but he failed to do so.
8. If you answered Ayes@ to (7), list:
- (a) the name of each Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. _____
- ii. _____
- iii. _____
9. If you answered Ano@ to (7), state your reasons for not so appealing:
- (a) Again, I told my attorney to file for direct appeal after the trial but he didn't follow through with it. A clear violation of my constitutional rights.

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Ineffective assistance of trial counsel
- (b) see attached sheet
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) see attached sheet
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? No
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? No
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? No
- (d) any other petitions, motions or applications in this or any other Court? No
13. If you answered Ayes@ to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. _____
- ii. N/A
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. N/A
- iii. _____

iv. _____

(c) the disposition thereof:

i. _____

ii. N/A

iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. N/A

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. N/A

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. N/A

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. N/A

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) _____
 (b) N/A
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? yes
 (b) your trial, if any? yes
 (c) your sentencing? yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? N/A
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? N/A

18. If you answered Ayes@ to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Chase Harbin - 419 Vardry St. Greenville, SC
29601

ii. _____
 iii. _____

(b) the proceedings at which each such attorney represented you:

i. Bond reduction hearing

ii. Trial proceedings

iii. _____

19. State clearly the relief you seek in filing this application:

I am seeking that my sentence be vacated,
remanded or reduced to a shorter prison
term.

20. Are you now under sentence from any other court that you have not challenged?

No

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of _____)

VERIFICATION

I, J, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

SWORN to and subscribed before me this _____
 day of _____.

_____, (L.S.)
Notary Public

My Commission Expires: _____

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, _____, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Applicant

SWORN or affirmed to and subscribed before me this
_____ day of _____.

Notary Public

My Commission Expires: _____

JARED WILLIAMS-342691
L C I - AB-28
P.O. Box 205
Ridgerville, SC 29472

2011-CP-23-05583

LEGAL
MAIL

Paul B. Wickersimer
Greenville County Clerk of Court
305 East North St.
Greenville, SC 29601

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2011-CP-23-5583
COUNTY OF GREENVILLE	)	
	)	
Jared Lee Williams,	)	
S.C.D.C. No. 342691,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed August 18, 2011, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Applicant was indicted at the April 2010 term of the Pickens County Grand Jury for armed robbery (2009-GS-23-10022, count 1) and possession of a weapon during the commission of a violent crime (2009-GS-23-10022, count 2). H. Chase Harbin, Esquire represented the Applicant.

After the State called the case to trial on the armed robbery indictment, the Applicant was found guilty.¹ On September 8, 2010, the Honorable D. Garrison Hill sentenced the Applicant to thirty (30) years imprisonment. The Applicant did not appeal.

Attached herewith and incorporated herein by reference are the records of the Greenville

¹ The indictment for possession of a weapon during commission of a violent crime was subsequently not prossed.

County Clerk of Court regarding the subject conviction and the Applicant's records from the South Carolina Department of Corrections. The trial transcript will be forwarded upon receipt.

II.

In his application for post-conviction relief the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel.

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a criminal defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel "rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment." Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under prevailing professional norms." Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held and counsel appointed to represent the Applicant.

Respectfully submitted,

ALAN WILSON
Attorney General

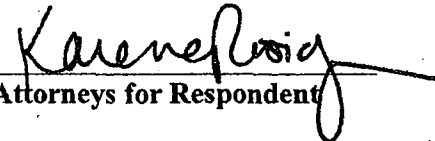
JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Assistant Deputy Attorney General

KAREN C. RATIGAN
Assistant Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

December 30, 2011

STATE OF SOUTH CAROLINA)

COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS

2011-CP-23-5583

JARED LEE WILLIAMS, 342691)

Applicant,)

vs)

AFFIDAVIT OF SERVICE BY MAIL

STATE OF SOUTH CAROLINA,)

Respondent.)
_____)

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Jared Lee Williams, 342691
Lieber Correctional Institution
Post Office Box 205
Ridgeville SC 29472**

DATED this 30th day of December, 2011.


Judy A. Carey, Legal Assistant
For Respondent

IN THE COURT OF COMMON PLEAS

)

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1

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)

1

KAREN RATIGAN, ESQUIRE
ATTORNEY FOR THE DEFENDANT

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EXHIBITS

(NONE)

1 April 16, 2013

2 (WHEREUPON, court convened with all parties present and
3 the following proceedings were had.)

4 THE COURT: Ms. Ratigan.

5 MS. RATIGAN: Thank you, Your Honor. May it
6 please the Court. This is the case of Jarod Lee Williams
7 versus the State, docket number 2011-CP-23-5583. Mr.
8 Williams was indicted for armed robbery, possession of a
9 weapon during the commission of a violent crime. He was
10 represented by Mr. Harbin. The armed robbery indictment was
11 brought to trial in September 2010, on September 8th of
12 2010. The jury found Mr. Williams guilty of that armed
13 robbery charge. Judge Hill sentenced him to thirty years.
14 He did not file an appeal. I do have a note that the
15 weapons charge was subsequently nol prossed. The State is
16 ready to proceed; however, I've been advised that Mr.
17 Williams wishes to withdraw. I would ask the Court to
18 please question him about that.

19 THE COURT: Mr. Richey, you represent Mr. Williams
20 in this matter?

21 MR. RICHEY: Yes, sir, I do.

22 THE COURT: Have you discussed this withdrawal
23 motion with him?

24 MR. RICHEY: Yes, sir, I have.

25 THE COURT: And do you believe he understands the

1 consequences of that withdrawal?

2 MR. RICHEY: Yes, sir.

3 THE COURT: Okay. Do you believe that his
4 decision to seek a withdrawal of the petition is voluntarily
5 made by him and intelligently made by him?

6 MR. RICHEY: Yes, sir.

7 THE COURT: Mr. Williams?

8 MR. WILLIAMS: Yes, Your Honor.

9 THE COURT: If you would, please, raise your right
10 hand as best you can.

11 (WHEREUPON, Mr. Williams raised his right hand.)

12 THE COURT: Do you swear or affirm the testimony
13 you're about to give me will be the truth, the whole truth,
14 and nothing but the truth so help you God?

15 MR. WILLIAMS: Yes, Your Honor.

16 THE COURT: Your lawyer has indicated that you
17 wish to make a motion to dismiss your application; is that
18 true?

19 MR. WILLIAMS: Well, yes, Your Honor. I was under
20 the impression that what I was seeking, a reduction would
21 basically be, you know, non-existent. So that kind of
22 furthered my decision in withdrawing.

23 THE COURT: Well, in other words, it's your
24 understanding that I can't -- in this hearing I can't reduce
25 your sentence; is that what you're saying?

1 MR. WILLIAMS: Yes, Your Honor.

2 THE COURT: Yeah. The PCR Application would not
3 allow me to adjust the sentence in anyway. So do you
4 understand, Mr. Williams, that if you withdraw your
5 application, that will mean that this case is dismissed and
6 you can't file another PCR application. Do you understand
7 that?

8 MR. WILLIAMS: Yes, sir. Yes, Your Honor.

9 THE COURT: Now, you've been represented by Mr.
10 Richey in this action. Are you satisfied with his
11 representation?

12 MR. WILLIAMS: No, Your Honor.

13 THE COURT: All right. Is there more information
14 you need to get from him that you haven't been able to get?

15 MR. WILLIAMS: Well, I did have a few questions as
16 to why my direct appeal was not filed when I did inform my
17 previous lawyer of that action. And, basically, I can no
18 longer file for a direct appeal, basically meaning -- or
19 since I didn't do it in the time required.

20 THE COURT: Well, do you understand you can pursue
21 that issue under this ---

22 MR. WILLIAMS: I wasn't aware of that, Your Honor.

23 THE COURT: All right. Well, we can have a trial
24 on this then about that issue, as well.

25 All right. Okay. Let's call your first witness,

Jared Williams -vs- State of South Carolina (2011-CP-23-5583)
PCR hearing

6

1 Mr. Richey.

2 MR. RICHEY: I call Mr. Williams.

3 THE COURT: All right. Let me remind you, you're
4 still under oath, Mr. Williams. He's already -- you're
5 under oath. I've sworn you in. If you'll just have a seat,
6 please, sir.

7 JAROD WILLIAMS,

8 BEING PREVIOUSLY DULY SWORN, TESTIFIED AS FOLLOWS:

9 DIRECT EXAMINATION

10 BY MR. RICHEY:

11 Q. Sir, would you state your name, please?

12 A. Jarod Lee Williams.

13 Q. And Mr. Williams are you currently incarcerated in the
14 Department of Corrections?

15 A. Yes, sir.

16 Q. And what are you incarcerated for?

17 A. Armed robbery, sir.

18 Q. Who represented you on those charges?

19 A. Chase Harbin.

20 Q. And did he represent you in Greenville County?

21 A. Yes, sir.

22 Q. Did you have a trial or did you plead guilty?

23 A. I had a trial.

24 Q. And at the end of the trial, did you -- and you were
25 found guilty by a jury; correct?

1 A. Yes, sir.

2 Q. And at the end of that conviction, was your intentions
3 to file an appeal?

4 A. Yes, sir.

5 Q. Did you talk to your attorney about filing an appeal?

6 A. Yes, sir.

7 Q. And where was these conversations at?

8 A. He told me that he was going to look for something to
9 try and, I guess, get me back into court or to file for an
10 appeal.

11 Q. Where were you physically located when you had this
12 conversation with your attorney?

13 A. Right in front of the bench, sir.

14 Q. Okay. So after you got convicted and got sentenced,
15 you told him to file an appeal?

16 A. Immediately. I wanted to get back in court.

17 Q. And what was his response to that?

18 A. Like I said, he said he would try to, I guess, find
19 something to try to get me back into court, you know, to try
20 appeal the decision.

21 Q. Did you contact him at any point about -- after about
22 the appeal?

23 A. Yes, sir.

24 Q. And when was that?

25 A. I believe it was -- I don't know. Approximately I

Jared Williams -vs- State of South Carolina (2011-CP-23-5583)
PCR hearing

8

1 believe it was maybe a couple of months after I was
2 sentenced.

3 Q. And can you tell me what -- the discussion of the
4 appeal, did that happen right here in the courtroom?

5 A. The initial discussion?

6 Q. Yeah, the initial discussion, that was in the
7 courtroom?

8 A. Yes, sir.

9 Q. Okay. Was there a subsequent discussion?

10 A. Well, after I sent correspondence, written
11 correspondence to his office, basically asking why I wasn't
12 -- why my direct appeal wasn't filed?

13 Q. Okay. And did you get a response from him?

14 A. Yes, I did.

15 Q. And what was that?

16 A. To the nature of didn't file -- I have the paperwork
17 still, but to be honest I don't know it by heart.

18 Q. Okay. And in this application you wanted to try to get
19 your sentenced reduced; is that correct?

20 A. Yes, sir.

21 Q. And you understand that the Court can't reduce your
22 sentence in this hearing?

23 A. I'm aware of that now, sir.

24 Q. Okay. And so it is your position that you're asking
25 this Court to give you a belated or late appeal?

1 A. Yes, sir.

2 Q. Okay. Thank you. Answer any questions Ms. Ratigan has
3 for you.

4 MS. RATIGAN: I have no questions for Mr.
5 Williams, Your Honor.

6 THE COURT: All right. Thank you, sir. You may
7 step down.

8 MR. RICHEY: I call Mr. Harbin.

9 THE CLERK: Mr. Harbin, let me swear you in,
10 please. Place your left hand on the bible and raise your
11 right hand.

12 You do solemnly swear or affirm that the testimony
13 you're about to give in this case will be the truth, the
14 whole truth and nothing but the truth, so help you God?

15 MR. HARBIN: Yes, ma'am.

16 THE CLERK: Thank you. You may be seated. Please
17 state your full name for the record.

18 MR. HARBIN: Hunter Chase Harbin.

19 HUNTER CHASE HARBIN,

20 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

21 DIRECT EXAMINATION

22 BY MR. RICHEY:

23 Q. Mr. Harbin, you understand we're here doing a PCR for
24 Mr. Williams?

25 A. Yes, sir.

Jared Williams -vs- State of South Carolina (2011-CP-23-5583)
PCR hearing

10

1 Q. And we have what's been crafted on one issue here about
2 this appeal. Do you recall talking to him about an appeal?

3 A. I don't recall that he ever asked to have an appeal. I
4 do recall that, like you said, right around the bench I
5 said, you know, we can file an appeal if we want to. And I
6 specifically remember Mr. Williams, not necessary remember
7 that moment, not necessarily verbatim, but I was surprised,
8 number one, that he wanted to go to trial. Also surprised
9 that he didn't want me to appeal. And it was always
10 related, in my memory at least, to his kind of resignation
11 to whatever happened, happened. And so when he didn't
12 appeal, although I was surprised that somebody in his
13 position didn't want to appeal, I guess it was kind of
14 consistent with his whole approach to this case. Because
15 he'd always been very, very kind of ho-hum about, okay,
16 we're going to go to trial and not take any kind of plea.
17 So I recall that specifically and kind of, you know, exactly
18 that he didn't want to.

19 Q. Do you recall any correspondence that you received from
20 him regarding an appeal?

21 A. I do not. I do not. I don't know that he -- you know,
22 maybe he did call the office or something. I don't recall
23 anything.

24 Q. But your recollection is at the time of the conviction,
25 he told you he did not want to appeal or was he indifferent

1 to it?

2 A. Well, he didn't say, I do not want to appeal. We had
3 spoken before about, you know, if he gets convicted we can
4 appeal. I did share with him that I don't know whether or
5 not there's actually any issue that, you know, that I
6 thought would be successful. And that may be what he was
7 referencing earlier. But after the plea, I remember him
8 just being kind of calm, like he just -- he was okay with
9 what happened. It was kind of strange.

10 Q. So he had a trial, the jury convicted him, he got
11 sentenced, and then after the sentencing is when you're
12 saying he was nonchalant about pleading?

13 A. Well, just right there in front of the bench. I don't
14 recall whether -- sometimes I have time to go downstairs and
15 meet with them, just to, you know, just to say, sorry it
16 went the way it did. And I don't recall going downstairs
17 with him. I recall just a very, very casual conversation
18 right here. And I'm not sure if it happened, you know,
19 right on the other side of the door or right at the bench
20 there.

21 Q. Could it -- is it possible to happen up here like Mr.
22 Williams said; is that possible?

23 A. Yeah. I don't recall. I don't think it was something
24 that was on the record, but I think it might have been in
25 this room or, you know, as we're walking that way or

1 something.

2 Q. Thank you.

3 THE COURT: You may cross-examine.

4 MS. RATIGAN: Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MS. RATIGAN:

7 Q. So would you have discussed the right to appeal prior
8 to the trial?

9 A. Yes. Yeah. But basically, that is a worst case
10 scenario discussion, you know, this is what you could be
11 sentenced to. And, you know, if you wish to appeal after
12 you find out what the verdict is, then you can instruct me
13 to do so.

14 Q. Okay. So you discussed it before the trial. Did you
15 discuss it again after the trial or was it just kind of a
16 more general ---

17 A. Well, to be as specific as I can be, it wasn't like an
18 in-depth discussion. I looked at him and I said, I don't
19 know what we can appeal. And don't quote me, but this is
20 essentially what I said. I'm not sure if there is anything
21 we can appeal, but we can if you want to. He just kind of
22 shrugged his shoulders or shook his head. I don't remember,
23 but it was kind of a non-verbal thing. And then he got
24 taken off.

25 Q. If Mr. Williams had asked you to file an appeal, would

1 you have done so?

2 A. Yes, ma'am.

3 MS. RATIGAN: That's all I have, Your Honor.

4 THE COURT: Any redirect?

5 MR. RICHEY: None.

6 THE COURT: Thank you, Mr. Harbin. You may step
7 down.

8 MR. HARBIN: Thank you, Judge.

9 THE COURT: Anything else?

10 MR. RICHEY: No, sir.

11 THE COURT: Anything from the Defense?

12 MS. RATIGAN: No, Your Honor.

13 THE COURT: I think based on what I've heard here,
14 I think this is a proper case for a belated appeal. I will
15 grant that relief to Mr. Williams for a belated appeal.

16 MS. RATIGAN: Thank you, Your Honor.

17 MR. RICHEY: Thank you, Your Honor.

18 THE COURT: If you would prepare me an order,
19 please.

20

21 [END OF REQUESTED TRANSCRIPT OF RECORD]

CERTIFICATE OF REPORTER

I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 16th day of April, 2013.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

July 20, 2013

A handwritten signature in cursive script, reading "Susan Danette Hanks", is written over a horizontal line.

Circuit Court Reporter

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE)

C.A. No. 2011-CP-23-5583

Jared Lee Williams,
S.C.D.C. No. 342691,

Applicant,

v.

State of South Carolina,

Respondent.

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL G. WICKHAM
2013 MAY -3 PM 4:35

**ORDER OF DISMISSAL
GRANTING WHITE V. STATE
BELATED APPEAL**

This matter comes before the Court by way of an application for post-conviction relief (PCR) filed August 18, 2011. The Respondent made its return on December 30, 2011. An evidentiary hearing into the matter was convened on April 16, 2013 at the Greenville County Courthouse. The Applicant was present at the hearing and represented by Rodney W. Richey, Esquire. Karen C. Ratigan, Esquire of the South Carolina Office of the Attorney General represented the Respondent.

The Applicant testified on his own behalf at the PCR hearing. Also testifying was the Applicant's trial counsel, H. Chase Harbin, Esquire. The Court had before it a copy of the trial transcript, the records of the Greenville County Clerk of Court, the Applicant's records from the South Carolina Department of Corrections, the PCR application, and the return.

PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment from the Greenville County Clerk of Court. The Applicant was indicted at the April 2010 term of the Pickens County Grand Jury for armed robbery (2009-

GS-23-10022, count 1) and possession of a weapon during the commission of a violent crime (2009-GS-23-10022, count 2). H. Chase Harbin, Esquire represented the Applicant.

After the State called the case to trial on the armed robbery indictment, the Applicant was found guilty.¹ On September 8, 2010, the Honorable D. Garrison Hill sentenced the Applicant to thirty (30) years imprisonment. The Applicant did not appeal.

ALLEGATIONS

In his application, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel.

At the PCR hearing, the Applicant proceeded solely on the allegation that trial counsel did not file a notice of appeal.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record and has heard the testimony and arguments presented at the PCR hearing. This Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. This Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80 (2003).

Belated appeal

The Applicant stated he spoke to trial counsel in the courtroom on the day he was sentenced and asked for an appeal. The Applicant stated trial counsel told him that he would "look for something" to get him back into court or would file an appeal.

¹ The indictment for possession of a weapon during commission of a violent crime was subsequently not prossed.



Trial counsel testified he advised the Applicant prior to trial of the right to an appeal.

Trial counsel testified he also told the Applicant in the courtroom that day that he could file an appeal and was surprised when the Applicant indicated he did not want to appeal. Trial counsel testified he would have filed an appeal if asked to do so.

This Court finds the Applicant's allegation that he was denied a direct appeal is meritorious. Trial counsel must ensure that a criminal defendant is made fully aware of his appeal rights. White v. State, 263 S.C. 110, 118, 208 S.E.2d 35, 39 (1974). In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure required by Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967). Id. Where the post-conviction relief judge determines that the applicant did not freely and voluntarily waive their appellate rights, the applicant may petition the South Carolina Supreme Court for review of direct appeal issues pursuant to White v. State. See Rule 243(i)(1), SCACR; Davis v. State, 288 S.C. 290, 291, n.1, 342 S.E.2d 60, 60, n.1 (1986) ("Even where the post-conviction relief judge makes this finding, he may not grant relief on this basis. Instead, the applicant must petition this Court for a White v. State review.").

This Court finds the Applicant did not knowingly and voluntarily waive his right to a direct appeal. The Court concludes the Applicant is entitled to a belated review of his conviction. The Applicant's lack of a direct appeal can be remedied by a petition for belated review pursuant to White v. State.

All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to

3
[Signature]

present any evidence regarding such allegations. Accordingly, this Court finds the Applicant waived such allegations and failed to meet his burden of proof regarding them. Therefore, they are hereby denied and dismissed.

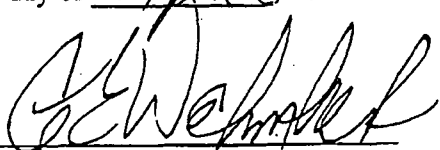
CONCLUSION

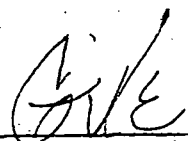
Based on all the foregoing, this Court finds and concludes the Applicant has not established any constitutional violations or deprivations before or during his trial and sentencing proceedings. Counsel was not deficient in any manner, nor was the Applicant prejudiced by counsel's representation. Therefore, this application for PCR must be denied and dismissed with prejudice. This Court, however, concludes the Applicant is entitled to a belated direct appeal of his criminal conviction pursuant to White v. State.

IT IS THEREFORE ORDERED:

1. That the application for post-conviction relief be denied and dismissed with prejudice;
2. Within thirty (30) days of service of this Order, counsel for the Applicant must file a Notice of Appeal to secure the appropriate review of the Applicant's convictions. Counsel and the Applicant are directed to Davis v. State, 288 S.C. 290, 342 S.E.2d 60 (1986) and Rule 243(i), SCACR for the appropriate procedure for securing belated appellate review; and
3. That the Applicant be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 24 day of April, 2013.


G. Edward Welmaker
Resident Judge
Thirteenth Judicial Circuit

 - South Carolina

WITNESSES

C Flavell *CF*

Greenville Police Department

9/8/2009

ARREST WARRANT NUMBER
M380513, M380514

ACTION OF GRAND JURY

TRUE BILL*Ann S. Swerette*

FOREMAN GRAND JURY

Foreperson of Grand Jury

VERDICT

*Guilty**Jamie M. Avery*
Foreperson of Petit JuryDate: *Sept. 8, 2010*DOCKET NO. 2009-GS-23-
LMM

The State of South Carolina

County of Greenville

C10022

COURT OF GENERAL SESSIONS

April

TERM 2009 *6*

THE STATE

vs.

JARED LEE WILLIAMS

GUILTY
& I

Indictment for

✓
0139, 0549ARMED ROBBERY AND POSSESSION OF A
WEAPON DURING THE COMMISSION OF A
VIOLENT CRIME

VIOLATION § 16-11-0330 and § 16-23-490

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE) INDICTMENT FOR
 ARMED ROBBERY AND POSSESSION OF A WEAPON DURING
 THE COMMISSION OF A VIOLENT CRIME

At a Court of General Sessions, convened on **APR 13 2010** the Grand Jurors of Greenville
 County present upon their oath:

COUNT ONE

ARMED ROBBERY

That JARED LEE WILLIAMS did in Greenville County, on or about the 7th day of September, 2009, while armed with a deadly weapon, or while alleging either by action or words he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery would reasonably believe to be a deadly weapon, take by means of force or intimidation, goods or monies described as: Money belonging to THE PANTRY from the person or presence of Stephanie Chatom and/or Rachel Pennington. This is in violation of §16-11-0330 of the South Carolina Code of Laws (1976) as amended.

COUNT TWO

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That JARED LEE WILLIAMS did in Greenville County, on or about the 7th day of September, 2009, possess or visibly display a handgun during the commission or attempted commission of a violent crime, to wit: Armed Robbery. This is in violation of §16-23-0490 of the South Carolina Code of Laws (1976) as amended.

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


 SOLICITOR

ARREST WARRANT

M-380513

6360
9-21-09

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

THE STATE

09-074359

Jared Lee Williams

Address:

Phone: SS# 0

Sex: M Race: B Height: 5 9 Weight: 185

DL State: SC DL #: 0

DOB: Agency ORI #: SC0230200

Prosecuting Agency: Greenville Police Department

Prosecuting Officer: C H Flavell - 0087

Offense: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Offense Code: 0139

Code/Ordinance Sec: 16-11-0330(A)

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

The accused is to be arrested and brought before me to be dealt with according to the law.

(L.S.)

Signature of Judge

Date:

RETURN

A copy of this arrest warrant was delivered to

defendant Jared Lee Williamson 9-8-09Bullock #381
Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

City Of Greenville
426 North Main Street
P O Box 488
Greenville, SC 29601

ORIGINAL

ORIGINAL

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

Personally appeared before me the affiant C H Flavell whobeing duly sworn deposes and says that defendant Jared Lee Williamsdid within this county and state on or about 09/07/2009 violate the criminal laws of theState of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Greenville) in the following particulars:DESCRIPTION OF OFFENSE Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

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:

ON 9-7-09 THE ACCUSED ENTERED THE (PANTRY) LOCATED AT 1006 WOODRUFF RD. WHILE ARMED WITH A HANDGUN. THE ACCUSED DEMANDED MONEY FROM THE CLERK THEN FLED THE STORE. WITNESSES OBSERVED A WHITE HUMMER PARKED BEHIND THE BUSINESS AND PROVIDED THE TAG NUMBER TO LAW ENFORCEMENT. THE ACCUSED WAS LATER LOCATED OPERATING THE SUSPECT VEHICLE. THE ACCUSED WAS ARRESTED ON AN UNRELATED DRIVING OFFENSE. THE ACCUSED HAS GIVEN A STATEMENT ADMITTING TO ROBBING THE PANTRY LOCATED AT 1006 WOODRUFF ROAD WHICH IS IN THE CITY LIMITS OF GREENVILLE, SC.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☒ Municipality of

Greenville

Affiant's Address 4 MCGEE STREETGREENVILLE, SC 29601-Affiant's Telephone (864)271-5333 x 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 or about 9/7/2009 defendant Jared Lee Williamsdid violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☒ Municipality of Greenville) as set forth below:DESCRIPTION OF OFFENSE: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable

Sworn to and subscribed before me

on 09/08/2009Pamela F Fulbright (L.S.)

Signature of Issuing Judge

Pamela F Fulbright

Judge Code: 6675Judge's Address 426 North Main StreetGreenville, SC 29601-Judge's Telephone (864)467-2405Issuing Court: ☐ Magistrate ☒ Municipal ☐ Circuit

ORIGINAL

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ORIGINAL

ORIGINAL

Form Approved By
S.C. Attorney General
April 21, 2003
SCCA 918

AFFIDAVIT