

VOLUME I OF II
STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Appeal from Bamberg County
Edgar W. Dickson, Circuit Court Judge

S.C. Supreme Court

JAMES GUNNELLS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2013-001890

APPENDIX

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT.....	1
APPLICATION FOR POST-CONVICTION RELIEF.....	505
RETURN	512
POST-CONVICTION RELIEF HEARING TRANSCRIPT	517
POST-CONVICTION RELIEF EXHIBITS.....	697
ORDER OF DISMISSAL	769
INDICTMENTS	783
MOTION AND ORDER INFORMATION FORM AND COVER SHEET	821
AMENDMENT TO APPLICATION FOR POST-CONVICTION RELIEF.....	822
MEMORANDUM OF LAW	825
FINAL BRIEF OF APPELLANT.....	834
FINAL BRIEF OF RESPONDENT.....	846
SOUTH CAROLINA COURT OF APPEALS OPINION.....	870
PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS	872

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF BAMBERG)

IN THE COURT
OF GENERAL SESSIONS

3 INDICTMENT NO. 2004-GS-05-019
4 2004-GS-05-020
5 2004-GS-05-021
6 2004-GS-05-022
7 2004-GS-05-023
8 2004-GS-05-024
9 2004-GS-05-025
10 2004-GS-05-026
11 2004-GS-05-027
12 2004-GS-05-028
13 2004-GS-05-029

9 State of South Carolina,)
Plaintiff)

11 vs.)

TRANSCRIPT OF RECORD

12 James Allan Gunnells,)
13 Defendant)

14 October 12-15, 2004
15 Bamberg, South Carolina

16 B E F O R E:

17 THE HONORABLE J.C. NICHOLSON, JUDGE AND A JURY.
18

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	<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
3	Jury Voir Dire	3			
4	Jury Selection	54			
5	Batson Motion	64			
6	Pretrial Motions	71			
7	<u>Jackson v Denno</u>				
8	Hearing	85			
9	George Darnell	87	105		
10	James Gunnells	122	128	135	136
11	Opening Remarks				
12	By the Court	156			
13	Opening Statements				
14	By Ms. Morgan	158			
15	By Mr. Wilson	165			
16	Eunice Sease	170	197	206	209
17	Steven Sutton	211	226	242	244
18	Halman Sease	250			
19	In-Camera	279	284		
20	Halman Sease	289	300		
21	Debra Meyers	318			
22	In-Camera	324			
23	Debra Meyers	330	333	335	
24	George Darnell	336	369		
25	Michael Squires	391	411	419	423

1	Midtrial Motions	425
2	Closing Arguments	
3	By Ms. Morgan	433
4	By Mr. Wilson	447
5	Jury Charge	457
6	Verdict	484
7	Post-Trial Motions	489
8	Sentence	490
9	Jury Voir Dire Sheet	501
10	Reporter's Certificate	503

EXHIBITS

17	<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
18	S-1	Photograph	148
19	S-2	Photograph	148
20	S-3	Photograph	148
21	S-4	Photograph	148
22	S-5	Photograph	148
23	S-6	Photograph	148
24	S-7	Photograph	148
25	S-8	Photograph	148

1	S-9	Photograph	148
2	S-10	Photograph	148
3	S-11	Photograph	148
4	S-12	Photograph	148
5	S-13	Photogrpah	148
6	S-14	Photograph	148
7	S-15	Photograph	
8	S-16	Photograph	148
9	S-17	Photograph	148
10	S-18	Photograph	148
11	S-19	Photograph	148
12	S-20	Photograph	148
13	S-21	Photograph	148
14	S-22	Photograph	148
15	S-23	Photograph	148
16	S-24	Photograph	148
17	S-25	Photograph	148
18	S-26	Photograph	148
19	S-27	Photograph	148
20	S-28	Pawn Ticket	
21	S-29	Miranda Rights	
22	S-30	Statement of James A. Gunnells	
23	S-31	Red Shorts	148
24	S-32	Red Bandana	148
25	S-33	Hat	148

1	S-34	Ties and Belts	148
2	S-35	Shoes	148
3	S-36	Diagram of House	148
4	S-37	Photograph	148
5	S-38	Photograph	148
6	C-1	Miranda Form	115
7	C-2	Statement of James Gunnells	115
8	C-3	Statement of Debra Meyers	
9	C-4	Juror Note	
10	C-5	Juror Note	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

JURY VOIR DIRE

THE COURT: Solicitor do you have any special questions you wish for me to ask?

MS. MORGAN: No, sir, other than the representation issue.

THE COURT: All right. Have you seen his questions?

MS. MORGAN he gave it to me a few minutes ago, Your Honor.

THE COURT: Any objection?

MS. MORGAN: I think you usually do it in a little more general, not this specific.

THE COURT: I generally ask most of those questions.

MS. MORGAN: Yes, sir, in some form or another and I knew you would so I will defer to Your Honor's questions on that.

THE COURT: Okay.

MS. MORGAN: The only other question would be as to any representation by them or any family members.

THE COURT: Okay. All right. Ladies and gentlemen of the jury panel, we're about to begin the trial of the case of the State vs. James Allen Gunnells.

Mr. Gunnells is indicted for possession of a weapon during the commission of a violent crime; armed-robbery; grand

1 larceny more than \$1,000 but less than \$5,000; grand
2 larceny more than \$5,000; grand larceny more than \$5,000;
3 kidnapping; a second kidnapping; a third kidnapping;
4 assault and battery with intent to kill; burglary in the
5 first-degree and criminal conspiracy.

6 These indictments that I have just gone
7 through, the indictment is a means by which the State
8 brings the defendant before the Court for trial. In South
9 Carolina, the police investigate crimes and if they feel
10 like they have sufficient facts, they go before the
11 magistrate with a sworn statement and an arrest warrant to
12 be issued. The individual is arrested and then the
13 information is submitted to the solicitor or the prosecutor
14 and the prosecutor prepares the indictments and presents it
15 to the grand jury.

16 It is not evidence in the case. It's merely
17 the means by which the defendant is brought before the
18 Court for trial and it is not evidence in the trial.

19 Now, I'm going to ask you certain questions
20 concerning the case and the first thing I'm going to do is
21 I'm going to call out a list of names and I want to know if
22 you know these individuals, either through business
23 contacts, personal contacts or if you're related by blood
24 or marriage to these individuals. And when I say marriage,
25 I'm talking about presently or in a past marriage, even if

1 you're divorced from the individual or separated, I would
2 like to know that.

3 MS. MORGAN: And, Judge, if they're here, would
4 you like for them to stand?

5 THE COURT: Yes, ma'am. If they are in the
6 courtroom, the individuals will please stand.

7 All right. The first name is Halman Eugene
8 Sease, S-e-a-s-e. Mr. Sease, would you please stand and
9 face the jury. Thank you, sir.

10 Does anybody know Mr. Sease? Anybody related
11 by blood or marriage, does anybody know him? If you do,
12 please stand.

13 Okay. The lady in the black and blue stripe,
14 what is your name?

15 MS. HARALSON: Roxie Haralson.

16 THE COURT: Speak up.

17 MS. HARALSON: Roxie Haralson.

18 THE CLERK: No. 58, Your Honor.

19 THE COURT: What now?

20 THE CLERK: 58, Judge.

21 THE COURT: Okay. Yes, ma'am, Ms. Haralson? I
22 believe you work for State Farm; is that correct?
23 Whereabouts?

24 MS. HARALSON: Denmark.

25 THE COURT: In Denmark? How do you know

1 Mr. Sease?

2 MS. HARALSON: I just know him from his
3 children. They played ball against my children.

4 THE COURT: Okay. Do you see him at sporting
5 events?

6 MS. HARALSON: Yes, sir, I do.

7 THE COURT: How often do you see him?

8 MS. HARALSON: Well, I haven't seen him in a
9 while, once or twice a year.

10 THE COURT: Once or twice a year?

11 MS. HARALSON: Uh-huh.

12 THE COURT: Outside of that, do you see him
13 anywhere?

14 MS. HARALSON: No, sir.

15 THE COURT: So basically you know who he is,
16 he's not a personal friend; is that correct;.

17 MS. HARALSON: Right.

18 THE COURT: All right. Would that relationship
19 interfere with your judgement in sitting on this jury?

20 MS. HARALSON: No, sir.

21 THE COURT: Okay. Could you listen to the
22 testimony and be fair to both the State and the defendant?

23 MS. HARALSON: Yes, sir.

24 THE COURT: Okay. Can you base your decision
25 on the testimony you hear from the witness stand?

1 MS. HARALSON: Yes, sir.

2 THE COURT: Any further questions from the
3 defendant?

4 MR. WILSON: None, Your Honor.

5 THE COURT: From the State?

6 MS. MORGAN: No, Your Honor.

7 THE COURT: Thank you, Ms. Haralson.

8 Yes, ma'am, your name?

9 MS. DAVIS: Deresha Davis.

10 THE COURT: What's the number?

11 MS. DAVIS: 33.

12 THE COURT: 33?

13 MS. DAVIS: Uh-huh.

14 THE CLERK: That's the National Guard, lady,
15 Judge.

16 THE COURT: Yes, ma'am. Ms. Davis, how do you
17 know Mr. Sease?

18 MS. DAVIS: Just by living in the same town
19 with him.

20 THE COURT: Living in the same town?

21 MS. DAVIS: Yes, sir.

22 THE COURT: Small town?

23 MS. DAVIS: Yes, sir.

24 THE COURT: Do you see him in town very often?

25 MS. DAVIS: No, sir, every once in a while.

1 THE COURT: Every once in a while? Do you know
2 him personally or you just know who he is?

3 MS. DAVIS: I just know who he is.

4 THE COURT: You know who he is?

5 MS. DAVIS: Yes, sir.

6 THE COURT: Would that interfere with your
7 ability to sit on this jury?

8 MS. DAVIS: No, sir.

9 THE COURT: You don't think you would have any
10 difficulty in sitting on this jury?

11 MS. DAVIS: No, sir.

12 THE COURT: Could you listen to the testimony
13 and be fair to both the State and the defendant?

14 MS. DAVIS: Yes, sir.

15 THE COURT: Can you base your decision on the
16 testimony you hear in the courtroom?

17 MS. DAVIS: Yes, sir.

18 THE COURT: Thank you, Ms. Davis.

19 MS. DAVIS: Your welcome.

20 THE COURT: Yes, ma'am, the lady in the yellow
21 dress?

22 MS. CAPERS: Ruth Capers.

23 THE COURT: What?

24 MS. CAPERS: Ruth Capers.

25 THE CLERK: No. 23.

1 THE COURT: 23?

2 THE CLERK: Yes, sir.

3 THE COURT: Juror No. 23, Ruth Capers. Yes,
4 ma'am, Ms. Capers, how do you know Mr. Sease?

5 MS. CAPERS: We live in the same town.

6 THE COURT: You live in the same town? How
7 often do you see him?

8 MS. CAPERS: Every once in a while.

9 THE COURT: Do you know him personally or you
10 just know who he is?

11 MS. CAPERS: I just know who he is.

12 THE COURT: Would that interfere with your
13 ability to sit on this jury?

14 MS. CAPERS: No, sir.

15 THE COURT: Would it interfere with your
16 decision-making process on this jury?

17 MS. CAPERS: No.

18 THE COURT: Could you be fair to both the State
19 and the defendant?

20 MS. CAPERS: Yes.

21 THE COURT: Can you base your decision on the
22 testimony you hear from the witness stand?

23 MS. CAPERS: Yes.

24 THE COURT: Any further questions from the
25 defendant or the State?

1 MS. MORGAN: No, Your Honor.
2 MR. WILSON: No, sir.
3 THE COURT: Thank you, Ms. Capers.
4 Yes, ma'am, your name?
5 MS. BAMBERG: Georgia Bamberg.
6 THE CLERK: No. 6.
7 THE COURT: Yes, ma'am, Ms. Bamberg?
8 MS. BAMBERG: I know him from living in the
9 same town.
10 THE COURT: How often do you see him?
11 MS. BAMBERG: Not often.
12 THE COURT: Once a month, once a year?
13 MS. BAMBERG: Probably once a month.
14 THE COURT: Once a month? Where do you see
15 him?
16 MS. BAMBERG: Around his place of business.
17 THE COURT: Pardon?
18 MS. BAMBERG: Around his place of business?
19 THE COURT: Do you do business with him?
20 MS. BAMBERG: No, I just pass by.
21 THE COURT: Just pass by?
22 MS. BAMBERG: Yes, sir.
23 THE COURT: So you just basically know who he
24 is?
25 MS. BAMBERG: Yes, sir.

1 THE COURT: Well, I'll ask you the same
2 question I asked the other two ladies, living in the same
3 town with him, would that interfere with your
4 decision-making process sitting on this jury?

5 MS. BAMBERG: No, sir.

6 THE COURT: Could you be fair to both the State
7 and the defendant?

8 MS. BAMBERG: Yes, sir.

9 THE COURT: Can you base your decision on the
10 testimony you hear from the witness stand?

11 MS. BAMBERG: Yes, sir.

12 THE COURT: Thank you, Ms. Bamberg.
13 Yes, ma'am, the lady in the light pink.

14 MS. GRANTHAM: I work very closely ---

15 THE COURT: What's your name, first?

16 MS. GRANTHAM: Christina Grantham.

17 THE COURT: What?

18 THE CLERK: No. 54.

19 THE COURT: All right. You're a teacher, is
20 that correct?

21 MS. GRANTHAM: Yes, sir.

22 THE COURT: All right. How do you know
23 Mr. Sease?

24 MS. GRANTHAM: I work with his daughter, every
25 day.

1 THE COURT: You work with his daughter every
2 day? Is she in your class.

3 MS. GRANTHAM: She is the secretary at the
4 school.

5 THE COURT: She's the secretary at the school.
6 Okay. How would that -- let me do this, Ms. Grantham,
7 would you come around up here, please ma'am? The attorneys
8 may join me.

9 (WHEREUPON there was a discussion with Ms.
10 Grantham and the Court out of the hearing of the jury
11 venire.)

12 THE COURT: All right, you see her every day?

13 MS. GRANTHAM: Yes, sir, I do.

14 THE COURT: How would that affect you sitting
15 on this jury? In other words you see her every day ---

16 MS. GRANTHAM: Well I would say I would want to
17 think that I would be fair, but knowing the family as well
18 as I do, I don't know. I don't know.

19 THE COURT: You don't know. I see, it would be
20 human nature to feel like you'd be bias and that's human
21 nature.

22 MS. GRANTHAM: That's all our nature and that's
23 all I'm trying -- I would rather not serve on this one.
24 I'm also distantly related.

25 THE COURT: I'm going to excuse you from

1 service on this trial. Please do not discuss this with any
2 of the rest of the jurors. Thank you for coming up.

3 (WHEREUPON Ms. Grantham returned to her seat.)

4 THE COURT: Yes, ma'am, the lady in the black?

5 MS. FREE: Lynn Free.

6 THE CLERK: No. 45.

7 THE COURT: Yes, ma'am, Ms. Free?

8 MS. FREE: I know him and my son has bought a
9 car from him.

10 THE COURT: When did your -- how long ago did
11 your son buy a car?

12 MS. FREE: It's been about two years ago.

13 THE COURT: Two years ago? Did your son have
14 any problems with the car?

15 MS. FREE: No.

16 THE COURT: How well do you know him?

17 MS. FREE: Not real well, but I know him.

18 THE COURT: But you know him?

19 MS. FREE: Yes, sir.

20 THE COURT: Would that interfere with your
21 ability to sit on this jury?

22 MS. FREE: No, sir.

23 THE COURT: You don't think it would interfere
24 with your ability to sit on this jury and make a decision?

25 MS. FREE: No, sir.

1 THE COURT: Can you be fair to both the State
2 and the defendant?

3 MS. FREE: Yes, sir.

4 THE COURT: Can you base your decision on the
5 testimony you hear from the witness stand?

6 MS. FREE: Yes, sir.

7 THE COURT: Any further questions from the
8 defendant?

9 MR. WILSON: No, Your Honor.

10 THE COURT: Any from the State?

11 MS. MORGAN: No, Your Honor.

12 THE COURT: Thank you, Ms. Free.

13 Yes, sir, the gentlemen in the tan shirt?

14 MR. CROSBY: Chad Crosby, No. 32.

15 THE COURT: Mr. Crosby?

16 MR. CROSBY: Yes, sir.

17 THE COURT: How do you know Mr. Sease?

18 MR. CROSBY: Just Mr. Halman living in
19 Ehrhardt. We grew up next to him.

20 THE COURT: You grew up where?

21 MR. CROSBY: In the town next to him.

22 THE COURT: Okay. How often do you see him?

23 MR. CROSBY: A couple of times a year.

24 THE COURT: At what type of functions.

25 MR. CROSBY: Just around town.

1 THE COURT: Just around town?
2 MR. CROSBY: Uh-huh.
3 THE COURT: Are you personal friends with him?
4 MR. CROSBY: No, sir.
5 THE COURT: You just know who he is?
6 MR. CROSBY: Uh-huh.
7 THE COURT: Do you speak to him when you see
8 him?
9 MR. CROSBY: No, sir, I've never ---
10 THE COURT: You've never met him personally?
11 MR. CROSBY: Huh-huh.
12 THE COURT: All right. Would that interfere
13 with your ability to sit on this jury?
14 MR. CROSBY: No, sir.
15 THE COURT: Could you be fair to both the State
16 and the defendant?
17 MR. CROSBY: Yes, sir.
18 THE COURT: Can you base your decision on the
19 testimony you hear from the witness stand?
20 MR. CROSBY: Yes, sir.
21 THE COURT: Thank you Mr. Crosby.
22 Yes, sir, your name?
23 MR. THOMAS: Travis Thomas.
24 THE CLERK: No. 127.
25 THE COURT: Yes, sir, Mr. Thomas? You live in

1 Ehrhardt?

2 MR. THOMAS: Yes, sir.

3 THE COURT: And how well do you know Mr. Sease?

4 MR. THOMAS: I just know him pretty good.

5 THE COURT: What's pretty good?

6 MR. THOMAS: I see him around a lot.

7 THE COURT: Come on up here.

8 (WHEREUPON there was a discussion between Mr.
9 Thomas and the Court out of the hearing of the jury venire
10 and the court reporter.)

11 THE COURT: Thank you, Mr. Thomas.

12 Yes, sir, your name?

13 MR. DAVIS: Louis Davis.

14 THE CLERK: No. 35.

15 THE COURT: Mr. Davis, how do you know
16 Mr. Sease?

17 MR. DAVIS: Well I've bought several cars from
18 him. I go to the parts store and buy parts from him. I've
19 lived right there in Ehrhardt for years. I've known him
20 all my life.

21 THE COURT: Okay. Mr. Davis, you want to come
22 around up front, please, sir.

23 (WHEREUPON there was a discussion with Mr.
24 Davis and the Court out of the hearing of the jury venire.)

25 THE COURT: How many cars have you bought from

1 him?

2 MR. DAVIS: About four.

3 THE COURT: When's the last one you bought?

4 MR. DAVIS: Back in '97.

5 THE COURT: Did he finance the cars for you or
6 did you pay cash?

7 MR. DAVIS: I paid cash for the cars.

8 THE COURT: Does he finance cars?

9 MR. DAVIS: Yes, sir.

10 THE COURT: And you buy parts from him?

11 MR. DAVIS: Yes, sir.

12 THE COURT: What kind of business are you in.

13 MR. DAVIS: I works for Pooler Logging, but if
14 I have an alternator or something I carry it to him and buy
15 it.

16 THE COURT: Now do you think knowing him all
17 your life and doing business with him will affect you
18 sitting on this jury?

19 MR. DAVIS: Not at all.

20 THE COURT: You think you could sit and base
21 your decision on what you hear in the courtroom?

22 MR. DAVIS: Yes, sir.

23 THE COURT: Can you be fair to both the State
24 and the defendant?

25 MR. DAVIS: Yes, sir.

1 THE COURT: Any further questions, Solicitor?

2 MS. MORGAN: No, sir.

3 THE COURT: Mr. Wilson?

4 MR. WILSON: No, sir.

5 THE COURT: Thank you very much.

6 (WHEREUPON Mr. Davis returned to his seat.)

7 THE COURT: Mr. Wilson, if you have any
8 motions, I will be glad to hear them up here or we can wait
9 until the end.

10 (WHEREUPON the Court and the attorneys returned
11 to their seats.)

12 THE COURT: All right. The next name is Eunice
13 Ann Sease. I assume that's Mr. Sease's wife. Would you
14 please stand? Thank you so very much.

15 Is anybody related by blood or marriage; does
16 anybody know Eunice Ann Sease? If so, please stand.

17 (WHEREUPON a juror stood up.)

18 THE COURT: You were really hesitant in
19 standing, you sort of eased up. You weren't sure you knew
20 her or you weren't sure what stand meant?

21 MS. HARALSON: I'm just slow.

22 THE COURT: Okay. All right. Yes, ma'am, I'm
23 sorry, I don't remember your name. What's your name?

24 THE CLERK: Haralson.

25 THE COURT: The lady in black and blue.

1 MS. HARALSON: Roxie Haralson.

2 THE COURT: Okay.

3 MS. MORGAN: No. 50, Judge -- 58, I'm sorry.

4 THE COURT: All right. Ms. Haralson, how do
5 you know -- through sports again?

6 MS. HARALSON: Yes, sir, same thing.

7 THE COURT: Same thing?

8 MS. HARALSON: Same thing, yes, sir.

9 THE COURT: I'm going to ask you the same
10 questions. Would that relationship interfere with your
11 ability to sit on this jury.

12 MS. HARALSON: No, sir.

13 THE COURT: Can you be fair to both the State
14 and the defendant?

15 MS. HARALSON: Yes, sir.

16 THE COURT: Can you base your decision on the
17 testimony you hear from the witness stand?

18 MS. HARALSON: Yes, sir.

19 THE COURT: Thank you Ms. Haralson.

20 Yes, ma'am, your name?

21 THE CLERK: 45.

22 THE COURT: Ms. Free, how do you know
23 Ms. Sease?

24 MS. FREE: I just know her.

25 THE COURT: Pardon?

1 MS. FREE: I just know her, not real well, but
2 I bought a car from them.

3 THE COURT: Okay. Same situation. Well you
4 didn't buy it from her, did you?

5 MS. FREE: No, But I've talked to her on the
6 phone before.

7 THE COURT: You talked to her on the phone?

8 MS. FREE: I've known her for years.

9 THE COURT: Okay. How would that affect your
10 ability to sit on this jury?

11 MS. FREE: It would not.

12 THE COURT: Can you be fair to both the State
13 and the defendant?

14 MS. FREE: Yes, sir.

15 THE COURT: Can you base your decision on the
16 testimony you hear from the witness stand?

17 MS. FREE: Yes, sir.

18 THE COURT: Thank you, Ms. Free.

19 Mr. Thomas, let me find you on the list.

20 THE CLERK: 127, Judge.

21 THE COURT: Mr. Thomas, you know Ms. Sease?

22 MR. THOMAS: Yes, sir.

23 THE COURT: How do you know her.

24 MR. THOMAS: Same as Mr. Halman.

25 THE COURT: Would that interfere with your

1 ability to sit on the jury?

2 MR. THOMAS: No, sir.

3 THE COURT: Can you be fair to both the State
4 and the defendant?

5 MR. THOMAS: Yes, sir.

6 THE COURT: Can you base your decision on the
7 testimony you hear in the courtroom?

8 MR. THOMAS: Yes, sir.

9 THE COURT: Thank you Mr. Thomas.

10 All right. The next name is Archie Steven
11 Sutton. Thank you, Mr. Sutton.

12 Is anybody related by blood or marriage or does
13 anybody know Archie Steven Sutton? If so, please stand.

14 Mr. Thomas? How do you know him?

15 MR. THOMAS: I don't know him all that well,
16 but I just know him from around town and stuff. I mean,
17 I've spoke to him -- I speak to him every now and then.

18 THE COURT: You don't speak to him every time
19 you see him?

20 MR. THOMAS: Every now and then.

21 THE COURT: Every now and then, okay. Would it
22 affect your ability to sit on the jury?

23 MR. THOMAS: No, sir.

24 THE COURT: Can you be fair to both the State
25 and the defendant?

1 MR. THOMAS: Yes, sir.

2 THE COURT: Can you base your decision on
3 testimony you hear from the witness stand?

4 MR. THOMAS: Yes, sir.

5 THE COURT: Okay. Thank you, Mr. Thomas.

6 All right. The next name is George W. Darnell
7 with the South Carolina Law Enforcement Division, commonly
8 referred to as SLED. Is anybody related by blood or
9 marriage to SLED Agent Darnell? Does anybody know SLED
10 Agent Darnell? He just stood.

11 THE COURT: Ms. Free, you know a lot of people.
12 Okay. Ms. Haralson, how do you know SLED Agent
13 Darnell?

14 MS. HARALSON: His mother was in a nursing home
15 with my mother-in-law. They were in the same wing.

16 THE COURT: His mother was in the nursing home
17 with your mother-in-law.

18 MS. HARALSON: Yes, sir.

19 THE COURT: Okay. Do you want to come around,
20 please, ma'am.

21 (WHEREUPON there was a discussion with Ms.
22 Haralson and the Court out of the hearing of the jury
23 venire.)

24 THE COURT: How often did you actually see him
25 when you were visiting with your mother-in-law?

1 MS. HARALSON: He came often because I saw him
2 a good bit.

3 THE COURT: You saw him a good bit?

4 MS. HARALSON: Yes, sir.

5 THE COURT: Have you seen him since then or do
6 you still see him?

7 MS. HARALSON: They both passed away in
8 February.

9 THE COURT: I'm sorry about that. Have you
10 seen him since they passed away?

11 MS. HARALSON: Huh-huh.

12 THE COURT: Do you feel close to him because of
13 going through the trauma of having lost a loved one in the
14 nursing home?

15 MS. HARALSON: I mean, I liked him and he was a
16 nice man.

17 THE COURT: How do you think that would affect
18 you sitting on this jury?

19 MS. HARALSON: It wouldn't affect me. I think
20 I could judge by what was said in the courtroom.

21 THE COURT: Okay. You think you could be fair
22 to both the State and the defendant?

23 MS. HARALSON: Yes, sir.

24 THE COURT: Questions? Any from the State?

25 No none, Your Honor.

1 THE COURT: From the defense?

2 MR. WILSON: No, Your Honor.

3 THE COURT: Thank you, Ms. Haralson.

4 MS. HARALSON: Thank you very much.

5 THE CLERK: No. 46.

6 THE COURT: Mr. Frye, Juror No. 46.

7 MR. FRYE: Yes, sir.

8 THE COURT: How do you know SLED Agent Darnell.

9 MR. FRYE: I've known Mr. Darnell practically
10 all my life. We went to school together, grew up together.

11 THE COURT: You worked together?

12 MR. FRYE: No, sir.

13 THE COURT: You just went to school together,
14 you've known him all your life?

15 MR. FRYE: I've known him all my life.

16 THE COURT: You want to come around here,
17 please, sir.

18 (WHEREUPON there was a discussion with Mr. Frye
19 and the Court out of the hearing of the jury venire.)

20 THE COURT: Mr. Frye, what I really need to
21 know is if you've known him all your life, it's human
22 nature to want to believe him. Do you feel that you would
23 do that.

24 MR. FRYE: I know he is good people.

25 THE COURT: How would that affect you on this

1 jury?

2 MR. FRYE: I don't really think it would affect
3 that.

4 THE COURT: If you trust him that much, how
5 could it not affect you sitting on this jury.

6 MR. FRYE: Well, it probably would.

7 THE COURT: It's human nature.

8 MR. FRYE: That's just human nature. And I
9 respect him, yes, sir.

10 THE COURT: How could you possibly set that
11 aside?

12 MR. FRYE: It would be hard.

13 THE COURT: All right. Do you want to sit on
14 this jury.

15 MR. FRYE: Well, I can but I do need to do
16 work -- but I can.

17 THE COURT: I'm going to excuse you from this
18 jury Mr. Frye because of your relationship with SLED Agent
19 Darnell. I will excuse you for cause. Thank you, sir.
20 Just this case only.

21 MR. FRYE: Just this case only?

22 (WHEREUPON Mr. Frye returned to his seat.)

23 THE COURT: Yes, ma'am, your name?

24 MS. HUTTO: Barbara Hutto.

25 THE COURT: Ms. Barbara Hutto. What number?

1 THE CLERK: 50.

2 THE COURT: Ms. Hutto, how do you know SLED
3 Agent Darnell?

4 MS. HUTTO: I know him from when my oldest son
5 was in trouble. I had to come here to meet with him and he
6 give me encouragement and just when fires going on and he
7 be out there and I always speak to him and everything.

8 THE COURT: Okay. How would that affect you
9 sitting on this jury?

10 MS. HUTTO: None.

11 THE COURT: It wouldn't affect you at all?

12 MS. HUTTO: No, sir.

13 THE COURT: Can you be fair to both the State
14 and the defendant?

15 MS. HUTTO: Yes, sir.

16 THE COURT: Can you base your decision on the
17 testimony here in the courtroom?

18 MS. HUTTO: Yes, sir.

19 THE COURT: Thank you, Ms. Hutto.

20 MS. HUTTO: You're welcome.

21 THE COURT: Yes, sir, the gentlemen in the gray
22 shirt?

23 MR. HOGAN: 61, Mike Hogan.

24 THE COURT: Mr. Hogan, how do you know SLED
25 Agent Darnell.

1 MR. HOGAN: Just from growing up in Bamberg.
2 THE COURT: Did you go to school with him.
3 MR. HOGAN: I imagine, it's been a while.
4 THE COURT: You imagine? You don't remember?
5 MR. HOGAN: Yes, well, I'm not sure, I guess we
6 went at the same time.
7 THE COURT: Ya'll look to be similar age, same
8 age or close to it. You remember him in school?
9 MR. HOGAN: Not in school.
10 THE COURT: How often do you see him?
11 MR. HOGAN: Maybe once or twice a year.
12 THE COURT: Do you consider him a personal
13 friend?
14 MR. HOGAN: No, sir.
15 THE COURT: You just know him?
16 MR. HOGAN: I just know him.
17 THE COURT: How old would that after your
18 relationship in sitting on this jury?
19 MR. HOGAN: It wouldn't.
20 THE COURT: Can you be fair to both the State
21 and the defendant?
22 MR. HOGAN: Yes, sir.
23 THE COURT: Can you base your decision on the
24 testimony you hear from the witness stand?
25 MR. HOGAN: Yes, sir.

1 THE COURT: Thank you, Mr. Hogan.

2 Mr. Thomas, how do you know him?

3 MR. THOMAS: I had also worked at the Sheriff's
4 Office.

5 THE COURT: You did what?

6 MR. THOMAS: I used to work at the Sheriff's
7 Office.

8 THE COURT: Okay. Is that where you know him
9 from?

10 MR. THOMAS: Yes, sir.

11 THE COURT: How often do you see him?

12 MR. THOMAS: Every now and then. I've seen him
13 now and then, but it's been a while.

14 THE COURT: Would that interfere with your
15 ability to sit on this jury?

16 MR. THOMAS: No, sir.

17 THE COURT: Can you be fair to both the State
18 and the defendant?

19 MR. THOMAS: Yes, sir.

20 THE COURT: Can you base your decision on the
21 testimony you hear from the witness stand?

22 MR. THOMAS: Yes, sir.

23 THE COURT: Thank you, Mr. Thomas.

24 Yes, sir, your name?

25 MR. MCCULLY: Clarence McCully.

1 THE CLERK: That's No. 89.

2 THE COURT: Mr. McCully, how do you know SLED
3 Agent Darnell?

4 MR. MCCULLY: His daughter is my wife's
5 sister-in-law.

6 THE COURT: Okay. How often do you see him?

7 MR. MCCULLY: Once every month or so, family.

8 THE COURT: Family gatherings?

9 MR. MCCULLY: Yes, sir.

10 THE COURT: Do you want to come around,
11 Mr. McCully?

12 (WHEREUPON there was a discussion with Mr.
13 McCully and the Court out of the hearing of the jury
14 venire.)

15 THE COURT: Mr. McCully, what I'm trying to
16 determine is how you stand in the relationship with SLED
17 Agent Darnell and how that would affect you.

18 MR. MCCULLY: It won't affect it, it would have
19 nothing to do with him.

20 THE COURT: Well, he would probably testify.

21 MR. MCCULLY: That would be fine.

22 THE COURT: And if he testifies, how would you
23 relate to his testimony?

24 MR. MCCULLY: I'd listen to his testimony just
25 like anybody else.

1 THE COURT: You want to make any ---

2 MR. MCCULLY: If he was under oath, I would
3 believe what he said.

4 THE COURT: Well, they're all going to be under
5 oath.

6 MR. MCCULLY: Yes, sir.

7 THE COURT: So my question is, how will it
8 affect you because of your relationship? In other words,
9 would you be biased or prejudiced if he testifies on the
10 stand? Would you tend to favor his testimony over other
11 testimony because of the relationship? And that's what I'm
12 asking you.

13 MR. MCCULLY: It's possible because of his
14 reputation in the community.

15 THE COURT: Well, I need to know how you feel.

16 MR. MCCULLY: I'm -- I think I could be a fair
17 juror.

18 THE COURT: That's what I'm ultimately asking
19 you. I'm trying to determine how his testimony --- how
20 will it affect you?

21 MR. MCCULLY: His testimony is going to affect
22 me?

23 THE COURT: Yes.

24 MR. MCCULLY: Just like everyone else's
25 testimony.

1 THE COURT: So you think you could set aside
2 your relationship with Agent Darnell and be fair to both
3 the State and the defendant?

4 MR. MCCULLY: Yes, sir.

5 THE COURT: Base your decision on the testimony
6 you hear?

7 MR. MCCULLY: Yes, sir.

8 THE COURT: You think you can do that?

9 MR. MCCULLY: Yes, sir.

10 THE COURT: And not favor his testimony?

11 MR. MCCULLY: Right.

12 THE COURT: Under any circumstances could you
13 disbelieve what he would say?

14 MR. MCCULLY: I would have to see what is
15 evidence says.

16 THE COURT: Okay. Thank you very much.

17 (WHEREUPON there was discussion with the Court
18 and the attorneys out of the hearing of the Court
19 Reporter.)

20 (WHEREUPON the Court returned to the bench.)

21 THE COURT: Ms. Free, how do you know Agent
22 Darnell?

23 MS. FREE: A classmate and a lifelong friend.

24 THE COURT: Okay. You want to come around?

25 (WHEREUPON there was a discussion with Ms. Free

1 and the Court out of the hearing of the jury venire.)

2 THE COURT: He was your classmate?

3 MS. FREE: Yes, sir.

4 THE COURT: How is that going to affect you
5 sitting on the jury?

6 MS. FREE: Not in any way but my brother is a
7 SLED agent too.

8 THE COURT: Your brother is a SLED agent also?

9 MS. FREE: Yes, sir.

10 THE COURT: Where does he work?

11 MS. FREE: In Columbia.

12 THE COURT: Have you ever had any discussions
13 about his viewpoint on law enforcement with your brother.

14 MS. FREE: I'm quite sure.

15 THE COURT: Sure. How is that going to affect
16 you sitting on this jury?

17 MS. FREE: Well, I don't know exactly how to
18 answer that, but I believe in obeying the law.

19 THE COURT: Okay. You think anyone is
20 automatically guilty?

21 MS. FREE: Oh no, huh-huh.

22 THE COURT: You think you could listen to the
23 evidence and base your decision on what you hear in this
24 courtroom.

25 MS. FREE: Yes, sir.

1 (WHEREUPON there was discussion with the Court
2 and the attorneys out of the hearing of the Court
3 Reporter.)

4 THE COURT: Yes, sir, your name?

5 MR. JOHNSON: Jeffrey Johnson.

6 MS. MORGAN: 70, Judge.

7 THE CLERK: 70.

8 THE COURT: Mr. Johnson, how do you know Agent
9 Darnell.

10 MR. JOHNSON: I live down the road from him.

11 THE COURT: You live down the road from him?

12 MR. JOHNSON: Yes, sir.

13 THE COURT: How long have you lived down the
14 road?

15 MR. JOHNSON: I guess he's been there about 2
16 years how.

17 THE COURT: 2 years?

18 MR. JOHNSON: 2 years.

19 THE COURT: Do you see him very often?

20 MR. JOHNSON: Just passing by or out in his
21 yard or coming in.

22 THE COURT: You're a truck driver is that
23 correct?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: You're a long-distance truck driver

1 or you drive locally?

2 MR. JOHNSON: Drive a trash truck.

3 THE COURT: Okay. Are you gone for long
4 periods of time or?

5 MR. JOHNSON: No.

6 THE COURT: Okay. Do you classify him as a
7 friend?

8 MR. JOHNSON: Acquaintance.

9 THE COURT: Acquaintance. Would that interfere
10 with your ability to sit on this jury?

11 MR. JOHNSON: No.

12 THE COURT: Can you be fair to both the State
13 and the defendant?

14 MR. JOHNSON: Yes.

15 THE COURT: Can you base your decision on the
16 testimony you hear from the witness stand?

17 MR. JOHNSON: Yes.

18 THE COURT: Thank you, Mr. Johnson.

19 The next name is SLED Agent Ed Carroll. Is
20 anybody related by blood or marriage or does anybody know
21 SLED Agent Ed Carroll? If so, please stand.

22 MS. MORGAN: He's not here, Judge.

23 THE COURT: He's in Columbia?

24 MS. MORGAN: No he's in Barnwell running for
25 sheriff.

1 THE COURT: The next name is Deputy Chad Dillon
2 of the Barnwell ---

3 MS. MORGAN: Dilling.

4 THE COURT: --- Bamberg County -- Dilling?

5 MS. MORGAN: Dilling.

6 THE COURT: Okay. Bamberg County Sheriff's
7 Office. Anybody know Chad Dilling? Anybody related to
8 Chad Dilling?

9 Mr. Thomas, how do you know him? You know
10 everybody in Bamberg County?

11 MR. THOMAS: Yes, sir.

12 THE COURT: Pretty much.

13 MR. THOMAS: I went to school with Chad.

14 THE COURT: Okay. Do you -- have you seen him
15 very often since school?

16 MR. THOMAS: Yes, sir, every now and then, he
17 stays in Ehrhardt too.

18 THE COURT: Okay. He stays in Ehrhardt too?
19 How often do you see him.

20 MR. THOMAS: Probably once or twice a week.

21 THE COURT: Okay. Would that affect your
22 ability to sit on this jury?

23 MR. THOMAS: No, sir.

24 THE COURT: Can you be fair to both the State
25 and the defendant?

1 MR. THOMAS: Yes, sir.

2 THE COURT: Can you base your decision on the
3 testimony you hear from this witness stand?

4 MR. THOMAS: Yes, sir.

5 THE COURT: Okay. Thank you, Mr. Thomas.

6 The next name is Deputy Ben Hay with the
7 Bamberg County Sheriff's Office. Does anybody know Deputy
8 Ben Hay? Is anybody related to Deputy Ben Hay?

9 Ms. Hutto, Juror No. 50.

10 MS. HUTTO: I only know him from going to
11 McDonald's probably once or twice a week eating; and I mean
12 just normally just around. He's around a good bit around
13 town.

14 THE COURT: You see him how often?

15 MS. HUTTO: Once or twice a week.

16 THE COURT: Once or twice a week?

17 MS. HUTTO: Yes, sir.

18 THE COURT: Would that affect your ability to
19 sit on this jury?

20 MS. HUTTO: No, sir.

21 THE COURT: Could you be fair to both the State
22 and the defendant?

23 MS. HUTTO: Sir?

24 THE COURT: Can you be fair to both the State
25 and the defendant?

1 MS. HUTTO: Yes, sir.

2 THE COURT: Can you base your decision on the
3 testimony you hear from the witness stand?

4 MS. HUTTO: Yes, sir.

5 THE COURT: Thank you, Ms. Hutto.

6 The next name is Deputy George Folk of the
7 Bamberg County Sheriff's Office. Anybody know Deputy
8 George Folk? He's standing to my left.

9 (WHEREUPON a large number of jurors stood.)

10 MS. MORGAN: Judge, to speed things, I don't
11 think we're going to call him.

12 THE COURT: You're not?

13 MR. WILSON: No, sir.

14 MS. MORGAN: Give me just a second. I don't
15 think we are.

16 THE COURT: Number 8.

17 MS. MORGAN: I know he's on the list. I don't
18 think -- we don't need to -- we will not be calling him.

19 THE COURT: Okay.

20 MR. WILSON: Can we approach, Your Honor?

21 THE COURT: Yes, sir.

22 (WHEREUPON there was a bench conference out of
23 the hearing of the jury venire and the Court Reporter.)

24 THE COURT: All right. Ms. Hutto, Juror No.
25 58, how do you know Deputy George Folk?

1 MS. HUTTO: I just know him from passing, just
2 to speak to him.

3 THE COURT: Just acquaintance?

4 MS. HUTTO: Yes, sir.

5 THE COURT: Would that affect your ability to
6 sit on the jury?

7 MS. HUTTO: No, sir.

8 THE COURT: Can you be fair to both the State
9 and the defendant?

10 MS. HUTTO: Yes, sir.

11 THE COURT: Thank you, Ms. Hutto. You can have
12 a seat.

13 Mr. McCully, Juror No. 89, how do you know him?

14 MR. MCCULLY: He's just an acquaintance and I
15 do some volunteer work with law enforcement.

16 THE COURT: Okay. Would that affect your
17 ability to sit on the jury?

18 MR. MCCULLY: No, sir.

19 THE COURT: Can you be fair to both the State
20 and the defendant?

21 MR. MCCULLY: Yes, sir.

22 THE COURT: Can you base your decision on the
23 testimony you hear in the courtroom?

24 MR. MCCULLY: Yes, sir.

25 THE COURT: Okay. Thank you, Mr. McCully.

1 Ms. Free? Juror No. 45, I believe, isn't it?

2 THE CLERK: Yes, sir, 45.

3 THE COURT: How do you know him?

4 MS. FREE: He's a friend and I do business with
5 his wife. I've just known him a long, long time.

6 THE COURT: How old would that affect you
7 sitting on this jury? Could you be fair to both the State
8 and the defendant?

9 MS. FREE: Yes, sir.

10 THE COURT: Base your decision on the testimony
11 you hear from the witness stand?

12 MS. FREE: Yes, sir.

13 THE COURT: Thank you, very much.

14 Mr. Johnson, yes, sir?

15 MR. JOHNSON: I just know ---

16 THE COURT: Juror No. 70. How do you know him?

17 MR. JOHNSON: Just from being in town and
18 whenever I see him I do speak to him.

19 THE COURT: He hasn't ever written you a
20 speeding ticket has he? Driving that truck?

21 MR. JOHNSON: No, sir.

22 THE COURT: Can you be fair to both the State
23 and the defendant?

24 MR. JOHNSON: Yes, sir.

25 THE COURT: Would that relationship interfere

1 with your ability to sit on the jury?

2 MR. JOHNSON: No, sir.

3 THE COURT: Can you base your decision on the
4 testimony you hear here in the courtroom?

5 MR. JOHNSON: Yes, sir.

6 THE COURT: Thank you, Mr. Johnson.

7 Mr. Hogan, Juror No. 61?

8 MR. HOGAN: I worked with him, but it's about
9 30 years ago.

10 THE COURT: You worked with him? How long ago?

11 MR. HOGAN: About 30 years ago.

12 THE COURT: 30 years ago? Have you seen him in
13 the last 30 years?

14 MR. HOGAN: Every now and then.

15 THE COURT: Every now and then? Are you
16 friends with him?

17 MR. HOGAN: No, sir.

18 THE COURT: Can you be fair to both the State
19 and the defendant?

20 MR. HOGAN: Sir?

21 THE COURT: Can you be fair to both the State
22 and the defendant?

23 MR. HOGAN: Yes, sir.

24 THE COURT: Can you base your decision on the
25 testimony you hear in the courtroom?

1 MR. HOGAN: Yes, sir.

2 THE COURT: All right. Thank you, Mr. Hogan.

3 Mr. Thomas?

4 MR. THOMAS: I know him just about like I know
5 just about everybody else here in the courtroom.

6 THE COURT: How well?

7 MR. THOMAS: I would say pretty good.

8 THE COURT: Pretty good. How often do you see
9 him.

10 MR. THOMAS: Every now and then.

11 THE COURT: Every now and then. You see
12 everybody every now and then, huh?

13 MR. THOMAS: Yeah.

14 THE COURT: That's Juror No. 127. Would that
15 relationship interfere with your ability to sit on this
16 jury?

17 MR. THOMAS: No, sir.

18 THE COURT: Can you be fair to both the State
19 and the defendant?

20 MR. THOMAS: Yes, sir.

21 THE COURT: Can you base your decision on the
22 testimony you hear in the courtroom?

23 MR. THOMAS: Yes, sir.

24 THE COURT: All right. Thank you, Mr. Thomas.

25 The next name is Michael Squires from SLED.

1 MS. MORGAN: Those are -- the next two are from
2 Columbia, Your Honor.

3 THE COURT: Columbia. Anybody know Michael
4 Squires? Anybody related to Michael Squires? If so,
5 please stand.

6 (WHEREUPON there was no response from the jury
7 venire.)

8 THE COURT: The next name is Phillip Coonfield,
9 also with SLED in Columbia. Does anybody know Phillip
10 Coonfield? Is anybody related by blood or marriage to him,
11 if so, please stand.

12 (WHEREUPON there was no response from the jury
13 venire.)

14 THE COURT: The next name the Donald Brandt.
15 Anybody know Donald Brandt? Is anybody related by blood or
16 marriage to Donald Brandt? If so, please stand.

17 (WHEREUPON there was no response from the jury
18 venire.)

19 THE COURT: The next name is Lieutenant Tom
20 Darnell. Is that with the ---

21 MS. MORGAN: SLED.

22 THE COURT: SLED. From Columbia?

23 MS. MORGAN: Yes, sir, he's originally from
24 here.

25 THE COURT: Does anybody know Lieutenant Tom

1 Darnell or is anybody related to Lieutenant Tom Darnell?

2 If so, please stand.

3 (WHEREUPON there was no response from the jury
4 venire.)

5 THE COURT: The next name is Jeff Crooks with
6 SLED. Does anybody know Jeff Crooks? Is anybody related
7 by blood or marriage with Jeff Crooks? If so, please
8 stand.

9 (WHEREUPON there was no response from the jury
10 venire.)

11 THE COURT: The next name is Debra Meyers. Is
12 anybody related by blood or marriage to Debra Meyers or
13 does anybody know Debra Meyers? If so, please stand.

14 (WHEREUPON there was no response from the jury
15 venire.)

16 THE COURT: The next name is Niconya Lasha
17 Brooks. Is anybody related by blood or marriage to Niconya
18 Brooks? Anybody know Niconya Brooks? If so, please stand.

19 (WHEREUPON there was no response from the jury
20 venire.)

21 THE COURT: Can I see the attorneys up here
22 just a second?

23 (WHEREUPON there was a bench conference out of
24 the hearing of the jury and the Court Reporter.)

25 THE COURT: All right. Ladies and gentlemen of

1 the jury, what we're going to do at this time is take a
2 lunch break. It's ten minutes to one. If you'll be back
3 in the courtroom at 2:20, we'll continue the process of
4 drawing the jury.

5 Now, let me say this to you, during this break,
6 I don't want you to discuss this case amongst yourselves or
7 with anyone else. If anyone tries to talk to you about the
8 case, please walk away. And please, if you can, get that
9 person's name and give it to the clerk and I will deal with
10 that individual. But don't discuss the case with your
11 family, your girlfriend, your boyfriend or anyone else.
12 And I will see you back in the courtroom at 2:20, and we'll
13 continue the process of drawing this jury. Thank you very
14 much.

15 (WHEREUPON the jury left the courtroom at 12:48
16 p.m.)

17 (WHEREUPON Court was in recess for lunch.)

18 THE COURT: All right. Ladies and gentlemen of
19 the jury, I'm going to ask you some more questions. We've
20 gone through the proposed witness list.

21 And before we get to that, I'm going to ask
22 Mr. Gunnells, would you please stand and face the jury.
23 Thank you, sir, I appreciate it.

24 Does anybody know Mr. James Allen Gunnells? Is
25 anybody related by blood or marriage to Mr. James Allen

1 Gunnells? If so, please stand.

2 (WHEREUPON there was no response from the jury
3 venire.)

4 THE COURT: All right. The next question, is
5 any member of the jury panel a member of any crime victim
6 association or a crime victim rights association, such as
7 MADD, SADD and CADRE? If so, please stand.

8 (WHEREUPON there was no response from the jury
9 venire,)

10 THE COURT: Is any member of the jury panel a
11 member of any neighborhood crime watch association? If so,
12 please stand.

13 (WHEREUPON there was no response from the jury
14 venire.)

15 THE COURT: Has any member of the jury panel
16 been a victim or had a family member or close personal
17 friend who was a victim of a violent crime? If so, please
18 stand.

19 Yes, ma'am, Ms. Hutto?

20 MS. HUTTO: How violent you talking about?

21 THE COURT: Hold on just a second, let me find
22 your number.

23 THE CLERK: 50.

24 THE COURT: 50. Okay. Juror No. 50.

25 Okay, Ms. Hutto?

1 MS. HUTTO: Okay. My son was in an accident
2 where they were robbing places.

3 THE COURT: How long ago?

4 MS. HUTTO: Probably about three, four years
5 ago.

6 THE COURT: Three or four years ago.

7 MS. HUTTO: Yes, sir.

8 THE COURT: Were they ever charged or?

9 MS. HUTTO: No.

10 THE COURT: Okay. How would that affect you on
11 sitting on this jury?

12 MS. HUTTO: None at all.

13 THE COURT: It wouldn't have any affect at all?

14 MS. HUTTO: No, sir.

15 THE COURT: And you can base your decision on
16 the testimony you hear from the witness stand?

17 MS. HUTTO: Yes, sir.

18 THE COURT: You can be fair to both the State
19 and the defendant?

20 MS. HUTTO: Yes, sir.

21 THE COURT: Thank you, Ms. Hutto.

22 MS. HUTTO: You're welcome.

23 THE COURT: Other than the people that have
24 already stood and identified this, has any member of the
25 jury panel ever had any business relationship or business

1 dealing with Halman Sease, Erhardt or Sease Automobile in
2 Erhardt? If so, please stand -- other than the people that
3 have already stood. Anyone else?

4 Yes, ma'am, your name?

5 MS. ROWE: Emma Rowe.

6 THE CLERK: That's No. 111.

7 THE COURT: Ms. Rowe, what relationship have
8 you had?

9 MS. ROWE: About three years ago, I bought a
10 car from him.

11 THE COURT: You bought a car from him? Do you
12 have any bias or prejudice towards him as a result of the
13 automobile?

14 MS. ROWE: No.

15 THE COURT: Or the transaction?

16 MS. ROWE: No.

17 THE COURT: Do you ever see him on a personal
18 basis?

19 MS. ROWE: No.

20 THE COURT: Have you seen him since you
21 purchased the automobile?

22 MS. ROWE: No.

23 THE COURT: With that relationship through that
24 business association would it cause you any difficult in
25 sitting on this jury?

1 MS. ROWE: No, sir.

2 THE COURT: Can you be fair to both the State
3 and the defendant?

4 MS. ROWE: Yes.

5 THE COURT: Can you base your decision on the
6 testimony you hear in the courtroom?

7 MS. ROWE: Yes.

8 THE COURT: Thank you very much, Ms. Rowe.

9 Does any member of the jury panel work for or
10 have a family member or a close personal friend who works
11 for law enforcement in any capacity? Please stand.

12 MS. FREE: Ann Free.

13 THE CLERK: No. 45.

14 MS. FREE: My brother is a SLED agent.

15 THE COURT: Hold on just a second. All right.
16 Ms. Free, Juror No. 45. I understand your brother works
17 for SLED in Columbia, is that correct?

18 MS. FREE: Yes, sir.

19 THE COURT: Anyone else? I think I've already
20 gone through the questions with you concerning your
21 brother, so I don't have any further questions.

22 I'd ask if the defendant does?

23 MR. WILSON: Nothing, Your Honor.

24 THE COURT: Thank you, Ms. Free.

25 Yes, sir, your name?

1 MR. ABSTANCE: Laurie Abstance.

2 THE CLERK: No. 1.

3 THE COURT: Mr. Abstance, who do you know in
4 law enforcement?

5 MR. ABSTANCE: Ed Darnell, he's my third
6 cousin.

7 THE COURT: He's your third cousin.

8 MR. ABSTANCE: Yes, sir.

9 THE COURT: How often do you see him?

10 MR. ABSTANCE: Quite regularly.

11 THE COURT: Quite regularly. Where do you see
12 him?

13 MR. ABSTANCE: Well, at church and different
14 other functions.

15 THE COURT: Okay. Close personal friends?

16 MR. ABSTANCE: Yes, sir.

17 THE COURT: How would that affect you from --
18 let me ask you to come up here to the front, Mr. Abstance.

19 And while you're coming up here, Mr. Taylor,
20 who do you know?

21 MR. JOHNSON: I'm Johnson.

22 THE COURT: Johnson. I'm sorry, excuse me.

23 MR. JOHNSON: My brother-in-law is a retired
24 lieutenant from the Bamberg Police Department.

25 THE COURT: From where?

1 MR. JOHNSON: Bamberg Police Department.

2 THE COURT: Bamberg Police Department?

3 MR. JOHNSON: Yes, sir.

4 THE COURT: Your brother-in-law?

5 MR. JOHNSON: Yes, retired.

6 THE COURT: Thank you.

7 MR. WILSON: Could I have who it is, Your

8 Honor?

9 THE CLERK: Gene Hines.

10 THE COURT: What's his name?

11 MR. JOHNSON: Gene Hines.

12 THE COURT: Just keep standing, I will ask you
13 some more questions in a minute.

14 Come on around, Mr. Abstance.

15 (WHEREUPON there was a discussion between the
16 Court and Mr. Abstance, juror No. 1 out of the hearing of
17 the Court Reporter.)

18 THE COURT: Mr. Johnson, come on and get some
19 exercise and walk up here.

20 (WHEREUPON there was a discussion between the
21 Court and Mr. Johnson out of the hearing of the Court
22 Reporter.)

23 THE COURT: All right. Mr. Wilson, would you
24 stand and introduce yourself to the jury, please, sir.

25 MR. WILSON: Yes, sir. I'm Chris Wilson. I

1 live here in Bamberg and I practice at the Wilson law firm
2 just right here behind the courthouse. My law partner is
3 Mr. Steve Chandler. Thank you.

4 THE COURT: All right. Has any member of the
5 jury panel been represented by Mr. Wilson or anyone in his
6 law firm, either presently or in the past? Been
7 represented past or present by him or his law firm, if so,
8 please stand. Anyone else?

9 MS. HUTTO:

10 MS. HUTTO: My son.

11 THE COURT: Your son? He represented your son?

12 MS. HUTTO: Yes, sir.

13 THE COURT: How long ago.

14 MS. HUTTO: I think last year.

15 THE COURT: Last year?

16 MS. HUTTO: Yes, sir.

17 THE COURT: Did you participate -- what was his
18 representation about with your son.

19 MS. HUTTO: I think it was violating probation.

20 THE COURT: Probation violation?

21 MS. HUTTO: Yes, sir.

22 THE COURT: Were you involved in the procedure?

23 MS. HUTTO: No, sir, I just knew it ---

24 THE COURT: You just knew it happened?

25 MS. HUTTO: Yes, sir.

1 THE COURT: Would that affect you on this jury?

2 MS. HUTTO: No, sir, not at all.

3 THE COURT: Not at all?

4 MS. HUTTO: No, sir.

5 THE COURT: It wouldn't have any affect on you
6 whatsoever?

7 MS. HUTTO: No, sir.

8 THE COURT: You could base your decision on the
9 testimony you hear in the courtroom?

10 MS. HUTTO: Yes, sir.

11 THE COURT: All right. Thank you very much,
12 Ms. Hutto.

13 Solicitor, you want to stand and introduce
14 yourself?

15 MS. MORGAN: Yes, sir. My name is Barbara
16 Morgan, I'm the Solicitor for the Second Circuit. With me
17 in this case is Grant Gibbons. We both live in Aiken.

18 THE COURT: Does any member of the jury panel
19 have a close friend or any relationship with the solicitor
20 or anyone in the solicitor's office either here or in
21 Barnwell or Aiken County? If so, please stand.

22 (WHEREUPON there was no response from the jury
23 venire.)

24 THE COURT: Has any member of the jury panel
25 formed or expressed an opinion about any issue or matter

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

2 (WHEREUPON there was no response from the jury
3 venire.)

4 THE COURT: Is any member of the jury panel
5 aware of any bias or prejudice towards either the State or
6 the defendant in this case? If so, please stand.

7 (WHEREUPON there was no response from the jury
8 venire.)

9 THE COURT: Has any member of the jury panel
10 been prosecuted by the solicitor or a member of your family
11 or close personal friend been prosecuted by the solicitor
12 here in Bamberg? If so, please stand.

13 (WHEREUPON there was no response from the jury
14 venire.)

15 THE COURT: Has any member of the jury panel
16 been a defendant in a criminal case in the past? If so,
17 please stand.

18 (WHEREUPON there was no response from the jury
19 venire.)

20 THE COURT: Has any member of the jury panel
21 been a defendant in a criminal case in the past? If so,
22 please stand.

23 (WHEREUPON there was no response from the jury
24 venire.)

25 THE COURT: Any further questions from the

1 State?

2 MS. MORGAN: No, Your Honor.

3 THE COURT: Any from the defendant?

4 MR. WILSON: Nothing further, Your Honor. I do
5 want to have one moment.

6 THE COURT: All right. You have some motions?

7 MR. WILSON: Yes, sir.

8 THE COURT: You want to come forward and we'll
9 deal with it at the bench?

10 MR. WILSON: Yes, sir.

11 (WHEREUPON there was a bench conference out of
12 the hearing of the jury venire and the Court Reporter.)

13 JURY SELECTION

14 THE COURT: All right. Mr. Clerk, if you'll
15 give us a jury, please, sir.

16 Mr. Wilson ten and five. And we will take one
17 alternate, that will be two and one.

18 MR. WILSON: Yes, sir.

19 THE COURT: As your name is called, please come
20 forward and stand and face back that way, please.

21 THE CLERK: No. 140, Christopher Williams.

22 THE COURT: Do we have a motion? Anything you
23 want to put on the record?

24 MS. MORGAN: The State ---

25 THE COURT: What number are we talking about?

1 MS. MORGAN: There's no problem. Mr. Hiers
2 called out his name, but that was a no show. He's the only
3 one we had.

4 THE COURT: I had a question by it. And I
5 think the sheriff is on his way to check that now.

6 THE CLERK: No. 79, Verlette Kizer.

7 What say for the State?

8 MS. MORGAN: State would present Ms. Kizer.

9 THE CLERK: What say for the defense?

10 MR. WILSON: 79?

11 THE CLERK: 79.

12 MR. WILSON: Please seat Ms. Kizer.

13 THE CLERK: Have a seat in the jury box,
14 please, ma'am.

15 No. 40, Jeffrey O. Folk.

16 What say for the State?

17 MS. MORGAN: State would excuse Mr. Folk from
18 the trial of this case.

19 THE CLERK: Have a seat back in the jury pool,
20 please.

21 No. 50, Barbara A. Hutto.

22 ~~What say for the State?~~

23 MS. MORGAN: State would present Ms. Hutto.

24 THE CLERK: What say for the defense?

25 MR. WILSON: Please excuse Ms. Hutto from

1 service on this jury.

2 THE CLERK: Have a seat back out in the jury
3 pool, please.

4 No. 16, Linda F. Bowers.

5 THE COURT: What number?

6 THE CLERK: 16.

7 What say for the State?

8 MS. MORGAN: The State would present

9 Ms. Bowers.

10 THE CLERK: What say defense?

11 MR. WILSON: Please seat Ms. Bowers.

12 THE CLERK: Have a seat in the jury box,
13 please, ma'am.

14 No. 109, April L. Rice.

15 What say for the State?

16 MS. MORGAN: Please present Ms. Rice.

17 THE CLERK: What say for defense?

18 MR. WILSON: Please seat Ms. Rice.

19 THE CLERK: Have a seat in the jury box,
20 please, ma'am.

21 THE COURT: When you come forward, bring your
22 personal belongings with you if you would, please.

23 THE CLERK: No. 14, Lawrence B. Blanding.

24 What say for the State?

25 MS. MORGAN: State would present Mr. Blanding.

1 THE CLERK: What say for defense?
2 MR. WILSON: Please seat Mr. Blanding.
3 THE CLERK: Have a seat in the jury box,
4 please.
5 No. 141, Latasha S. Williams.
6 What say for the State?
7 MS. MORGAN: State would present Ms. Williams.
8 THE CLERK: What say for defense?
9 MR. WILSON: Please seat Ms. Williams.
10 THE CLERK: Have a seat in the jury box.
11 No. 127, Travis Thomas.
12 What say for the State?
13 MS. MORGAN: State would present Mr. Thomas.
14 THE CLERK: What say defense?
15 MR. WILSON: Please excuse Mr. Thomas from the
16 trial of this case.
17 THE CLERK: Have a seat back in the jury pool,
18 please, sir.
19 No. 28, Angelia F. Connelly.
20 What say for the State?
21 MS. MORGAN: State would present Ms. Connelly.
22 THE CLERK: What say for defense?
23 MR. WILSON: Please seat Ms. Connelly.
24 THE CLERK: Have a seat in the jury box,
25 please.

1 No. 106, Elizabeth C. Razor.

2 What say for the State?

3 MS. MORGAN: State would present Ms. Razor.

4 THE CLERK: What say the defense?

5 MR. WILSON: Please excuse Ms. Razor from the
6 trial of this case.

7 THE CLERK: Have a seat back in the jury pool,
8 please.

9 No. 35, Louis Davis.

10 What say the State?

11 MS. MORGAN: State would present Mr. Davis?

12 THE CLERK: What say for defense?

13 MR. WILSON: Please excuse Mr. Davis from
14 service on the trial.

15 THE CLERK: Have a seat back in the jury pool,
16 please.

17 So far the State has one strike and the
18 defense, four. Correct?

19 MR. WILSON: That's correct.

20 THE CLERK: No. 126, Jeffrey Summers.

21 What say the State?

22 MS. MORGAN: The State would excuse Mr. Summers
23 from the trial of this case.

24 THE CLERK: Return to the jury pool, please.

25 No. 2, Genova D. Argo.

1 What say the State?

2 MS. MORGAN: The State would present Ms. Argo
3 for the trial of this case.

4 THE CLERK: What say the defense?

5 MR. WILSON: Please excuse Ms. Argo from the
6 trial of this case.

7 THE CLERK: Return to your seat, please, ma'am.

8 No. 85, Boncil E. Long.

9 What say for the State?

10 MS. MORGAN: The State would present Mr. Long.

11 THE CLERK: What say for the defense?

12 MR. WILSON: Please seat Mr. Long.

13 THE CLERK: Have a seat in the jury box,
14 please, sir.

15 No. 9, Jessica N. Banks.

16 What say for the State?

17 MS. MORGAN: State would present Ms. Banks.

18 THE CLERK: What says defense?

19 MR. WILSON: Just one moment, please. Please
20 seat Ms. Banks.

21 THE CLERK: Have a seat in the jury box,
22 please.

23 No. 89, Clarence B. McCully.

24 What say for the State?

25 MS. MORGAN: The State would present

1 Mr. McCully.

2 THE CLERK: What say for defense?

3 MR. WILSON: Please excuse Mr. McCully from
4 this case.

5 THE CLERK: No. 58, Roxie V. Haralson.

6 What say for the State?

7 MS. MORGAN: The State would present
8 Ms. Haralson.

9 THE CLERK: What say for defense?

10 MR. WILSON: Please excuse Ms. Haralson from
11 this trial.

12 THE CLERK: Return to your seat, please.

13 Juror No. 32, Chad B. Crosby.

14 What say for the State? State would present
15 Mr. Crosby.

16 THE CLERK: What say for defense?

17 MR. WILSON: Please excuse Mr. Crosby from
18 service on this case.

19 THE CLERK: No. 113, Carol D. Sanders.

20 What say for the State?

21 MS. MORGAN: State would present Ms. Sanders.

22 THE CLERK: What say for defense?

23 MR. WILSON: Please excuse Ms. Sanders from
24 service on this trial.

25 THE CLERK: Have a seat back in the jury pool

1 Ms. Sanders.

2 No. 69, Freddy L. Johnson.

3 What say for the State?

4 MS. MORGAN: State would present Mr. Johnson.

5 THE CLERK: What say for defense?

6 MR. WILSON: Please seat Mr. Johnson.

7 THE CLERK: Have a seat in the jury box.

8 No. 92, Lisa E. Behling. It was Macmillan but
9 it's Behling now; correct?

10 MS. BEHLING: Correct.

11 THE CLERK: What say for the State?

12 MS. MORGAN: The State would present

13 Ms. Behling.

14 THE CLERK: What say for the defense?

15 MR. WILSON: Please seat this juror.

16 THE CLERK: Have a seat in the jury box,
17 please. No. 110 Willie G. Rice.

18 What say for the State?

19 MS. MORGAN: State would excuse Mr. Rice from
20 the trial of this case.

21 THE CLERK: You can return to your seat.

22 No. 53, Taquesta L. Grant.

23 What say for the State?

24 MS. MORGAN: The State would present Ms. Grant.

25 THE CLERK: What say for defense?

1 MR. WILSON: Please seat Ms. Grant.

2 THE CLERK: Have a seat in the jury box.

3 No. 6, Dorothy M. Bamberg.

4 What say for the State?

5 MS. MORGAN: The State would present

6 Ms. Bamberg.

7 THE CLERK: What say for defense?

8 MR. WILSON: Please excuse Ms. Bamberg from the

9 trial of this case.

10 THE CLERK: Return to your seat, please.

11 No. 135 Sharon B. Washington.

12 What say for the State?

13 MS. MORGAN: The State would present

14 Ms. Washington.

15 THE CLERK: What say for defense?

16 MR. WILSON: Just a moment, please. Please

17 seat Ms. Washington.

18 THE CLERK: You can have a seat in the jury

19 box, please.

20 THE COURT: Alternate, one and one.

21 MS. MORGAN: Yes, sir.

22 MR. WILSON: Yes, sir.

23 THE CLERK: No. 61, Michael E. Hogan.

24 What say for the State?

25 MS. MORGAN: State would present Mr. Hogan.

1 THE CLERK: What say defense?

2 MR. WILSON: Please excuse Mr. Hogan from
3 service in this case.

4 THE CLERK: Okay. No. 97, Landis Nelson.
5 What say for the State?

6 MS. MORGAN: The State would please excuse
7 Mr. Nelson from the trial of this case.

8 THE CLERK: Return to your seat.
9 No. 51, Nathaniel Glover.

10 What say for the State?

11 MS. MORGAN: The State would present
12 Mr. Glover.

13 THE CLERK: What say for defense?

14 MR. WILSON: Please seat Mr. Glover.

15 THE CLERK: Have a seat in the back corner,
16 please.

17 THE COURT: One alternate or you want two?

18 MR. WILSON: This is fine, Your Honor.

19 THE COURT: Ladies and gentlemen of the jury,
20 what I'm going to ask you to do is go to the jury room.
21 And what I want to you do is elect a forelady or foreman of
22 the jury. After you've done that, write the name down and
23 give it to the bailiff and he'll bring it back to me and I
24 will bring you back in the courtroom. You can select
25 anybody on the jury except for the alternate, Mr. Glover.

1 If you'll follow the bailiff, he'll show you to
2 the jury room.

3 (WHEREUPON the jury left the courtroom at 3:26
4 p.m.)

5 THE COURT: All right. Any motions from the
6 State as far as drawing of the jury?

7 MS. MORGAN: Not from the State, Your Honor.

8 THE COURT: Any from the defendant, other than
9 the motions you've already made at the bench earlier.

10 MR. WILSON: Yes, Your Honor, we'll have a
11 motion about the jury.

12 THE COURT: All right. Let me hear it.

13 BATSON MOTION

14 MR. WILSON: May we approach, Your Honor?

15 THE COURT: If you prefer.

16 MR. WILSON: Judge, I would have a Batson
17 Motion for the Court to set aside the jury strike we just
18 went through and that we strike another jury. The
19 solicitor's strikes are made -- the three strikes of the
20 jury on the 12 all three of them were blacks.

21 I would submit to the Court that indicates a
22 Batson Motion. All four of them are male and I believe ---

23 THE COURT: I believe I know Batson,
24 Mr. Wilson. And for the record, I would state this, the
25 defendant is a white male.

1 MR. WILSON: I would just submit to the Court
2 that all four being black creates a prima fascia showing.

3 THE COURT: Give me the reason as to -- Juror
4 No. 40, Folk. He was a black male that you struck. What's
5 your race neutral reason?

6 MS. MORGAN: He's got four prior charges. He
7 does have one CDV.

8 THE COURT: Tell me about Juror 126, which the
9 last name is Summers.

10 MS. MORGAN: Yes, sir. He is he had four prior
11 drug charges, one as recent as this year.

12 THE COURT: And you had Juror 110 who was also
13 a black male.

14 MS. MORGAN: He had had sun glass and that was
15 a concern for me. I wasn't worried about him wearing sun
16 glasses -- and he also had a marijuana involvement. And he
17 tried to get off for what I perceived he said he needed
18 insulin.

19 THE COURT: I told him to get his medicine.
20 How about the alternate?

21 MS. MORGAN: Judge, I had -- he was pretty much
22 based on his demeanor. He was the only juror that did not
23 look at me and was looking at the ground and had what I
24 perceived to be no desire to be here -- but out of all the
25 jurors, male, female.

1 MR. WILSON: Judge, I don't have anything -- if
2 I could have one second, I need the grab my note pad.

3 MS. MORGAN: For the record, I did put on other
4 blacks, Judge. If you want me to go through that ---

5 MR. WILSON: Judge, I don't have anything to
6 dispute the No. 40 or the 126 for being race neutral. I
7 don't have anything that would show she put anyone else on
8 the jury that we would dispute -- Mr. Glover, I would
9 submit to the Court he indicated he made a request to be
10 relieved for an invalid reason or hardship. He said, I
11 don't know if you were up here, he said that he was insulin
12 dependent and he took shots.

13 THE COURT: He said he took medication and had
14 his medicine so I sent him to the car and he hasn't
15 registered any other complaints since then.

16 MR. WILSON: Judge, my notes indicate that 85,
17 Mr. Long indicated that he had some back problems and that
18 might be a hardship with him and the fact that he wouldn't
19 be here long we would make -- there is a black male who she
20 sat on the jury with a very similar complaint.

21 THE COURT: Mr. Long indicated to the Court
22 when I questioned him he would not have any difficulty
23 sitting and he was not taking medication and I think the
24 other one said he was taking morphine.

25 MR. WILSON: Judge, I would just submit to the

1 Court and if you look at those two and set aside the
2 solicitor's race neutral reasons and show to the Court it
3 was not a race neutral, sufficient showing.

4 (WHEREUPON there was further discussion between
5 the Court and the attorneys.)

6 THE COURT: Before I rule on your motion, let
7 me put on the record, the State did place on Juror No. 14
8 who was a black male and did place No. 14 who was a black
9 male and No. 49 who was a black male and -- anybody I
10 missed?

11 MS. MORGAN: 51.

12 THE COURT: The alternate is 51, is a black
13 male. Isn't that a black male 35, you struck?

14 MS. MORGAN: The defendant struck 35. I put
15 him on. He's a black male. The defendant struck him.

16 THE COURT: He was a black male but you put him
17 on that's correct?

18 MR. WILSON: Yes, sir.

19 THE COURT: Any other that the defendant struck
20 that you put on?

21 MS. MORGAN: No, I don't -- I put on the
22 ~~alternate Glover who was a black male.~~

23 THE COURT: So based on the explanations and
24 discussion with the attorneys, the Batson Motion is denied.

25 (WHEREUPON the following took place in open

1 court.)

2 THE COURT: All right. The other remaining
3 members of the jury panel, the clerk is going to pass out a
4 sheet. On this sheet is a phone number, a phone number you
5 can call in after 6 o'clock and hear a message. The
6 message may be report tomorrow. The message may be report
7 Thursday, but there will be a message on the machine. But
8 if you would call in tonight after 6 o'clock. The bailiffs
9 are going the pass out the piece of paper on it.

10 Is there anyone that does not understand that?

11 (WHEREUPON there was no response from the jury
12 venire.)

13 THE COURT: Let me explain that the Court
14 expects you to follow those instructions. All right. This
15 is an answering machine and all of you can't call at one
16 time, so all of you don't call at 6 o'clock. Does
17 everybody have the phone number?

18 THE BAILIFF: We're about three or four short.

19 THE CLERK: Okay.

20 THE COURT: Is there anybody that does not have
21 the phone number?

22 (WHEREUPON there was no response from the jury
23 venire.)

24 THE COURT: Is there anybody that has any
25 questions at all about how to -- what to do? Call in

1 sometime after 6 o'clock tonight and follow the
2 instructions on the machine. You're welcome to stay,
3 otherwise you may be excused or you may stay, your choice.

4 (WHEREUPON the jury venire left the courtroom.)

5 THE COURT: All right. How long will the
6 motions take? We've got a Jackson v Denno and what else?

7 MS. MORGAN: That's it.

8 MR. WILSON: Judge, I have a motion with
9 respect to ---

10 THE COURT: How many do we have?

11 MR. WILSON: One motion but it's with respect
12 to three of the indictments.

13 THE COURT: All right. How long do you think
14 it will take?

15 MR. WILSON: Judge, the motion on the
16 indictments will probably take 15 minutes..

17 THE COURT: And the Jackson v Denno will take
18 twenty or thirty minutes?

19 MR. WILSON: Twenty or thirty minutes at most I
20 would think.

21 THE COURT: All right. It's quarter to four,
22 ~~do ya'll want to bring them back and start in the morning~~
23 or ya'll want to go ahead and let them stay this afternoon.

24 MS. MORGAN: I'd like to start fresh in the
25 morning.

1 MR. WILSON: I believe that would be better,
2 Your Honor.

3 THE COURT: All right. I'm going to bring the
4 jury out and we'll excuse them until 9:30 in the morning.

5 MS. MORGAN: Yes, sir.

6 THE COURT: Bring the jury.

7 (WHEREUPON the jury entered the courtroom at
8 3:44 p.m.)

9 THE COURT: All right. The Forelady,
10 Ms. Grant, she'll sit in the same seat and the alternate
11 you'll sit in the same seat, but the rest of you sit
12 however you file in the courtroom. That's what's easier.
13 And what I'm going to do now, I'm going to have to take up
14 some other matters and motions and I believe the solicitor
15 has some other matters for the Court. It's a quarter to
16 four and we -- normally I quit at 5 o'clock.

17 Now your hours will be from 9:30 to 1:00 and
18 we'll take a lunch break from 1:00 to 2:30, and we'll quit
19 about 5 o'clock. So what I'm going to ask you to do is
20 leave the courthouse, be back tomorrow morning in the jury
21 room at 9:30 and we'll get started at that time.

22 Now, please don't discuss the case amongst
23 yourselves or with anyone else. Does everyone understand
24 that?

25 (WHEREUPON it was indicated affirmatively by

1 all jurors.)

2 THE COURT: All right. If you will, the
3 bailiff -- you know where to come from, you just go back to
4 the jury room at 9:30 and we'll get started at that time.
5 So I'll see you in the morning. Have a good evening.

6 (WHEREUPON the jury left the courtroom at 3:45
7 p.m.)

8 THE COURT: All right. Let's take about a five
9 minute break, okay.

10 (WHEREUPON a short recess was observed.)

11 **PRETRIAL MOTIONS**

12 THE COURT: Solicitor, what are we going to do
13 first? The motions?

14 MS. MORGAN: He wanted to do a motion on the
15 indictments.

16 THE COURT: Okay. Let's do the motion on the
17 indictments and then we'll do a Jackson vs. Denno.

18 MS. MORGAN: And I think you've got the
19 indictments, Judge.

20 THE COURT: Here are the indictments. Which
21 ones are you referring to?

22 ~~MR. WILSON: Your Honor~~

23 MS. MORGAN: I think he's referring to -- I'm
24 not trying to make his ---

25 THE COURT: What's the charges? Which charges?

1 MR. WILSON: Your Honor, armed-robbery.

2 THE COURT: Okay. Armed-robbery.

3 MR. WILSON: 04-23.

4 THE COURT: Okay. What's the other one?

5 MR. WILSON: Your Honor, on that one the
6 argument would entail ---

7 THE COURT: Well, just tell me what the other
8 two indictments are first.

9 MR. WILSON: Oh, sure. I was just -- Your
10 Honor, it's 04-22, the grand larceny.

11 THE COURT: Which grand larceny, sir?

12 MR. WILSON: 04-22.

13 THE COURT: 22?

14 MR. WILSON: Yes, sir.

15 THE COURT: Okay. I've got 24, 25 -- okay.
16 There's 22.

17 MR. WILSON: And the 04-21, possession of a
18 firearm during a violent offense.

19 THE COURT: 04-21. Okay. I've got it. I've
20 got it. Okay. These three indictments?

21 MR. WILSON: Yes, sir.

22 THE COURT: All right. Let me hear your
23 arguments, whichever one you want to go first.

24 MR. WILSON: Okay. Your Honor, I will just
25 take up the armed-robbery and then everything else will

1 spill off of that one.

2 THE COURT: Okay.

3 MR. WILSON: Your Honor, I will hand up to the
4 Court a case of State vs. Hiott. It's a 1981 Supreme Court
5 of South Carolina case. I had researched this, Your Honor
6 and found it still to be good law and specifically good law
7 in the cases that I'm going to cite to the Court. Your
8 Honor, I'll hand that up, and I've highlighted a section on
9 Page 5 that I'm going to refer to ---

10 THE COURT: Okay.

11 MR. WILSON: --- that will be entailed in the
12 arguments.

13 THE COURT: Thank you, sir.

14 MR. WILSON: Judge, that case has been cited
15 and I'll be frank with the Court, it's been cited and
16 discussed a number of times, but I've looked at the cases
17 that are cited, that are discussed and I've distinguished
18 it. Nothing that I've been able to find changes those
19 portions that I've marked for you and the portions that I'm
20 going to argue to you.

21 Judge, the argument that I'm going to make to
22 ~~you pertains to the armed-robbery indictment and then~~
23 spills over into those other two indictments. I'm going to
24 argue that the armed-robbery indictment is insufficient,
25 it's invalid because it does not describe with enough

1 specificity or sufficiency the items that were alleged to
2 have been taken during the armed-robbery. If you look at
3 the indictment, it alleges that goods and monies, that the
4 defendant in Bamberg County, when armed with a weapon did
5 take goods and monies from one, Halman Sease. That's the
6 only description is goods and monies.

7 Your Honor, if you look at the case, the Hiott
8 case that I handed up to you, that case is a little bit
9 different from the factual scenario. In that case, what
10 happened is the State proceeded to trial on an
11 armed-robbery indictment that used that exact language,
12 goods and monies, and then went further to say specifically
13 a toothbrush. That was the specific item that was alleged
14 to have been taken.

15 They went forward in trial. There wasn't
16 anything raised about the indictment prior to trial. The
17 case went forward to trial and at the close of the State's
18 case, the defense, I believe, made a motion to -- or
19 actually the State made a motion to amend the indictment
20 after they got into some arguments about the proof, the
21 grounds between the proof and the indictment.

22 The State moved to amend the indictment to
23 remove the toothbrush because there wasn't any evidence
24 offered that there had been an armed-robbery of any
25 toothbrush. So they backed back down to the language of

1 just goods and monies and that was the only language;
2 therefore, that would have been left in the indictment.
3 Your Honor, they went further forward in that case and it
4 ultimately resulted in a conviction and the Court found
5 that there was a sufficient basis at that time.

6 I believe, Your Honor, that the ruling comes
7 down that there was a sufficient basis for the indictment
8 on the restriction of goods and monies. I would argue to
9 you that in this case, Your Honor, we're here on the eve of
10 trial and there isn't anything in the indictment
11 sufficient -- of course -- let me back up just a moment,
12 the three purposes of an indictment, Your Honor, are laid
13 out in that case. Of course, we all know that the
14 indictment is the charging papers that bring the defendant
15 to court and one of those is to put the defendant on notice
16 as to the crime that's going to be charged and to put the
17 defendant on sufficient notice to be able to defend against
18 that.

19 Your Honor, I would submit to the Court that
20 the description in that armed-robbery indictment that just
21 merely entails money and goods; and since the indictment is
22 ~~not sufficient, the indictment is not valid. Of course, if~~
23 that indictment is not valid, they can't proceed.

24 THE COURT: I thought you said this case said
25 goods and monies was sufficient in the State vs. Hiott

1 case.

2 MR. WILSON: Your Honor, it did.

3 THE COURT: Then how is this case being
4 distinguished with Hiott.

5 MR. WILSON: Well, Your Honor, in that case, in
6 the indictment, they did put the defendant on notice as to
7 what they were going to intend to prove which was goods and
8 monies and the indictment went on further to say the
9 specific item that they were ---

10 THE COURT: But the toothbrush was removed.

11 MR. WILSON: It was ultimately removed, yes,
12 sir.

13 THE COURT: And then that left goods and
14 monies. Was the motion ever made to quash the indictment
15 for insufficient ---

16 MR. WILSON: Not in my reading of that case.
17 If it was, Your Honor, it wasn't something that was
18 addressed by the Appellate Court. But I would submit to
19 the Court that the indictment on armed-robbery is not
20 sufficient. It does not sufficiently describe the property
21 that is involved in the armed-robbery. If the
22 armed-robbery indictment is not sufficient, Your Honor ---

23 THE COURT: How could you be more specific than
24 say money -- I mean what else could there be besides money.
25 It may not say \$10, \$25 or \$100, but it says money. Isn't

1 that pretty specific?

2 MR. WILSON: But, Judge, if I could, and I may
3 just be going a little forward, I may clear that up for the
4 Court. If the armed-robbery indictment isn't sufficient
5 then the position -- the only basis for the possession of a
6 weapon during a violent crime is the armed-robbery and
7 that's specifically noted in that indictment.

8 Judge, where this all plays down to is in the
9 larceny charge and that's why I'd ask you to take a look at
10 that indictment also. The larceny charge or the larceny
11 indictment specifically references that he's guilty of
12 larceny in connection with taking, with the intent to
13 deprive and all the language that's required for larceny,
14 money and jewelry. And I believe that's the exact language
15 in that.

16 THE COURT: It's jewelry, currency and a
17 firearm.

18 MS. MORGAN: Yes, yes, sir.

19 MR. WILSON: And, Your Honor, what I would
20 submit to the Court is that the armed-robbery indictment,
21 by saying goods and monies does not specify what they
22 ~~intend to rely on to prove the armed robbery.~~ It's very
23 specific in the larceny. I'm not sure if they intend to
24 rely on the same items being taken to submit the
25 armed-robbery or whether they intend to rely on some

1 different items. And I've been provided the incident
2 reports and all the materials about this case, Your Honor.
3 But in the indictments, it does not put us on sufficient
4 notice of what is going to be the basis for the
5 armed-robbery; if it's going to be something above and
6 beyond the jewelry and the money and the firearm that they
7 say forms the basis for the grand larceny.

8 THE COURT: Okay.

9 MR. WILSON: And, Your Honor, as I indicated --
10 I think I said this -- if I didn't -- if the armed-robbery
11 indictment fails then I don't see how they could proceed on
12 the possession of a firearm during the commission of a
13 violent crime.

14 THE COURT: That would go directly on ---

15 MR. WILSON: I believe the -- and I think it
16 specifically references the armed-robbery.

17 THE COURT: Okay. Well you handed me this case
18 and on Page 6 and 7, if you remember, we do not think the
19 remaining verbiage, goods and monies was prejudicial or
20 unfair to the defendant for lack of sufficient description.

21 MR. WILSON: I understand, Your Honor. And
22 in -- and the distinction that I draw to you there, Your
23 Honor, is when they proceeded to trial, the indictment laid
24 out specifically what they planned to prove. We don't have
25 that in this case.

1 THE COURT: Okay.

2 MR. WILSON: And I understand in that case they
3 didn't ultimately prove that and they tried to turn and
4 make it conform to the proof. That's an issue that lawyer
5 should have raised in that case before it got started, Your
6 Honor. In that case ---

7 THE COURT: I guess he could make the same
8 argument you made because specifically they did mention
9 toothbrush and I don't know how they can be more explicit
10 in that other than saying it's hand-held or electric.

11 MR. WILSON: And he should have -- and in that
12 case, Your Honor, I'm not trying -- maybe what he could
13 have done is objected and I'm trying to prove something
14 beyond the theft of the toothbrush or the robbery of the
15 toothbrush. When they started talking about the goods and
16 monies outside of that, they could have objected to those
17 being outside the indictment. He could have cut them off
18 there and got a directed verdict on that charge. I don't
19 know why that wasn't done back then. But I know there was
20 a specific item in that case at the time of trial.

21 THE COURT: That language is in there -- that
22 language in this case is pretty clear.

23 MR. WILSON: I understand.

24 THE COURT: Okay.

25 MR. WILSON: But that's the only thing I could

1 find, Your Honor, some guidance law in this area.

2 THE COURT: Anything else?

3 MR. WILSON: Nothing with regard to the
4 indictments, Your Honor.

5 THE COURT: Thank you very much, Mr. Wilson.
6 Solicitor?

7 MS. MORGAN: Judge, I think in regards to the
8 argument about the sufficiency of the armed-robbery,
9 Mr. Wilson gave us the cite and we made a copy of his case.
10 I think -- we went to the page you did, Page 6. It is
11 clear that the description of the property is not necessary
12 particularly to describe the property intended to take, the
13 alleged value of that property. That is the description of
14 that armed-robbery. You do not have to have a value of it
15 for an element of the offense. It just had to be taken by
16 force and intimidation while using a firearm.

17 Clearly, that's what we have in this case and I
18 think it is sufficient. The State has complied extensive,
19 has fully complied with Rule 5. We've given Mr. Wilson
20 every bit of ---

21 THE COURT: Let me ask you this, on the issue
22 of goods, you said goods or monies.

23 MS. MORGAN: Yes, sir.

24 THE COURT: How does that put him on notice as
25 to goods? I mean goods could be basically anything.

1 MS. MORGAN: I understand and what I think ---

2 THE COURT: And then you not only say goods
3 then you say or.

4 MS. MORGAN: Well, I think -- I think it's both
5 in this case. There was ---

6 THE COURT: But shouldn't you be more specific
7 as to what goods you're talking about?

8 MS. MORGAN: I don't think we're required to be
9 under that law, specifically. Further we do not think the
10 remaining verbiage, goods or monies, which is all they had
11 left was prejudicial or unfair for the lack of sufficient
12 description. That's the case of point. It is sufficient.
13 And again, any -- in terms of any amendment or notice or
14 prejudice, there's no surprise.

15 THE COURT: Well, the case said goods and
16 monies and your indictment says goods or monies.

17 MS. MORGAN: Okay.

18 THE COURT: I don't know what distinction that
19 would make but ---

20 MS. MORGAN: I don't ---

21 THE COURT: Other than you were doing a
22 catch-all. If you did have goods then and you could have
23 some money. If you didn't have monies, you'd have some
24 goods.

25 MS. MORGAN: Well, I think we still have to

1 prove it and I think we've got -- Mr. Wilson discussed it
2 and his point was in regards to, as Your Honor, is aware,
3 there are three separate grand larceny, two of them
4 involving the truck and the other one involving grand
5 larceny over \$1,000 to \$5,000.

6 We agreed and had discussions outside Your
7 Honor's presence about what law might relate to that as to,
8 is there an election, do they merge, is one a
9 lesser-included and I believe it is Parker -- Parker that
10 we showed Mr. Wilson, that said that separate elements --
11 it's a recent 2002 case, that indicates they're separate
12 offenses. And not lesser-included. But I do believe that
13 what the State is going to do is clarify it for the jury;
14 request that the armed-robbery be amended and take out the
15 grand larceny of the \$1,000 to \$5,000.

16 THE COURT: Okay.

17 MS. MORGAN: And I think that corrects it.

18 THE COURT: You want to do that now?

19 MS. MORGAN: We can, yes, sir.

20 THE COURT: Or do you want to do away with the
21 thousand to five grand larceny is that correct?

22 MS. MORGAN: Yes, sir.

23 THE COURT: You're not going to proceed on
24 that?

25 MS. MORGAN: Yes, sir. But merge it -- in

1 other words add jewelry, goods and monies.

2 THE COURT: To the armed-robbery? Is that
3 right?

4 MS. MORGAN: Yes, to add the jewelry.

5 THE COURT: Jewelry first and firearm to the
6 armed-robbery as to the goods, is that what you want to do?

7 MS. MORGAN: I want to do jewelry, goods and
8 monies.

9 THE COURT: And monies.

10 MS. MORGAN: Because, Judge, in this case, as
11 Mr. Wilson is aware, there were a lot of different smaller
12 items that were taken that would be ---

13 THE COURT: You want to amend the armed-robbery
14 indictment, is that your motion?

15 MS. MORGAN: That is my motion.

16 THE COURT: All right. Let's cover the first
17 motion first before we get to that motion.

18 MS. MORGAN: Yes, sir.

19 THE COURT: Based upon the language in the
20 Hiott case, 276 SC 2nd 163, I'm going to deny your motion
21 as to the armed-robbery.

22 Now, what's your position on allowing the State
23 to amend the indictment on armed-robbery, apparently just
24 to include the word jewelry to goods or monies.

25 MR. WILSON: And, Your Honor, I don't think the

1 language and/or is going to matter. Judge, before I answer
2 that, if I could ask, as I understand, the grand larceny,
3 04-22 ---

4 THE COURT: They're not going to move forward
5 on it.

6 MR. WILSON: It's going to be gone?

7 MS. MORGAN: We're not going forward.

8 MR. WILSON: Judge, I can't consent to the
9 amendment of the indictment, obviously.

10 THE COURT: Well, you can. I'm not saying that
11 you will, but you can. I understand ---

12 MR. WILSON: I understand. I guess I could ---

13 THE COURT: You may not want to and that's
14 fine.

15 MR. WILSON: I don't want to and I'm not.

16 THE COURT: Okay. That's fine.

17 MR. WILSON: Your Honor, my understanding of
18 the burden, that's on the State.

19 THE COURT: Let's do this. I'm going to take
20 that under advisement because I need to hear the testimony
21 and maybe at some point in time, they can make a motion to
22 conform the indictment to the evidence and if the jury
23 comes out -- I will take it under advisement at this time.
24 Okay?

25 MR. WILSON: Thank you.

1 THE COURT: What's your other motion?

2 JACKSON vs. DENNO HEARING

3 MR. WILSON: Judge, the only other pretrial
4 issue I know that needs to be taken up, there are several
5 statements that -- the State's going to introduce several
6 statements that Mr. Gunnells made that they are going to
7 introduce or attempt to introduce and we would request a
8 Jackson vs. Denno. My understanding of the law on that is
9 that I request it and then it becomes their burden to put
10 up evidence that shows to the Court that it's voluntary, et
11 cetera.

12 THE COURT: All right. Well, let me ask you
13 this, as far as the Miranda Rights, do you concede that
14 Miranda Rights were given or is part of your attack on the
15 confession denial of Miranda rights and voluntariness or
16 both?

17 MR. WILSON: Judge, the attack is going to be
18 on the voluntariness.

19 THE COURT: And you're going to concede to the
20 fact that the Miranda Rights is not an issue?

21 MR. WILSON: Let me check, but the last I
22 talked with my ---

23 THE COURT: All right.

24 MR. WILSON: Judge, there are, there are three
25 statements and so to answer that -- there 's a statement

1 that is made upon Mr. Gunnells being located or arrested by
2 law enforcement.

3 THE COURT: Is that an oral statement?

4 MR. WILSON: It's an oral statement, yes, sir.
5 And I'm not trying to take their ship, but I think their
6 position is going to be that Miranda wasn't required and
7 Miranda wasn't given in that case.

8 THE COURT: Okay.

9 MR. WILSON: The second statement is a
10 handwritten statement taken after Mr. Gunnells was arrested
11 and in custody and we're not going to dispute that he was
12 given his Miranda rights in connection with that statement.

13 THE COURT: On the second statement?

14 MR. WILSON: On the second written statement.

15 THE COURT: What's your position on the third?

16 MR. WILSON: The third statement, Your Honor,
17 I'm not sure they even intend to do anything with. If they
18 do, we can argue it, if they don't it's a non issue, but he
19 was interviewed again on a third time and if she's not
20 going to do anything with it, I don't even think we need to
21 bring it up.

22 THE COURT: Was it a written statement or an
23 oral statement?

24 MS. MORGAN: It's my intention that it would be
25 for any rebuttal, but we're not planning to introduce that

George Darnell - Direct Examination in Camera by Ms. Morgan

1 statement.

2 THE COURT: All right. Is it written or oral?

3 MR. WILSON: Oral.

4 MS. MORGAN: Oral.

5 THE COURT: All right. So we're going to hear
6 it on the first oral and then the written statement and you
7 don't contest the Miranda on the written statement?

8 MR. WILSON: No, sir.

9 THE COURT: All right. Solicitor, call your
10 first witness.

11 MS. MORGAN: The State would call George
12 Darnell to the stand.

13 THEREUPON,

14 GEORGE DARNELL,

15 after being duly sworn, testified as follows:

16 **DIRECT EXAMINATION - IN CAMERA**

17 By Ms. Morgan:

18 Q Agent Darnell, are you the case agent in the case,
19 State vs. Gunnells?

20 A Yes, ma'am, I am.

21 Q And could you tell us were you present when he was
22 placed under arrest June 4th, 2003?

23 A Yes, ma'am, I was.

24 Q All right. Can you tell us, kind of give us a
25 perspective of where you were when he was arrested and

George Darnell - Direct Examination in Camera by Ms. Morgan

1 what you did when he was arrested and what led up to
2 any of the statements that you know we are going to be
3 talking about?

4 A He was arrested in Columbia, in Richland County in the
5 apartment complex where he and his girlfriend lived at
6 and we went to the apartment looking
7 for him. No one was there and we were waiting on the
8 manager to come down there and meet with us when I
9 observed him riding through the apartment complex in
10 the girlfriend's green Rodeo. We hailed the vehicle
11 down and got him out and placed him under arrest.

12 Agent Rick McDermott of the Midlands Region with
13 SLED served the warrant on him. And he served the
14 warrant on him, I read him his rights off of the
15 Miranda card and at that point, his girlfriend,
16 Ms. Niconya Brooks signed a consent for us to search
17 the apartment and she advised us that he was already
18 packing up to move out. When we went in there, he
19 already had his stuff, clothing and stuff, put in a
20 plastic container and we confiscated the whole
21 container with the clothes, along with a pair of white
22 Shaq tennis shoes and we placed him in the car.

23 Special Agent Ed Carroll was with me. He was my
24 backup on the case. He road in the back seat with the
25 suspect and we traveled to Bamberg. As we were riding

George Darnell - Direct Examination in Camera by Ms. Morgan

1 along, Agent Carroll told him of his rights again. On
2 arrival at the sheriff's office in Bamberg, we walked
3 in my office over there and he saw a set of speakers
4 and an amplifier that we had gotten from a pawn shop in
5 Columbia earlier that day that was taken out of
6 Mr. Sutton's Chevrolet pickup truck that the pawnshop
7 had on record that he had pawned.

8 Q All right. And let me ask you something, approximately
9 what time in the afternoon was he placed under arrest
10 in Columbia?

11 A Probably around four or five. It was getting late
12 evening because we had done quite a bit of traveling up
13 and down the road that day.

14 Q In fact, earlier that day, you had already picked up
15 the speakers that you had back in Bamberg, in Columbia?

16 A Yes, ma'am.

17 Q Okay. And you said Agent McDermott read him one
18 warrant?

19 A Right. We had obtained one warrant for him after
20 getting the speakers and so forth. We obtained one
21 warrant for burglary first.

22 Q All right.

23 A We used that just to pick him on it. We met the Master
24 here in Bamberg County and got that and then had it
25 countersigned in Richland County.

George Darnell - Direct Examination in Camera by Ms. Morgan

1 Q So you were up there with agents from Richland or from
2 the Midlands Region?

3 A Yeah, road Deputy Gadson was with us.

4 Q And then you and Agent Carroll?

5 A Yes, ma'am, and Rick McDermott was there.

6 Q And he's the one that actually read the defendant the
7 burglary first warrant?

8 A Yes, ma'am.

9 Q And then you said, at that time, who read him his
10 Miranda rights?

11 A I did.

12 Q And how do you read them? Do you do them right off the
13 top of your head?

14 A I can, but I've got a card in my ID pack.

15 Q All right. And what did you do?

16 A I got my card out and read him his Miranda warnings.
17 He said he understood them and at the time we placed
18 him under arrest, I recognized Mr. Halman Sease's
19 jewelry on him, the gold chain and Mr. Halman's two
20 rings.

21 Q All right. And what did you do?

22 A I confiscated them, as well as two other rings.

23 Q All right. And did ya'll take pictures of them as you
24 were placing him under arrest?

25 A Yes, ma'am, we did.

George Darnell - Direct Examination in Camera by Ms. Morgan

- 1 Q All right. And did you -- other than reading him his
2 rights, taking pictures of him, did you question him at
3 that time?
- 4 A No, ma'am, we didn't.
- 5 Q All right. But you had fully advised him of his
6 Miranda?
- 7 A Yes, ma'am.
- 8 Q Did he appear to understand them?
- 9 A He said he did.
- 10 Q Okay. Did you have him in the back of the car?
- 11 A Yes, ma'am.
- 12 Q After you placed him under arrest and -- you'd read him
13 his Miranda on the card?
- 14 A Right.
- 15 Q And you get in the car and you're driving back to
16 Bamberg, who's telling -- you're driving?
- 17 A I'm driving. Agent Carroll sat in the back with him.
- 18 Q Is he questioning him any of that time?
- 19 A Jimmy kept running his mouth about this, that and the
20 other, which really didn't pertain to a whole lot.
21 Agent Carroll told him again, you know, I want to
22 advise you of your rights and he told him again.
- 23 Q All right. But he might have talked a little, but you
24 weren't asking him any questions?
- 25 A No, ma'am, I was driving.

George Darnell - Direct Examination in Camera by Ms. Morgan

1 Q All right. No tape recorder, nothing was running?

2 A No, ma'am.

3 Q Okay. And you got back to Bamberg. How long did it
4 take you to get back to Bamberg? George, you were
5 driving?

6 A About an hour and fifteen minutes.

7 Q Okay. And when you got back to Bamberg, where did you
8 take him?

9 A I took him -- I have an office over in the back of the
10 sheriff's office. I took him in my office.

11 Q Okay. And tell me, it's you and Agent Carroll, anybody
12 else?

13 A At that time, it was just myself and Agent Carroll.

14 Q All right. Any -- is he in handcuffs?

15 A Yes, ma'am. He -- one of our requirements are when we
16 transport a prisoner that we use the black box, which
17 consists of a chained handcuff in the black box locked
18 over that with a padlock and ankle cuffs.

19 Q All right. But that's during your transporting in your
20 SLED vehicle?

21 A Yes, ma'am.

22 Q And that's pursuant to your policies?

23 A Yes, ma'am.

24 Q All right. So when you get him out of your car, when
25 you get to the sheriff's office, you're taking him to

George Darnell - Direct Examination in Camera by Ms. Morgan

- 1 your office, what's he got on?
- 2 A He's still got on his handcuffs and so forth. We
- 3 hadn't taken that off of him.
- 4 Q Okay. So the black box, if you would?
- 5 A Yes, ma'am.
- 6 Q Okay. And you all -- either you or Agent Carroll got
- 7 any weapons drawn on him? Anything like that?
- 8 A No, ma'am.
- 9 Q All right. What ya'll doing with him?
- 10 A We carried him in the office to advise him of his
- 11 rights again and see if he would talk to us.
- 12 Q Okay. And so what did ya'll do?
- 13 A Well, prior to leaving that office that afternoon, I
- 14 set the box speakers and the amplifier so that would be
- 15 the first thing that he saw when he walked in my office
- 16 and when I opened the door and he walked in and he saw
- 17 it, he says, Oh shit, you got me.
- 18 Q Okay.
- 19 A He says ---
- 20 Q Prior to ---
- 21 A --- where did you get that and I told him we got it
- 22 from First cash Pawnshop. And he said, well you want
- 23 to pawn receipt; and he pulled the pawn receipt out of
- 24 his pocket and gave it to us.
- 25 Q All right. And you took the pawn receipt from him?

George Darnell - Direct Examination in Camera by Ms. Morgan

1 A Yes, ma'am.

2 Q And that's from the place where you had prior --
3 previously gotten the speakers?

4 A Yes, ma'am.

5 Q All right. And prior to him saying that, had you all
6 questioned him as you were walking in the office?

7 A No, ma'am.

8 Q All right. Anybody threaten him in any way?

9 A No, ma'am.

10 Q Offer him anything, promise him anything?

11 A He -- after him acknowledging, and his rights, or
12 Miranda off the SLED rights form ---

13 Q Wait a minute, we ain't got there yet, George?

14 A Okay.

15 Q Prior to those statements about the speakers, you
16 hadn't sat him down and Mirandized him in your office?

17 A No, ma'am.

18 Q But he'd been previously Mirandized, once by you and
19 once by George Darnell (sic)?

20 A Right.

21 Q And you hadn't really been interrogating him?

22 A No, ma'am.

23 Q Okay. You get the pawn receipt from him after his
24 little acknowledgement that you might have gotten him?

25 A Yes, ma'am.

George Darnell - Direct Examination in Camera by Ms. Morgan

1 Q Then what do you do after you got the pawn slip and
2 after he told you what he said?

3 A We set him down and explained to him what was going on,
4 advised him of his rights under Miranda and he
5 acknowledged them by signing them and then we talked
6 with him briefly and then we asked him if he was
7 willing to go ahead and give us a written statement.
8 He said he would. He said, but I'm about to starve and
9 we told him, you know, we'd get him something to eat
10 and call the detention center; and he said I don't want
11 nothing from over there. And we said well, we're
12 broke.

13 Q Okay.

14 A He says, I've got my own money. So I got Deputy Robert
15 Hill, who was coming in the building, James gave him
16 the money and he went to Hardees and got him something
17 to eat. He sat there and ate his food. It took him a
18 while and then he sat down there and he wrote us a four
19 page statement.

20 Q All right. And when you said you did the SLED
21 enforcement rights, is that a copy of the form you used
22 that night?

23 A Yes, ma'am, it is.

24 Q All right. And you indicated Agent Darnell, that those
25 rights forms were read to him by whom?

George Darnell - Direct Examination in Camera by Ms. Morgan

1 A By me.

2 Q All right. And tell us is he -- how close to you ---

3 A Well, he read and I read along with him.

4 Q What you mean he read and you read along with him?

5 A He -- normally when I do it, I take this form,

6 identical form ---

7 Q Yes, sir.

8 A --- and I read along with them.

9 Q You said -- you read it out loud?

10 A I let them read out loud and then I follow with them

11 and make sure they understand it, every one of them.

12 Q All right. Now, normally, how about that night? That

13 early evening, what did you do?

14 A Yes, ma'am, he read his rights out loud, said he

15 understood his rights and signed it.

16 Q Okay. And is that the form and signatures that were

17 done that day on June 4th, 2003?

18 A Yes, ma'am.

19 Q All right. Now, tell us, there was -- it looks like

20 there was a date change at the top?

21 A After we -- everybody had signed off on it, I had

22 witnessed it, Agent Carroll had witnessed it, I put the

23 time on it, I realized I had put the month of May

24 instead of June and I just drew a line through May and

25 wrote June above that and put my initials by it and

George Darnell - Direct Examination in Camera by Ms. Morgan

1 showed it to him and he agreed.

2 Q All right. When you're saying you're taking this form
3 and he's reading this out loud?

4 A Yes, ma'am.

5 Q All right. So you're listening to him as he's reading
6 it?

7 A Yes, ma'am.

8 Q Is he having any problem reading it?

9 A No, ma'am.

10 Q Did you stop him at any time to ask and make sure he
11 understood it?

12 A He read through them all and we asked him if he
13 understood the top part. He said yes, he did. We
14 asked him if he understood to sign under there and then
15 read the bottom part which is the waiver of rights. He
16 understood that and agreed to talk to us and he signed
17 under that part of it.

18 Q And that's his signature. Did you witness and sign
19 both the acknowledgment of his rights and his waiver of
20 those rights?

21 A Yes, ma'am.

22 Q And it was your signature and that of Agent Carroll
23 that witnessed his various signatures?

24 A Yes, ma'am.

25 Q And that was done at what time?

George Darnell - Direct Examination in Camera by Ms. Morgan

- 1 A 7:40 p.m.
- 2 Q Okay. And the initials by the date change, tell us
- 3 about that, please, sir.
- 4 A That was -- right after we completed everything. Ed
- 5 called my attention to it and said, you know, and I put
- 6 May instead of June.
- 7 Q Okay. And that's a copy of what you did that night?
- 8 A Yes, ma'am.
- 9 Q And then did you -- when you said you started -- during
- 10 that time, did you have an opportunity to observe him?
- 11 A Yes, ma'am, I was looking at him the whole time.
- 12 Q Was there any problems that you could detect with him
- 13 at that time?
- 14 A No, ma'am.
- 15 Q Did you threaten him in any way?
- 16 A No, ma'am.
- 17 Q Coerce him?
- 18 A No, ma'am.
- 19 Q All right. And, in fact, when you started questioning,
- 20 he indicated he was hungry?
- 21 A Yes, ma'am.
- 22 Q I think he used the word he was starving?
- 23 A He was starving.
- 24 Q And what did ya'll do?
- 25 A We got Deposit Robert Hill to go to Hardees for him and

George Darnell - Direct Examination in Camera by Ms. Morgan

1 he came back with one of those half pound or pound or
2 whatever, that big old hamburger. I don't see how a
3 little man could hold it, but he had that and fries and
4 a big old drink.

5 Q All right. And what did you let him do?

6 A I gave him time to sit there and get it down.

7 Q Okay. Did you ask him any questions as he was getting
8 down that hamburger and french fries?

9 A No, ma'am.

10 Q Okay. Did you have any real conversation with him?

11 A He was -- he was relaxed. I mean, you know, I -- I
12 knew his granddaddy and his daddy and his uncles and
13 all that and, you know, he was relaxed and he was
14 talking about all that.

15 Q Okay. But you didn't ask him -- do any interrogation
16 or questioning him at that time?

17 A No.

18 Q All right. After he finished that big old hamburger,
19 french fries and a coke, what did you do?

20 A Then we talked with him briefly about the incident and
21 then we asked him if he was just willing to sit down
22 and write us out a statement. And he said, yes, he
23 was. And he sat down and wrote the statement. He'd
24 write a while and then rest his hand awhile and smoke
25 another cigarette or two and then write a little while

George Darnell - Direct Examination in Camera by Ms. Morgan

1 longer.

2 Q All right. And you let him smoke cigarettes during
3 that time?

4 A Yes, ma'am?

5 Q He -- probably even before he had that hamburger,
6 didn't you?

7 A I probably did.

8 Q Okay. And then you asked him to put in his words what
9 happened that night?

10 A Yes, ma'am.

11 Q And you provided him the paper to do it on?

12 A Provided him the form which also has the Miranda
13 warnings on the form.

14 Q And do you have a copy of your statement that you gave
15 him? I guess it's Attachment ---

16 A Yes, ma'am, it's Attachment 14.

17 Q 14 and did -- when that's been provided to the
18 defendant, did that SLED Voluntary Statement Form, who
19 filled out the part of that, Agent Darnell?

20 A For whatever reason, I wrote Bamberg County up there,
21 but it looks like Agent Carroll's writing, he filled in
22 his and my name and then Gunnells told him his name and
23 address and social security number and phone number and
24 so forth.

25 Q All right. And there's a total of how many pages, did

George Darnell - Direct Examination in Camera by Ms. Morgan

1 this defendant write out in detail?

2 A Four pages.

3 Q --- in this statement?

4 A Four pages.

5 Q All right. And tell us, what's happening. You feed
6 him, you smoked him, what is he doing while he's
7 writing these four pages?

8 A Mostly steady writing. You know, every now and then,
9 he might stop and say a little something and then he'd
10 go right back to writing. We'd sit there and as he
11 finished a page, he'd push it to the side and we'd read
12 over it.

13 Q I'm sorry? Tell me, as he finished a page you did ---

14 A As he finished a page, he pushed it to the side and we
15 read over it as he was writing, continued writing.

16 Q All right. And you said that he used a SLED Voluntary
17 Statement Form?

18 A Yes, ma'am.

19 Q And is that a copy of the statement that you gave -- he
20 gave you that night?

21 A Yes, ma'am.

22 MS. MORGAN: Chris, I'm going to give a copy to
23 the judge.

24 MR. WILSON: Okay.

25 By Ms. Morgan:

George Darnell - Direct Examination in Camera by Ms. Morgan

1 Q And you indicated, Agent Darnell, that prior to giving
2 him the paper or as you gave him the paper, did you go
3 through these rights in the small print again?

4 A Yes, ma'am, we told him to read over that and then
5 after he read over that if he still understood and was
6 willing to give us a statement if he wanted, to start
7 writing on the next line.

8 Q All right. Did he appear to understand what was going
9 on?

10 A Yes, ma'am.

11 Q At any time did he tell you, no, I'm not going to, he
12 didn't want to cooperate or anything?

13 A No, ma'am.

14 Q All right. And you said he wrote for those four
15 plus -- four long pages?

16 A Yes, ma'am.

17 Q At what time did it indicate that you all finished
18 writing the four pages?

19 A 11:42.

20 Q All right. And these four pages that are numbered,
21 each of them signed by the defendant?

22 A Yes, ma'am.

23 Q Did you give him the opportunity to review it and make
24 any changes if he needed to?

25 A Yes, ma'am.

George Darnell - Direct Examination in Camera by Ms. Morgan

- 1 Q Did he at any time want to stop, quit?
- 2 A No, ma'am.
- 3 Q All right. And he signed each and every page?
- 4 A Yes, ma'am.
- 5 Q And you -- it's your handwriting at the bottom that
- 6 says that you sworn and prescribed ---
- 7 A I notarized it.
- 8 Q You notarized it and it's also witnessed by Ed Carroll.
- 9 Any other person in there?
- 10 A No, ma'am.
- 11 Q While he was writing all this stuff? No other person?
- 12 A I think Deputy Hill might have been in and out, but he
- 13 wasn't in there, just sitting in there.
- 14 Q And he had smoke breaks, did he get to smoke outside or
- 15 did you let him smoke in your office? Don't tell the
- 16 sheriff, he might hear you?
- 17 A I let him in my office.
- 18 Q Okay. You cracked the window?
- 19 A I did.
- 20 Q Okay. So you let him smoke. And when he wanted to
- 21 smoke, you'd let him smoke?
- 22 A Yes, ma'am, even gave him the cigarettes.
- 23 Q All right. At any time did you threaten him in any
- 24 way?
- 25 A No, ma'am.

George Darnell - Direct Examination in Camera by Ms. Morgan

1 Q Promise him anything?

2 A No, ma'am.

3 Q Okay. Offer any hope or reward?

4 A No, ma'am.

5 Q At any time, did he object to the circumstances that he
6 was in? Indicating he wanted to stop, wanted a lawyer,
7 anything?

8 A No, ma'am.

9 Q At all times did he appear to understand all the rights
10 that you set forth, that he read out loud on the
11 Miranda form initially at 7:57 or any of the right that
12 were written on the first statement, his voluntary
13 statement?

14 A No, ma'am. He struck us from the onset as being an
15 intelligent individual.

16 Q And in fact, the handwriting that's on those four pages
17 is in his hands?

18 A Yes, ma'am.

19 Q Okay. At any time, did you suggest what he should
20 write? Tell him what to put on the statement?

21 A We told him to write it like everything happened.

22 Q Okay. Thank you.

23 THE COURT: Cross-examination?

24 MR. WILSON: Thank you, Judge.

25 ///

George Darnell - Cross-Examination In Camera by Mr. Wilson

CROSS-EXAMINATION - IN CAMERA

By Mr. Wilson:

Q Agent Darnell, you clearly acknowledge that you set that set of speakers in the box in your office right in front of the door so when that door was open that would be the first thing somebody saw; is that correct?

A I put them right by my desk, not in front of the door. Right by my desk, so -- yes, because I knew we were going to arrest him.

Q Okay. And you knew ---

A I knew that he was coming.

Q And you wanted that to be the first thing he saw when he walked in your office?

A Yes, sir, I didn't see anything wrong with that.

Q All right. You knew -- you did that to elicit a response from Mr. Gunnells about what was in your office, didn't you?

A No, sir.

Q You wanted him to walk in, see those things and elicit some response from him about the speaker; isn't that true?

A I wanted him to see that we had them.

Q Okay. You weren't attempting to elicit a response from him after he saw those ---

A No, sir, I wasn't.

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 Q --- after he saw those or ---

2 A No, sir, I wasn't.

3 Q Okay. You couldn't put them behind your desk, pulled
4 the, out at some time later after you got him in there?

5 A There's just not room behind my desk. You have to slip
6 them over to the wall, where he would have still seen
7 them once he got in the office.

8 Q Okay. But you could have pushed them aside where they
9 weren't the first thing he saw when he walked in the
10 door, couldn't you?

11 A Once he got up in there a ways, he would have seen them
12 anyhow.

13 Q But my question is, you could have pushed them aside?

14 A Yes, sir.

15 Q So that they weren't the first thing somebody saw when
16 they walked in the door; correct?

17 A Probably could have.

18 Q Okay. And you're telling this Court that you didn't
19 place those in that strategic position so that they
20 were the first thing Mr. Gunnells saw when he walked in
21 your office so that you could elicit a response from
22 him about those items?

23 A No, sir, I didn't, I just wanted him to see that we did
24 have them.

25 Q Okay. Now, you, Agent Carroll and Agent McDermott, I

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 know he's a field agent also, but you, Carroll and
2 McDermott were the three involved?

3 A Rick McDermott is an agent in the Midlands area.

4 Q Okay.

5 A He works that area up in there. He was just familiar
6 with that address and so forth and he assisted us as we
7 were getting him, he helped us find the magistrate and
8 we had to get the warrants signed.

9 Q Okay.

10 A And then we had Richland County to send somebody out
11 there because we were in their jurisdiction and to let
12 them know that we were there.

13 Q Okay. So you -- your testimony is that the three of
14 ya'll located Mr. Gunnells sometime around about 4:00
15 p.m. in Columbia at, I think you said it was at his
16 girlfriend's apartment?

17 A

18 Q Okay.

19 A They came in the apartment complex and then when he
20 come in, like a median in the middle, they had to go
21 down and come around to come to her apartment.

22 Q They being him and the girlfriend?

23 A Niconya Brooks was driving the Rodeo, he was on the
24 passenger side and a young black male in the back seat.

25 Q All right.

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 A They got up there and myself and Agent Carroll and Rick
2 McDermott was standing out there sort of in front of
3 Ed's cruiser, trying find some sheet and instead of
4 pulling into the apartment, they were easing on out.
- 5 Q Okay.
- 6 A And so we ran across the median as they circled back
7 around going out and hailed the vehicle down.
- 8 Q Okay. So ya'll located him about 4 o'clock in Columbia
9 at that apartment complex?
- 10 A Probably between 4:00 and 5:00, probably closer to
11 5:00.
- 12 Q And you placed him under arrest?
- 13 A Yes, sir.
- 14 Q You apprehended him, you told him he was under arrest,
15 placed him under arrest?
- 16 A Yes, sir, we did.
- 17 Q You put the handcuffs and the other chains and items?
- 18 A Yes, we did.
- 19 Q So at that point in time, he was clearly under arrest
20 and in your custody?
- 21 A That's right.
- 22 Q Okay. And it's your testimony that you read him his
23 Miranda rights off of your card at that time?
- 24 A Yes, sir.
- 25 Q Okay. He didn't sign anything or -- sign anything

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 acknowledging that you had read him his Miranda rights?
- 2 A Not at that time. He said he understood them.
- 3 Q Okay. And did you do anything other than read directly
- 4 off of your card to him? You just read the rights
- 5 straight off your card?
- 6 A Right.
- 7 Q Okay. And how long was it before he was placed in the
- 8 car or in the back of the vehicle?
- 9 A After we had all been in the apartment, I'd say, you
- 10 know ---
- 11 Q Perhaps an hour at the most?
- 12 A 30 minutes.
- 13 Q Okay.
- 14 A Maybe.
- 15 Q 30 minutes, all right. So you got him a little bit
- 16 before 5:00, you -- half an hour later, got him in the
- 17 car. Ya'll immediately take off and head back to
- 18 Bamberg?
- 19 A Came straight on back to Bamberg.
- 20 Q Okay. So you're leaving Columbia, 5:15, 5:30?
- 21 A Got right on the interstate at those apartments.
- 22 Q Okay. 5:15, 5:30 you're leaving Columbia sound fair
- 23 enough?
- 24 A Probably so.
- 25 Q It would take you about an hour, 15 minutes to get

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 back? That's what you testified to?

2 A Something like that.

3 Q Okay. So you're back in Bamberg about 6:45, does that
4 sound fair enough?

5 A I'd say close to 7:00.

6 Q Okay. 7 o'clock?

7 A Yeah.

8 Q Was Mr. Gunnells taken to the jail and booked in before
9 ya'll went to your office or you went straight to your
10 office?

11 A Straight to my office.

12 Q Straight to your office. And that's when you walked
13 in. I assume you opened the door and you went in?

14 A Right.

15 Q Okay. And your testimony is that when you opened the
16 door, immediately when he walked in, his statement was,
17 Oh shit, you got me?

18 A Yeah.

19 Q Okay. So there wasn't any time passed from the time
20 ya'll walked in the door until the time he made that
21 statement?

22 A No, sir.

23 Q And then he went in and said I guess I better give you
24 the pawn receipt?

25 A He asked us if we wanted him to.

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 Q Okay. And you said yeah?
- 2 A We said we'd appreciate it.
- 3 Q Okay. All right. Okay. So you got back to Bamberg
- 4 about 7:00. By the time ya'll would have gotten out of
- 5 the car it was probably about five after seven, maybe
- 6 ten after seven at the most?
- 7 A I'm not one to watch my watch, Mr. Wilson.
- 8 Q I understand, I'm just trying to get you to give me
- 9 your best estimate, I'm not ---
- 10 A I know what you're trying to do, but it -- you know, I
- 11 didn't watch my watch. We may have let him stand
- 12 outside a few minutes and smoke.
- 13 Q Okay. So somewhere shortly after 7:00, you walked in
- 14 your office ---
- 15 A I would say shortly after 7 o'clock we were in my
- 16 office.
- 17 Q And he makes the statements?
- 18 A Right.
- 19 Q Okay. And it's your testimony that on the ride down --
- 20 let me back up, I want to make sure I understand. You
- 21 said that Officer or Agent McDermott as you understand
- 22 read Mr. Gunnells his Miranda rights also?
- 23 A No, sir, I didn't.
- 24 Q You said that Agent Carroll?
- 25 A Agent Carroll, Agent Ed Carroll rode in the back seat.

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 Q Okay.
- 2 A With Mr. Gunnells.
- 3 Q You're driving?
- 4 A I'm driving.
- 5 Q Carroll's in the front?
- 6 A Carroll's in the back.
- 7 Q McDermott's in the ---
- 8 A McDermott was in Columbia.
- 9 Q Okay. McDermott stayed in Columbia?
- 10 A Right. He's the Midland Region. That means he lives
- 11 in Columbia or around Columbia and works around
- 12 Columbia.
- 13 Q I just heard you wrong. I thought you said McDermott
- 14 read them and I was trying to figure out when he read
- 15 them.
- 16 A No.
- 17 Q All right. So you're in the front driving, Gunnells
- 18 and Carroll are in the back?
- 19 A Right.
- 20 Q And on the ride home, you say that Agent Carroll read
- 21 those rights again?
- 22 A I heard Agent Carroll tell him about his rights again.
- 23 Q Okay. And so for the whole hour and-a-half ride down,
- 24 there wasn't any questions asked of Mr. Gunnells about
- 25 the case, or about the charges or what he might know or

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 any questions whatsoever?
- 2 A We weren't interrogating him.
- 3 Q Okay. Well I'm not asking you if you were
- 4 interrogating him. I'm asking if you asked him
- 5 questions or asked him if he knew what he was being
- 6 charged with or anything?
- 7 A No, sir.
- 8 Q So for that hour and-a-half ride, ya'll didn't talk
- 9 about this case?
- 10 A Not that I remember, no, sir.
- 11 Q Okay. When you arrested him, I assume you told him
- 12 what he was being charged with?
- 13 A Actually, when he read the -- the warrant was read to
- 14 him.
- 15 Q And was that just the burglary warrant or did you say
- 16 you had ---
- 17 A We read him the burglary first warrant.
- 18 Q Okay, just the burglary first?
- 19 A Yes, sir.
- 20 Q Okay. When he came in your office and saw the speakers
- 21 and made the statement, isn't it the truth that -- or
- 22 your testimony is he asked you where did ya'll get that
- 23 stuff from, isn't that true?
- 24 A Yes, he did.
- 25 Q And you told him you got it from a pawn shop, isn't

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 that true?

2 A First Cash Pawnshop.

3 Q Okay. And then after that, is when you and Agent
4 Carroll began to talk to him about whether he wanted
5 provide a statement about his involvement in this
6 situation, isn't that true? I mean after he had
7 already made the comment about you got me and you
8 talked about the pawn receipt, that's when you and
9 Agent Carroll started talking to him about whether he
10 wanted to write a statement?

11 A After we had him to acknowledge his rights on Miranda.

12 Q Okay. So you didn't talk to him about a written
13 statement before he acknowledged his rights on the
14 written Miranda form?

15 A No, sir.

16 Q Okay.

17 MR. WILSON: I think that's already been
18 entered?

19 MS. MORGAN: I haven't moved it in.

20 MR. WILSON: I didn't know if we needed to.

21 THE COURT: Have you already put it in as
22 evidence?

23 MS. MORGAN: I have not.

24 THE COURT: Okay. What do you want to mark it?

25 MS. MORGAN: Court's.

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 THE COURT: We can mark them as State's Exhibit
2 1 and 2 since they haven't been in evidence, for
3 identification.

4 MS. MORGAN: I'd like to make them Court's
5 Exhibits.

6 THE COURT: Make them Court's Exhibits 1 and 2.
7 No. 1 is the Miranda rights and No. 2 is the statement.

8 MR. WILSON: Thank you.

9 THE COURT: One and two.

10 MR. WILSON: Thank you.

11 THE COURT REPORTER: No. 1 is the rights?

12 MR. WILSON: Yes.

13 (WHEREUPON the exhibits were marked for Court's
14 Exhibits 1 and 2.)

15 By Mr. Wilson:

16 Q Agent Darnell, your testimony is that you again advised
17 Mr. Gunnells of his Miranda rights while he was in your
18 office, did you?

19 A Right.

20 Q And then you had him sign that Miranda form?

21 A Yes, sir, we did.

22 Q Okay. Now, all this about taking a break and going to
23 Hardees and sending somebody to Hardees to get food,
24 did that take place before he signed the Miranda rights
25 form or after?

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 A I'm not positive to be honest with you.
- 2 Q All right.
- 3 A It was in and around in there.
- 4 Q Okay. That's fair enough. So you sent Agent or Deputy
- 5 Hill to Hardees to get him something to eat?
- 6 A Yes, sir, we did.
- 7 Q Hardees is a block away from your office?
- 8 A Right.
- 9 Q It's a fast food joint?
- 10 A I don't know how -- drive through or walk through.
- 11 Q It's fair to assume, Agent Hill came back ten or
- 12 fifteen minutes later?
- 13 A He wasn't gone long.
- 14 Q And then Mr. Gunnells, I think you said you let him get
- 15 his food down?
- 16 A Got his food, sitting there running his mouth and
- 17 eating at the same time.
- 18 Q He didn't spend an inordinate amount of time eating,
- 19 15, 20, 25 minutes?
- 20 A It took a while to get that big hamburger down, now.
- 21 Q It didn't take him an hour to eat a hamburger? 15
- 22 minutes to eat a hamburger? 20 minutes to eat a
- 23 hamburger?
- 24 A Well, he was running his mouth and eating at the same
- 25 time.

George Darnell - Cross-Examination In Camera by Mr. Wilson.

- 1 Q Well, I mean ya'll had business to deal with, so you
2 weren't going to let him sit there all night eating?
- 3 A We wanted him to be as relaxed as he could be.
- 4 Q Okay. Yes, sir, but you had business to take care of
5 with him so you weren't there to spend the whole night
6 there eating a hamburger were you?
- 7 A He had as much time as he needed.
- 8 Q Okay. All right. Agent Darnell, he ate and then he
9 started writing, I think that was your testimony,
10 right?
- 11 A Yes, sir.
- 12 Q He ate and then he immediately sat down and started
13 writing out that statement?
- 14 A He started writing the statement.
- 15 Q And he wrote that four page statement that's Exhibit
16 No. 2, okay. He signed that form at 7:37 and it took
17 him 10, 15 minutes for ya'll to send somebody over
18 there to get supper. Somebody came back with supper
19 and he ate it?
- 20 A I believe he signed the rights form at 7:40.
- 21 Q 7:40, okay. You sent Deputy Hill over there to get
22 supper at Hardees, took him 10, 15 minutes to do it.
23 He came back, Mr. Gunnells started eating, it took him
24 15, 20 minutes to eat it and then he immediately sat
25 down and started writing that statement?

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 A We talked to him briefly and then he said he was
2 willing to sit down and write us out a statement.

3 Q When you talked to him briefly, you talked to him about
4 his girlfriend, Niconya Brooks, didn't you?

5 A We may have mentioned her.

6 Q You told him his girlfriend was going to be implicated
7 in this if he didn't sit down and tell you what he knew
8 about this case, didn't you?

9 A Not to my knowledge.

10 Q You told him that you were going to go arrest and
11 pursue her as an accessory in this case or an accessory
12 after the fact in this case if he didn't sit down and
13 give you a statement and tell you everything about this
14 case, didn't you?

15 A No, sir, I did not.

16 Q You told him that if she got arrested, she was going to
17 lose her job, didn't you and that there was going to be
18 ramifications on her if he didn't ---

19 A If I remember, right, Mr. Wilson, she didn't even have
20 a job at the time.

21 Q Okay. But you sat down ---

22 A That's what I remember.

23 Q But you sat down and told him that you were going to
24 pursue Niconya as an accessory if he didn't tell
25 you ---

George Darnell - Cross-Examination In Camera by Mr. Wilson

- 1 A No, sir, we didn't.
- 2 Q Okay. And he completed that statement at 11:42, that's
- 3 what time you put on there?
- 4 A That's what time he finished the statement, yes, sir.
- 5 Q And I think your testimony was that he was steady
- 6 writing except that he took a smoke break every so
- 7 often when he wanted to?
- 8 A He'd take a smoke break, rest his hand.
- 9 Q He didn't have to leave your office to do any of those,
- 10 I believe was your testimony?
- 11 A Right in my office.
- 12 Q Okay. Do you recall -- I mean, how many smoke breaks
- 13 he took?
- 14 A No, sir, I don't.
- 15 Q Okay. That's fair enough too. I wouldn't expect that
- 16 you would. Did you tell Mr. Gunnells anything about
- 17 the case, what evidence ya'll might have or what you
- 18 thought might have happened or anything about the case
- 19 before he sat down to write the statement? Obviously,
- 20 you told him what he was being charged with, you told
- 21 him that there was a burglary at the Sease residence?
- 22 A Right.
- 23 Q And obviously you told him you thought he was involved
- 24 because you had placed him under arrest?
- 25 A Well, we read him the warrant.

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 Q Okay.

2 A And then I confiscated the jewelry off of him because I
3 told him that jewelry belonged to Mr. Halman Sease.

4 Q Okay. Did you tell him anything about the case? What
5 evidence you had against him or what information you
6 might have or witnesses, what witnesses might say
7 before he sat down to write the statement?

8 A No, sir, I didn't.

9 Q Did you show him any evidence about the case prior to
10 him having written the statement?

11 A Well, he'd already seen what he was wearing and he saw
12 the stuff that we had there in the office.

13 Q Other than the jewelry and the speakers in the box, did
14 you show him anything?

15 A No, sir. I had nothing else to show him at that time.

16 Q I understand.

17 MR. WILSON: Your Honor, just one second. I
18 think that may be all the questions.

19 THE COURT: Okay.

20 By Mr. Wilson:

21 Q Agent Darnell, did you talk with Mr. Gunnells about any
22 of the victims, specifically? Did you talk to him
23 about Mr. Sease or did you talk to him about Ms. Sease
24 or Mr. Sutton before or during the time he gave you the
25 statement? Did you tell him that Mr. Sutton had been

George Darnell - Cross-Examination In Camera by Mr. Wilson

1 hit in the head during the burglary?

2 A I'm sure we did do some talking, exactly what all was
3 said, Mr. Wilson, I couldn't sit here today and tell
4 you. I mean, we discussed with him as he was writing
5 the statement, you know, he'd write a sheet and hand it
6 to us and we'd read over it. And we was asking him,
7 you know, who these other guys were and so forth.

8 Q Okay. So as he was writing the statement, you were
9 discussing the facts of the case with him? You were
10 discussing what he wrote and the other facts of the
11 case ya'll might know or have at your disposal at that
12 time, isn't that true?

13 A No, sir.

14 Q You weren't?

15 A We were asking him.

16 Q Okay.

17 A We didn't know who these guys were at that time.

18 Q All right. Did you talk to him about Mr. Sutton being
19 hit in the head by somebody? You told him ---

20 A We probably did, we probably did.

21 Q Okay.

22 MR. WILSON: Your Honor, that's all the
23 questions I'd have.

24 THE COURT: Any redirect?

25 MS. MORGAN: No, sir.

James Gunnells - Direct Examination In Camera by Mr. Wilson

1 THE COURT: You may step down, thank you very
2 much.

3 MR. DARNELL: Yes, sir.

4 THE COURT: Mr. Wilson, do you have any
5 witnesses?

6 MR. WILSON: Judge, I'm going to call Mr.
7 Gunnells on this issue. It shouldn't take very long.

8 THE COURT: I assume you don't have any other
9 witnesses?

10 MS. MORGAN: No, sir.

11 THE COURT: Okay. Call your first witness.

12 MR. WILSON: Mr. James Gunnells, please.

13 THEREUPON,

14 JAMES GUNNELLS,

15 after being duly sworn, testified as follows:

16 DIRECT EXAMINATION - IN CAMERA

17 By Mr. Wilson:

18 Q State your full name for the record.

19 A James Allen Gunnells.

20 Q James, you remember very vividly the day you got
21 arrested in Columbia by Agent Darnell?

22 A Yes, sir.

23 Q Okay. And Agent Darnell when he came and arrested you
24 placed you under arrest and put you -- told you you
25 were under arrest and put you in handcuffs?

James Gunnells - Direct Examination In Camera by Mr. Wilson

- 1 A Right.
- 2 Q Did you know what you were being arrested for?
- 3 A No, sir.
- 4 Q Okay. Was the warrant ever read to you or shown to
- 5 you.
- 6 A Not until I got to Bamberg County.
- 7 Q Okay. So the warrant got shown to you when you got to
- 8 Bamberg County?
- 9 A Yes, sir.
- 10 Q And that was the burglary first warrant?
- 11 A Burglary first warrant.
- 12 Q Okay. Any time prior to -- let me ask you this, when
- 13 you were placed under arrest in that parking lot of
- 14 that apartment complex in Columbia, did anybody read
- 15 you the Miranda rights?
- 16 A No, everybody was telling me to stay against the car
- 17 while I was getting put in handcuffs.
- 18 Q When you say everybody, did you know how many agents
- 19 were there or who all was there?
- 20 A I couldn't honestly tell you. I know there was people
- 21 standing behind the building, coming around. I don't
- 22 know. There were unmarked cars parked. I didn't know
- 23 what was going on.
- 24 Q Okay. Did anybody read you the Miranda rights at that
- 25 time?

James Gunnells - Direct Examination In Camera by Mr. Wilson

1 A Nobody.

2 Q Okay. And you were placed in the car, kept in
3 handcuffs?

4 A No, I was handcuffed and locked in the ankle locks and
5 sat on the sidewalk.

6 Q Okay. And then ultimately placed in the back seat of
7 the car?

8 A No, they got a consent to search form and then they
9 took me inside the house while they searched the house
10 and took whatever they was going to take. Then I was
11 took out and placed in the car.

12 Q Okay. All right. And you remember riding home or
13 riding to Bamberg from Columbia in the car?

14 A Yes.

15 Q Was Agent Carroll in the back seat with you?

16 A Yes.

17 Q Did he read you -- or did anybody read you the Miranda
18 rights on that ride home in the car? I keep saying
19 home -- to Bamberg in the car?

20 A No, I don't remember if it was done, I don't remember.

21 Q Okay. It's your recollection that nobody read you
22 Miranda rights on the ride home?

23 A Not to my knowledge.

24 Q Okay. Did Agent Darnell or Agent Carroll question you
25 about this case on the ride home? Did they talk with

James Gunnells - Direct Examination In Camera by Mr. Wilson

1 you about this case?

2 A Just asking me what I know about it and did I have
3 something to do with it.

4 Q Okay. So you were asked questions during the ride
5 home?

6 A Yeah.

7 Q Okay. When you got back to Bamberg you were taken to
8 Agent Darnell's office?

9 A Yes.

10 Q Okay. And at some point in time you signed what's been
11 marked as Court's Exhibit No. or Court's Exhibit No. 1,
12 this Miranda rights form?

13 A Yes.

14 Q You recall being read these right in his office?

15 A Yes.

16 Q And you recall signing that form?

17 A Yes.

18 Q Okay. That took place after you walked into the
19 office, is that correct?

20 A Yes.

21 Q Okay. And you've been here while Agent Darnell
22 testified. You walked in and there was a set of
23 speakers and a set of boxes and things on the floor?

24 A Yeah, they was right on the floor on the right as I
25 walked in the door.

James Gunnells - Direct Examination In Camera by Mr. Wilson

- 1 Q Okay. All right. And then after that transpired you
2 signed the Miranda rights and those rights were then
3 read to you? That was the first time you were read
4 your Miranda rights?
- 5 A Yes, sir.
- 6 Q And then they got you something to eat?
- 7 A Yeah.
- 8 Q And then asked you to sit down and write a statement,
9 is that correct?
- 10 A Yeah.
- 11 Q Did you -- did they read over the top part of the SLED
12 statement form with you that had the Miranda rights on
13 there with you again?
- 14 A I don't remember none of that. All I remember was him
15 saying I needed to start writing.
- 16 Q Okay. But if the testimony was they read over that
17 again, with you, you wouldn't have any recollection to
18 dispute that, would you?
- 19 A No.
- 20 Q Okay. And that's your signature on the bottom of the
21 four pages of this statement? That's your signature?
- 22 A Yeah.
- 23 Q Okay. And at any point in time prior to or during your
24 having given that statement, did Agent Darnell talk to
25 you about your girlfriend Niconya Brooks?

James Gunnells - Direct Examination In Camera by Mr. Wilson

- 1 A Yes.
- 2 Q What did he tell you?
- 3 A Well at the time I had a charge in Barnwell County and
- 4 she had also had the same charge and it came to
- 5 like ---
- 6 Q That charge contributing to the delinquency of a minor?
- 7 A Yeah. Contributing to the delinquency of a minor. And
- 8 SLED Agent Carroll was from Barnwell County and he was
- 9 telling me that, you know, if I didn't write a
- 10 statement that my girlfriend's charges weren't going to
- 11 be dismissed and she would lose her job and she was
- 12 employed at the time in Richland County. But she would
- 13 lose her job because it was pending and you can't have
- 14 a pending charge doing the job she had.
- 15 Q So you were basically given an ultimatum and the
- 16 charges on her would get dismissed and yours would be
- 17 dismissed?
- 18 A Right afterwards her charges were dismissed. And I'm
- 19 still waiting on them charges.
- 20 Q Okay. How far did you go in school?
- 21 A I graduated.
- 22 Q High school?
- 23 A Yes, sir.
- 24 Q Where?
- 25 A Lakewood, North Carolina.

James Gunnells - Cross-Examination by Ms. Morgan

1 Q Okay. Do any schooling after that?

2 A No, sir.

3 Q What kind of employment have you held in the past?

4 A I was working with my uncle. My uncle had his own
5 business. I've been working with him for a couple of
6 years.

7 Q What kind of business?

8 A Roofing.

9 Q Okay. Anything other than roofing work?

10 A Little side jobs.

11 Q Did you graduate from high school?

12 A Yes, sir.

13 Q Did you ever go to any schooling after graduation from
14 high school?

15 A No.

16 Q Did you go to tech school, trade school, college,
17 anything along those lines?

18 A I took one semester in college but I dropped out.

19 Q Okay. All right.

20 MR. WILSON: Your Honor, that's all the
21 questions I have of Mr. Gunnells.

22 THE COURT: Okay. Cross-examination.

23 CROSS-EXAMINATION - IN CAMERA

24 By Ms. Morgan:

25 Q Mr. Gunnells, anything about these charges in Barnwell

James Gunnells - Cross-Examination by Ms. Morgan

1 County, that occurred the whole -- you and your
2 girlfriend were arrested the year previously, right?

3 A Right.

4 Q This is from '02?

5 A Yeah.

6 Q I mean, that wasn't -- those charges, both you and she
7 and another guy had been arrested and it had been
8 pending for right at a year, right?

9 A Right.

10 Q Okay. And when they picked you up in Columbia that
11 day, they arrested you, they served you with the
12 warrant?

13 A Not until I got back to Bamberg County.

14 Q Somebody read you the warrant?

15 A No, I asked Agent Darnell what was I being charged with
16 because I didn't know. All I know was I had a bunch of
17 police holding guns on me telling me to get out of the
18 car.

19 Q Yeah ---

20 A So I got out.

21 Q Yeah, and once you got out, after they pulled -- took
22 your picture?

23 A That was before I got in the car to come back to
24 Bamberg County.

25 Q All right. But it was after they pulled the guns on

James Gunnells - Cross-Examination by Ms. Morgan

1 you and told you to get out?

2 A Right.

3 Q They talked to you, they took a picture of you, right?

4 And they made you put your hands up or down and when
5 they had handcuffs on you, they took pictures of you,
6 right? And they told you?

7 A Right.

8 Q They didn't hurt you, they didn't do anything to you,
9 they were taking pictures of you?

10 A Right..

11 Q Right, because they were really interested in the
12 jewelry you had on your hands and they took a picture
13 of your face and the jewelry you had on your neck,
14 right?

15 A Right.

16 Q Nobody was hurting you in any way were they? Just in
17 the middle of the parking lot where your girlfriend
18 lived once they took you down, right?

19 A Right.

20 Q And they took you into the house and the girlfriend
21 kind of gave you up, didn't she? She gave a consent to
22 let you have -- let the officers have all the stuff she
23 had on you, didn't she?

24 A She didn't have no reason not to.

25 Q And she had no problem giving consent, did she?

James Gunnells - Cross-Examination by Ms. Morgan

1 A She didn't have no reason not to.

2 Q Right. She gave consent. She gave them some
3 containers of your clothing, didn't she?

4 A No, she didn't give them that. It was already back
5 there.

6 Q Yeah, they were already back there and she volunteered
7 it to them. She cooperated with them completely didn't
8 she?

9 A She had no reason not to.

10 Q Because you were already packed up to leave, weren't
11 you?

12 A Not necessarily.

13 Q Not necessarily, but you just happened to have all your
14 clothes -- you didn't hear her say that you were fixing
15 to leave anyway? Getting ready to leave?

16 A That was relationship-wise. That didn't have anything
17 to do with where I was moving. All my stuff was packed
18 up in boxes. Moving into the residence I never took
19 all my clothes out because I had too many clothes for
20 the closet.

21 Q Okay. You had too many clothes for the closet and she
22 was willing to just give them everything, cooperate
23 with them completely that afternoon, didn't she?

24 A That's what he asked her, could somebody identify those
25 clothes so she had no reason not to give them to them.

James Gunnells - Cross-Examination by Ms. Morgan

1 Q She gave them all the clothes, they didn't harass you
2 in any way, they let you sit down, they let you smoke
3 later, no problem?

4 A I didn't say there was.

5 Q No, there wasn't no problem. George Darnell, he even
6 told you, I know your daddy, I know your uncles, I know
7 your brothers, I know your granddaddy. It's Barnwell
8 County for goodness sakes, right?

9 A Bamberg.

10 Q Bamberg, I did it again. You're in Bamberg County and
11 you said you were starving, right?

12 A Yes.

13 Q And they said they were broke, they'd get you some food
14 from the detention center, there wasn't no question
15 about that, was there?

16 A No, actually, I told them that if they had an officer
17 to get it, I'd pay for my own food.

18 Q That's right that's exactly right and you said you'd
19 pay for your own food, they went and got it, didn't
20 they?

21 A Yes.

22 Q Yep, and did you have cigarettes on you or did they let
23 you have some cigarettes they had?

24 A I had my own.

25 Q You had -- and they didn't have a problem letting you

James Gunnells - Cross-Examination by Ms. Morgan

- 1 smoke?
- 2 A Not necessarily.
- 3 Q What you mean, not necessarily?
- 4 A Not that I know of.
- 5 Q Well, I mean, you didn't have no problem with it?
- 6 A No.
- 7 Q No, they got you a big old hamburger, fries, coke --
- 8 you remember what you had?
- 9 A Some kind of burger and whatever came with it.
- 10 Q Big old burger. Okay. The best you can buy I think at
- 11 Hardees. And they let you eat it?
- 12 A Yeah.
- 13 Q They had no problem. Let you smoke, let you eat, read
- 14 you some forms -- looked at the forms, let you sign the
- 15 forms, right?
- 16 A Yeah.
- 17 Q Let you read it out, right?
- 18 A I didn't read it out but ---
- 19 Q You have no question that you read it?
- 20 A I heard it from the officer.
- 21 Q And you knew what was going on?
- 22 A I already understood it.
- 23 Q You already understood it?
- 24 A Right.
- 25 Q Could be that they might have read you something up in

James Gunnells - Cross-Examination by Ms. Morgan

1 Columbia?

2 A No.

3 Q You don't remember them reading you anything?

4 A No.

5 Q You remember what you were talking about on your way
6 down?

7 A Actually I asked him why he had one of my friends'
8 names written on his hand.

9 Q So you were asking the questions when he was driving?

10 A No, I asked him because he had it written on his hand
11 and I was wondering where he got those names from.

12 Q So you were asking the SLED agents questions?

13 A Uh-huh.

14 Q And so you started asking him what was going on?

15 A I still didn't know that's why I was wanting to know.

16 Q All right. And that night they brought you here, they
17 fed you and Mirandized you, you signed it?

18 A Right.

19 Q Understood what was going on? And you're the one that
20 started writing. Ain't nobody else's handwriting is
21 it?

22 A Not that I know of.

23 Q Well, you be sure, you look at that, the whole four
24 pages. Go ahead.

25 A Nobody ---

James Gunnells - Redirect Examination by Mr. Wilson

1 Q Not that you know of, this is important, Mr. Gunnells,
2 you tell me.

3 A Not that I know.

4 Q All four, look at them, make sure. I don't want to
5 trick you. Read them. All four take a look. All four
6 sheets. Is that handwriting all your handwriting?

7 A Yeah.

8 Q And that's in your words about what happened that
9 night?

10 A Actually it was kind of like I have already said, I
11 already went over what happened before the writing of
12 the statement.

13 Q All right.

14 MS. MORGAN: I don't have anything else.

15 THE COURT: Any recross, I mean redirect?

16 MR. WILSON: Just one thing.

17 **REDIRECT EXAMINATION - IN CAMERA**

18 By Mr. Wilson:

19 Q Your testimony, Mr. Gunnells, is that they told you
20 that -- and I say they, Agent Darnell and Agent Carroll
21 told you that if you sat down and wrote a statement,
22 they would take care of the charges on Niconya Brooks
23 in Barnwell County?

24 A Right.

25 Q And that's been done?

James Gunnells - Recross-Examination by Ms. Morgan

1 A The charges was taken care of right after that.

2 MR. WILSON: That's all I have. Thank you,
3 Your Honor.

4 THE COURT: Any recross-examination on that
5 issue?

6 **RECROSS EXAMINATION - IN CAMERA**

7 By Ms. Morgan:

8 Q When was that done?

9 A As soon as I got arrested.

10 Q As soon as you got arrested, it was just as soon?

11 A No, it was a little while afterwards. Carroll came
12 back and said he was going to get the charges dismissed
13 on her and she had to call a couple of times to find
14 out that her charges had been dismissed and mine was
15 still going.

16 Q All right. And that's why you wrote out these four
17 pages?

18 A That's the only reason I could see to do it.

19 Q The only reason?

20 A Right.

21 Q Not that you didn't want to tell them what happened
22 that night?

23 A Can't tell about things you don't know.

24 MS. MORGAN: Nothing further.

25 THE COURT: Okay. Mr. Gunnells, you may step

1 down.

2 MR. WILSON: No other witnesses, Your Honor.

3 THE COURT: Solicitor, do you have anything
4 else?

5 MS. MORGAN: No, sir.

6 THE COURT: All right. Do you want to make any
7 arguments?

8 MR. WILSON: Yes, sir.

9 THE COURT: I will be glad to hear you if you
10 do.

11 MR. WILSON: Thank you, Judge, very briefly.
12 Your Honor, I would submit to the Court that both
13 statements don't meet the test and, therefore, should be
14 excluded by the Court as the gate-keeper of the Court
15 before it even gets to a jury. The first statement, Your
16 Honor, clearly was elicited, clearly Mr. Gunnells was in
17 custody at the time that statement was made, about the, Oh
18 shit, you got me, statement. Clearly that was made after
19 he was in custody. Clearly it was the result of a
20 strategic plan to place those items where they would elicit
21 a response. It's clear.

22 And that, even though that's not the
23 traditional interrogational questioning that goes on by law
24 enforcement, I would submit to the Court that under the
25 totality of the circumstances, that rises to the level of

1 interrogation. So he's in custody and he's being
2 interrogated and that statement is a result of it. His
3 testimony is that he was never read his Miranda rights. So
4 we'd argue to the Court that all those factors take care of
5 his first statement, Your Honor. I understand it's not a
6 question, he wasn't specifically asked a question, but he
7 might as well have done that, Your Honor, by the actions
8 that were taken. And it's clear from Agent Darnell's
9 testimony that that's -- if you view his testimony, I
10 believe it will be clear to the Court that that's what he
11 intended to draw and elicit, the same as if he'd asked the
12 question, Where do you think we got those from or something
13 to that effect. That takes care of the first statement.

14 The second statement, Your Honor, my client, he
15 acknowledges he was Mirandized and that's what I told you
16 before we started. Our position on that is, Your Honor,
17 that it was -- that that statement was the result of a
18 promise of reward or threat of some action if he didn't
19 give a statement; and we'd submit to the Court that that
20 causes the second statement to not pass the test.

21 Your Honor, the two that you can look at there,
22 the promise or the threat that Ms. Brooks could be
23 prosecuted, that she could be brought in as an accessory
24 after the fact and also the promise that the State would
25 give some leniency with regard to the charges she had

1 pending against her in Barnwell.

2 Judge, if you look at it -- and I think time is
3 always an important factor. They got back to Bamberg
4 somewhere around 7:00. You know, it couldn't have been too
5 much after 7:00 when they got back to Bamberg and if they
6 went over there and got Mr. Gunnells something to eat and
7 came back and let him eat in Bamberg and signed that form,
8 then at 7:37 he started writing a statement. And my client
9 testified to you, he's graduated from high school has some
10 college under his belt and it took four hours according to
11 their times to write a four page statement. Something had
12 to be going on during that time, Your Honor, some
13 questions, some continued threats or promises that my
14 client testified about.

15 But you've got a four hour window in there and
16 all you've got to show for it is that four-page statement.
17 Judge, if you take the timing, they got back right before
18 7:37 and went ahead -- and went ahead and Mirandized him
19 and then got him something to eat, because Agent Darnell
20 could not remember which was the scenario. And then
21 somewhere a few minutes after 8:00 or maybe a quarter after
22 8:00, we're starting with this statement and it's three
23 hours and-a-half. I mean, you're talking three and-a-half,
24 four hour window in there. And I would submit to the
25 Court, you're never going to be able to prove exactly what

1 happened. I mean, obviously, without a video tape, you
2 know, or an audio tape, you'll never know what happened.
3 And of course law enforcement has those tools available to
4 them when they're interrogating or questioning and
5 obtaining a statement.

6 I would submit to the Court that you have to
7 view the facts in the light most favorable to the defendant
8 and take that into consideration and take the timing into
9 account; and submit those should be, both of those
10 statements should be suppressed.

11 THE COURT: Okay. Thank you very much.

12 Solicitor?

13 MS. MORGAN: Judge, as to the first statement
14 about -- I think he's saying there's some kind of statement
15 based on interrogation because of the speakers that were
16 taken from the victim's car. I do not think that there's
17 any law that would support that that would be an
18 interrogation. I think the law is to the contrary, it
19 allows the law enforcement to even misrepresent
20 circumstances the defendant might be facing. But that is
21 not coercion or any threat to them or promise so that they
22 can actually intentionally lie to the defendant and that
23 would not be so. So I don't think in terms of the, Oh
24 crud, you got me, that was not based on any interrogation.
25 That was the circumstances. They had the items that they

1 had recovered from the pawnshop. He elicited from any
2 questions, I think will raise res gesti from him than if
3 he, Oh, my goodness and then he voluntarily offers them the
4 pawn receipt and gives them the pawn receipt at that time.

5 If you look at the next one as to the
6 circumstances of the voluntary statement, the State's
7 position is that he was already Mirandized. He was
8 Mirandized twice and he was Mirandized upon being arrested
9 in Columbia after actually being taken down, if you will.
10 I have no doubt there were guns on him based on the nature
11 of the offense and based on the nature of the charge but
12 what was done, there were containers -- he was leaving his
13 girlfriend's apartment. They had gotten the consent to
14 search. There was no indication of anything that was
15 done -- in fact, the girlfriend was completely cooperative
16 and the officers were finishing up in Columbia when he was
17 Mirandized again; that during the ride down that he
18 initiated some questioning.

19 He admits that he started asking questions. He
20 said I was asking him about something because he had some
21 of my friend's names on his hand, so I started asking what
22 was the SLED agent doing. He was Mirandized because he was
23 asking so many questions, but look, be careful here, we're
24 in the back of the truck, we're going to Mirandize you
25 again -- or back of the car, as they're going back to

1 Bamberg County.

2 When they get there, it's clear that they feed
3 him, they let him smoke, there's no threats to him -- I
4 think the only issue that might come up, the only one is
5 that Mr. Wilson wants to say that the only legitimate --
6 we've had testimony, the only issue is not about charging
7 his girlfriend. The only thing that came from the
8 defendant, is that there's some promises favorable to his
9 girlfriend that it would be coercion. That's the only
10 thing. There is no charging or threatening of the
11 girlfriend. The only thing that was elicited from this
12 defendant is the only thing that might be -- is that she
13 might be treated favorably on the charge that was over a
14 year old.

15 I don't think that that is -- even if it is
16 true, and I don't believe that it, again, I'm learning to
17 put motions in writing, I don't think it -- I think the
18 totality of the circumstances is that the officers clearly
19 Mirandized him. He was not offered any threats or hopes of
20 favorable treatment to himself or anything that would be
21 considered coercion considering the totality of the
22 circumstances. It's clear he's educated, it's clear he
23 signed his name, it's clear he was allowed to put in his
24 own words the times and the details that occurred that
25 night.

1 I disagreed with the interpretation that it
2 would take a short period of time. I'm confident given the
3 nature of what he's writing and describing that it would
4 take a while and they obviously gave him time, allowed him
5 smoke breaks. There's no indication that he was coerced or
6 threatened in any way.

7 THE COURT: Thank you, ma'am.

8 MR. WILSON: Your Honor, I apologize, just real
9 quickly. This won't take but just a second. Ms. Morgan
10 argues about res gesti, the res gesti statement comes in
11 before the person is placed under custody and under applies
12 when there isn't any interrogation. And she's arguing that
13 somehow trickery doesn't apply here because of what Agent
14 Darnell did with the box and the speaker, that's trickery
15 that's allowed.

16 Judge, I'm going to argue to you that what that
17 is is questioning. He was in custody, he was questioned by
18 those boxes being placed there, specifically designed to
19 elicit a response. That is in essence the question. I'm
20 not arguing that law enforcement doesn't have the right to
21 use trickery or to lay facts out or to do all these things
22 because they do and the law is clear on all that. But what
23 they don't have the right to do is to question somebody in
24 custody without having provided Miranda warnings and that's
25 my argument about the first statement.

1 They questioned him by putting the box there to
2 elicit a response and he was clearly in custody and he
3 wasn't Mirandized and I believe that's the end of that
4 analysis. I just wanted to be clear about that.

5 THE COURT: Thank you very much.

6 All right. The Court has carefully considered
7 all the evidence which has been offered by the State and by
8 the defendant. This Court is convinced by the
9 preponderance of the evidence and I so find that before the
10 alleged statement was obtained from the defendant, the
11 defendant was fully advised of his rights under the Fifth
12 and Sixth Amendments of the Constitution of the United
13 States and the defendant was advised of the constitutional
14 safeguard provided by Miranda vs. Arizona.

15 The defendant was advised prior to any
16 interrogation that he had the right to remain silent, and
17 the defendant was advised prior to any interrogation that
18 if he waived his right to remain silent and that such
19 statements can and will be used against him in a court of
20 law. The defendant was advised prior to any interrogation
21 that he had the right to employ or select an attorney of
22 his own choice and that if he didn't have the money or
23 funds or resources to employ an attorney that the Court
24 would appoint and provide one for him if he so desired at
25 no expense to him; and that he had the right to have his

1 attorney present with him at all times during all
2 interviews and interrogations.

3 And the defendant was advised prior to
4 interrogation that he had the right to consult with his
5 attorney before any interrogation. And the defendant was
6 advised prior to the interrogation that he had the right to
7 interrupt and terminate the interrogation any time; that he
8 had the right to stop answering questions at any time
9 during the interrogation. And the defendant was advised
10 prior to interrogation that if during the interrogation
11 without an attorney that the interrogation could cease if
12 he wanted one so that he would have the opportunity to
13 consult with his attorney prior to further interrogation;
14 that the defendant knowingly and intelligently waived his
15 right to the Fifth and Sixth Amendments to the Constitution
16 of the United States and the Constitution of the State
17 under Miranda vs. Arizona and that the alleged statements
18 obtained from the defendant were freely and voluntarily
19 given without the use of force and without the influence of
20 reward or promise or hope of reward, without threat of
21 injure and without compulsion or inducement of any kind and
22 that such alleged statements were the voluntary product of
23 the free unconstrained will of the defendant.

24 The Court finds that all of the foregoing
25 conclusions by the preponderance of the evidence and I

1 also, therefore, find that the statements are admissible
2 into evidence. If I went too fast, here it is.

3 THE COURT: Anything else that we need to deal
4 with this afternoon?

5 MR. WILSON: Nothing, Your Honor.

6 THE COURT: All right. We will adjourn until
7 9:30 in the morning. Now the court reporter has a meeting
8 she has to stop.

9 (WHEREUPON there was discussion about schedule
10 with the Court and the attorneys.)

11 THE COURT: We'll adjourn.

12 (WHEREUPON court was in recess until Wednesday
13 morning.)

14 THE COURT: Is the State ready to proceed?

15 MS. MORGAN: Yes, sir, Judge, we're ready to go
16 over some of the evidence I think.

17 THE COURT: What about the defendant? Is the
18 defendant ready?

19 MR. WILSON: Yes, sir, Your Honor.

20 THE COURT: You ready for opening statements?

21 MS. MORGAN: Yes, sir. I think there were
22 two ---

23 MR. WILSON: We had discussed dealing with the
24 exhibits, going ahead and ---

25 THE COURT: Okay. Let's go over that. Put on

1 the record -- do you have an exhibit list?

2 MR. WILSON: I don't have a list, Your Honor,
3 but I can go ---

4 THE COURT: Here it is.

5 MR. WILSON: Okay.

6 THE COURT: Ya'll put on the record, just mark
7 on there which ones you agree and which ones you disagree
8 with.

9 MR. WILSON: Okay.

10 THE COURT: And then we'll put it on the
11 record.

12 MR. WILSON: Okay.

13 (WHEREUPON there was discussion among the
14 attorneys about the exhibits.)

15 THE COURT: All right. First of all, as to --
16 which exhibits have you agreed will go into evidence?
17 We've got 1 through I think 36 marked.

18 MR. WILSON: Yes, sir Your Honor.

19 MS. MORGAN: That's correct, Your Honor.

20 MR. WILSON: Judge, I have no objection to the
21 exhibits, with the exception of 15.

22 THE COURT: 15?

23 MR. WILSON: 15, yes, sir. 28.

24 THE COURT: What other one?

25 MR. WILSON: 28, the pawn ticket, 29 Miranda

1 rights form and 30, the statement.

2 THE COURT: Okay. So you agree to everything 1
3 through 27 to be admitted except for Exhibit No. 15, 28 and
4 29 and 30, is that correct?

5 MR. WILSON: Yes, Your Honor.

6 THE COURT: All right. Those exhibits are
7 introduced into evidence without objection. Now as far as
8 the motion yesterday concerning the indictment, I believe
9 on the burglary ---

10 MS. MORGAN: Yes, sir.

11 THE COURT: What specifically do you wanted to
12 include ---.

13 MS. MORGAN: I believe it was with the
14 armed-robbery.

15 THE COURT: Armed-robbery, excuse me.

16 MS. MORGAN: Which is Indictment 2004-23. We
17 were going to take, if you will, for -- to clarify and not
18 confuse, we will nogo forward on 2004-22, which is the
19 grand larceny and put the -- add jewelry, goods and monies.

20 THE COURT: Jewelry, goods and monies?

21 MS. MORGAN: Yes, sir.

22 THE COURT: Okay. And I assume that
23 Mr. Wilson's been notified of that previously?

24 MS. MORGAN: Yes, sir. And Judge, it's my
25 understanding that the law would require, would not allow

1 it if there were any change in the penalties and any notes
2 as to any jeopardy he might face in a change of penalty,
3 the elements. And he has been provided sufficient Rule 5
4 for a lengthy period of time as to the items taken. In
5 fact, consented to most of the items that is, he knows had
6 been taken.

7 THE COURT: Is that correct, Mr. Wilson?

8 MR. WILSON: Judge, I did -- I received notice
9 that they were going to amend when Ms. Morgan requested it,
10 but I was unaware of any amendment being requested until
11 yesterday. I will be candid with the Court and tell you
12 that I was provided with the SLED report that happened in
13 October of 2003 and that report references a number of
14 things that were taken from the Sease home involving the
15 vehicles, money, jewelry and, I believe, that's what you've
16 requested today is money ---

17 MS. MORGAN: Goods.

18 MR. WILSON: Goods and jewelry.

19 MS. MORGAN: Jewelry.

20 MR. WILSON: Judge, the only thing -- I can
21 tell you I'm aware that money was involved. I'm aware that
22 the jewelry was involved. I'm not sure what other goods
23 she's talking about, so I would ---

24 MS. MORGAN: Judge, I ---

25 MR. WILSON: I would object to the amendment to

1 the indictment at this late date. I would ask that the
2 armed-robbery indictment be stricken as insufficient based
3 on the motion yesterday.

4 THE COURT: All right. Based upon -- your
5 motion is denied as far as striking armed-robbery and I
6 will grant the motion to amend Indictment No.
7 2004-GS-05-023 on the armed-robbery to include jewelry,
8 goods or monies.

9 And, Solicitor, here's your indictment on the
10 grand larceny, No. 022, which you said you were willing to
11 nol pros that one.

12 MS. MORGAN: I'm just not going forward on it,
13 yes, sir.

14 THE COURT: What I have here is a copy of this
15 armed-robbery indictment. Is the original somewhere?

16 MS. MORGAN: No, sir, that is the original. I
17 do not know why it's ---

18 MR. WILSON: It is the original.

19 THE COURT: The original with the signature of
20 the grand jury.

21 MS. MORGAN: I believe we had a printer
22 problem, that's why it's on the lighter paper.

23 THE COURT: Okay. I have written on the face
24 of the indictment, added jewelry. I have the original --
25 on the indictment. Okay. Anything else before we bring

1 the jury in?

2 MR. WILSON: Your Honor, with respect to the
3 exhibits, we had agreed to go ahead and handle that prior
4 to just for the sake of efficiency and having her be able
5 to have those things already into evidence and move
6 forward. I'll go ahead and address those if you would
7 like.

8 THE COURT: On which ones?

9 MR. WILSON: On those four exhibits that I
10 handed up to you that are in dispute. The ones I gave you
11 numbers on.

12 THE COURT: You want to tell me what your
13 objections are?

14 MR. WILSON: Sure. Your Honor, No. 15 is a
15 photograph of -- it's four photographs actually on the same
16 card. It's serial numbers, photographs of serial numbers
17 and photographs of the speaker and the box. And I won't
18 belabor the testimony. You'll recall Agent Darnell
19 testified yesterday those items were placed in his office
20 and Mr. Gunnells walked in and they were placed
21 strategically so that he would see those items and a
22 response was elicited.

23 Your Honor, I'd argued to you yesterday that
24 the statement that Mr. Gunnells made when he walked in --
25 that the statement that he made as he walked in was an

1 improper statement and I would argue to you that those
2 items would be the proof of an improperly obtained
3 statement and would, thus, not be proper evidence entered
4 into evidence and, of course, entering a photograph of them
5 is the same thing.

6 THE COURT: Okay. But you don't object to the
7 authenticity of the pictures?

8 MR. WILSON: No, sir, I don't. I don't. I
9 don't dispute that those items are photographs of the items
10 that were in Agent Darnell's office.

11 THE COURT: All right. Well based on the
12 ruling yesterday on the statement, I will admit State's
13 Exhibit No. 15.

14 MR. WILSON: Just one second. Your Honor, the
15 other objection, 28 is the pawn ticket. That's a copy of
16 the pawn ticket.

17 THE COURT: That was also received at the same
18 time the statement was made when he walked into the office.

19 MR. WILSON: Yes, sir. Judge, I don't object
20 to it being a copy. My objection goes to the thing I just
21 raised. It was obtained as a result of a statement that
22 was obtained from Mr. Gunnells in violation of rights, the
23 same argument I placed before you yesterday in the Jackson
24 vs. Denno hearing. And since I argued to you that the
25 statement was improperly obtained, anything that was

1 retained as a result of that, which the pawn ticket was,
2 would be fruit of the poisonous tree and I would argue to
3 you that that should be excluded based on the same.

4 THE COURT: Based upon yesterday's ruling, I'm
5 allowing the statement in. The Court finds that the
6 Miranda rights were advised with the defendant and will
7 admit States No. 28.

8 MR. WILSON: And Your Honor, 29 and 30, is the
9 Miranda rights form that was signed at 7:40 p.m. and the
10 four page statement. I would argue to you against the
11 admission of those on the same grounds that I raised to you
12 yesterday in the Jackson vs. Denno hearing. I won't
13 belabor the point, we argued them yesterday.

14 THE COURT: All right. State's Exhibit 29 and
15 30, also, based on the Court's ruling in the Jackson vs.
16 Denno hearing will be admitted. Anything else before we
17 bring the jury?

18 MS. MORGAN: No, sir, other than the fact that
19 when Agent Darnell testifies as to the statements, the
20 State has made copies of the four page statement to give to
21 each of the jurors so they can read along, but we'll take
22 them up afterwards. If it is admitted into evidence, or it
23 will be, but ---

24 THE COURT: I have no problem with that.

25 MS. MORGAN: I'm just letting him know.

1 THE COURT: Okay.

2 MS. MORGAN: And also, there is a diagram,
3 State's 36 that I'm going to let each of the jurors have
4 just an overview to help clarify the house.

5 THE COURT: 36 is a diagram of what?

6 MS. MORGAN: The house. Just -- Judge, it's
7 without objection ---

8 THE COURT: The house and the yard or just the
9 house?

10 MS. MORGAN: Just the house so they can
11 understand ---

12 THE COURT: Okay.

13 MS. MORGAN: A little guidance showing where
14 they were.

15 THE COURT: Okay.

16 MS. MORGAN: But is -- that's, I'm just letting
17 you know.

18 THE COURT: You have that blown up on a bigger
19 chart?

20 MS. MORGAN: No, sir.

21 THE COURT: You got 13 of those?

22 MS. MORGAN: Yes, sir, and they have their own
23 personal copy. Other than that, the State's ready to
24 proceed.

25 THE COURT: Mr. Wilson, do you have an

1 objection to the prosecutor giving the jury copies of 36?
2 State's 36?

3 MR. WILSON: No, sir, that's the diagram of
4 the -- I mean as long as it's pulled back out before we go
5 into any other witnesses.

6 THE COURT: I assume you won't have an
7 objection to State's No. 30 -- copies of it, based on your
8 objections on admissibility is that right?

9 MR. WILSON: That's correct, yes, sir.

10 THE COURT: All right. I will deny your motion
11 for that statement to be presented to the jury.

12 MR. WILSON: Your Honor, all I intend to do
13 when she's ready to hand them up, I need to know that even
14 though you've already ruled them in, if she's going to put
15 them in, obviously, I renew my objection. I will renew my
16 objection from previously if she starts to put them in.

17 THE COURT: That's fine.

18 MR. WILSON: That way, we don't have to stop.

19 THE COURT: I think they're already in, though.

20 MR. WILSON: Yes, sir.

21 THE COURT: There's no reason to renew it. If
22 you've already made an objection. You do what you think
23 you need to.

24 MR. WILSON: I will go ahead and do it.

25 THE COURT: Do whatever you think is necessary.

1 MR. WILSON: I appreciate it.

2 THE COURT: All right. Anything else before we
3 bring the jury in?

4 MS. MORGAN: No, sir.

5 THE COURT: All right. Bring us the jury,
6 please, sir.

7 (WHEREUPON the jury entered the courtroom at
8 10:10 a.m.)

9 THE COURT: If you'd swear the jury, please.

10 THE CLERK: Yes, sir. Stand up please.

11 (WHEREUPON the jury was sworn at 10:11 a.m.)

12 **OPENING REMARKS BY THE COURT**

13 THE COURT: Madame Forelady and ladies and
14 gentlemen of the jury, I'm just going to explain briefly to
15 you the format of the trial and what's going to take place.
16 The attorneys very shortly will make opening statements
17 concerning their position, their interpretation of what's
18 going to be the facts that they plan on proving in the
19 case. After the opening statements, the State will start
20 calling witnesses and go through the witness list. The
21 State will have the witness on direct examination and the
22 defendant will have the witness on cross-examination.

23 The difference between direct examination and
24 cross-examination, is you can ask leading questions on
25 cross-examination. Now leading questions are questions

1 suggesting an answer. After the State has presented all of
2 their witnesses, then the defendant will have the
3 opportunity to present witnesses. The defendant may not
4 present witnesses, it depends on how the defendant wants to
5 present his case. Let's assume that the defendant does
6 present witnesses; and after that, then the State will have
7 the opportunity to offer reply testimony. If they offer
8 reply testimony then after that, there will be closing
9 arguments by the State and the defendant and after the
10 closing arguments, I will charge you on the law that's
11 applicable in this particular case.

12 Now I just want to explain the process that we
13 were going to go through so you would understand the format
14 that we operated under. And I would also tell you that the
15 exhibits one through 26 have been admitted into evidence.
16 You were not in the courtroom when they were admitted into
17 evidence. They have been marked and they all have been
18 admitted into evidence by the Court and the State and the
19 defendant will be referring to certain exhibits such as
20 State's Exhibit 1, State's Exhibit 33 and that's the number
21 of the exhibit that's been admitted. They all have been
22 admitted at this point in time even though that's what we
23 were doing while you were waiting to come out in the
24 courtroom. So we've been here, we've been doing some work
25 to try to make the trial go a little smoother for you.

1 THE COURT: Solicitor?

2 MS. MORGAN: Please the Court, Mr. Wilson,
3 ladies and gentlemen of the jury, first off, I'd like to
4 thank you. I know as we sat, all day yesterday, as we went
5 through all of those questions, that a lot of you would
6 rather be somewhere else. But as important as this
7 probably is, it matches only serving our country in the
8 military. It's your duty. All of you were here, you've
9 been chosen, you've been sworn. It's the most important
10 thing you can do other than serving in the military and I
11 want to thank each and every one because I know there are
12 other places you'd rather be and other things you'd rather
13 be talking about or listening to or being in that back room
14 altogether with people you don't really know. So I
15 appreciate it and I want to thank you on behalf of
16 everybody here today.

17 I want to tell you what my job is and just
18 list -- I'm the prosecutor, the solicitor, the district
19 attorney. It's by job, it's my burden to carry this case
20 and present it to you all. The judge said, we've already
21 got through some exhibits. You're going to see a lot
22 today. The charges: Burglary first; armed-robbery;
23 kidnapping; assault and battery with intent to kill; use of
24 a firearm during the commission of a violent crime; grand
25 larceny involving two separate cars; conspiracy, what is

1 it?

2 We have to go back to May 5, 2003, Ashton Road,
3 right outside the little town of Erhardt. It is a home
4 invasion. The evidence is going to show that Halman Sease
5 and his wife were at home. Their surrogate son was in the
6 den. Ms. Eunice was in the bathroom. Halman was in his
7 bed, watching TV, air-conditioning going like each and
8 everyone of us do every night. And you're going to hear
9 that come about 11:30 that night, May 5th, Monday night,
10 all devil broke loose. There was a pounding at the door.
11 The door was broken out of its frame, kicked in by three
12 individuals, all of them carrying firearms.

13 And when they broke in on Ms. Eunice, they came
14 in screaming, U.S. Marshalls, get down. And you're going
15 to hear that Ms. Eunice is in her front door, seeing that
16 door down, seeing this man with her with a gun, telling her
17 to get on the floor and take him to her husband. And
18 you're going to see what it was like and you're going to
19 hear it as she describes the house on Ashton Road and where
20 she was taken by them, against her will, down the hall, to
21 her husband.

22 You're going to hear that her husband was taken
23 and tied up and you're going to hear that one went with her
24 initially. Two of them went and found Steven sitting in
25 the den. U.S. Marshalls get up. Guns pointing, taking

1 them down together. You're going to hear that Steven was
2 pistol whipped in the side of the head by one of the men.
3 And you're going to hear that one man, very distinguishing
4 face, took charge as they're huddled in the bedroom; Halman
5 tied up, pushed up, told to stay down, guns pointed at him.
6 Ms. Eunice, gun pointed at her. Steven just a few feet
7 away, bleeding, Tell me where your safe is. Tell me where
8 your money is. I'm going to kill your wife. I'm going to
9 kill your wife. Tell me where the gun is -- tell me where
10 the money is.

11 You're going to hear that man, red shorts, red
12 bandanna, Shaq shoes was the one, along with the others,
13 that took charge in that bedroom, told Mr. Halman what he
14 was going to do if they didn't tell him where the money was
15 and helped tie them up and went scourging through the
16 house. You're going to hear that -- you're going to hear
17 that they could hear them going through the drawers. You
18 can see the bag where there's costume jewelry where they
19 had been ripping through the drawers in the bedroom. And
20 you're going to see that finally, Mr. Sease told them that
21 there's money in that truck. There's money.

22 And they begged for their lives. They told him
23 that they might have some money in the truck. And the
24 three individuals that were there, that had planned it,
25 orchestrated it, went and took both their trucks. They

1 live out in the country. Mr. Halman Sease had a pick-up
2 truck. They went out there and took them away from there.
3 Left them there hog-tied. One that was playing dead. It's
4 going to be fairly straightforward. You're going to hear
5 from that witness stand, the witnesses who were actually
6 there. They're going to describe to you something that
7 most of us -- I don't even think we could really believe
8 it. You're going to hear and see from them and regretfully
9 we have to go through it and prove to you all, you get to
10 see the emotion, what they experienced during this home
11 invasion, the ultimate violation of the American dream.
12 Busting down somebody's door, all for the pursuit of a
13 little money because they thought they were entitled to it.

14 The only good news that I think you'll know
15 from the evidence of this is we're not looking at three
16 murders. That's the good news. The one blessing in this
17 thing that I think the evidence is going to show you -- you
18 know, I think you're going to see from them, they don't
19 know why they're not dead.

20 But you're going to see that the law
21 enforcement responded, that they -- that the officers came
22 and that they tried to do the crime scene. You're going to
23 see the ties and the belts that were used to tie them up.
24 You're going to see the blood where Steven's head was right
25 near where the other ones were tied up. You're going to

1 see that they tried to dust for fingerprints. You're going
2 to see that they tried to find shoe prints. You're going
3 to hear from the officers that took the door that had been
4 kicked in and footprinted it and like the fingerprints, it
5 was a shoe print. They took the shoes, the only pair they
6 had and said, Let's see if those shoes that were taken from
7 him -- his girlfriend gave them to them -- those were his
8 shoes. She bought them for him. That these shoes were
9 printed on the door that busted in. And you're going to
10 also see that those shoes are consistent with the prints
11 that are out by the truck as somebody went away after
12 taking the money.

13 And you're going to hear how this individual
14 knew what was going on, knew, that had been down the week
15 before. You're going to hear from his aunt. You're going
16 to hear from his aunt that he had come down a whole week
17 before. You're going to hear from Mr. Halman. Do you know
18 what he had done? He had given him a ride. He had given
19 him a ride home after he and one of his friends were
20 hunting. You're going to hear that Mr. Halman was -- he
21 took him home. You're going to know that even though he
22 had a bandanna and shorts that Halman knew who was in his
23 house. You're going to hear from the aunt, what she knew.
24 You're going to hear from the officers that came and did
25 their job and searched and searched. And said this is

1 something that in Bamberg County isn't allowed. And they
2 that worked it and that they worked with it and that they
3 proceeded to find a lead because not only was money taken,
4 jewelry pulled off Halman Sease by that individual -- he
5 took his jewelry. His rings off his fingers, his gold
6 chain off his neck as he threatened to kill him. Tell me
7 where the money is. And then he took the rings. And he
8 took the goad chain. And you're going to see that they --
9 as they were going through the drawers, they took his
10 money, that the officers found out and they took the truck.
11 They took the amplifiers and speakers from one of the
12 trucks.

13 They even took -- they even took a camouflage
14 hat and that they ended up getting camouflage gloves that
15 were never recovered. There's another piece of jewelry
16 that Steven's going to tell you was in his truck that he
17 never got back. And there's a pistol out there somewhere
18 that nobody has any idea where it is that's still floating
19 out there that was taken that night. You're going to hear
20 all that from them. And you're going to hear that Agent
21 Darnell worked it, found the speakers because Steven had
22 this -- had kept the box with the speakers. Not everybody
23 does that. The evidence is going to show that he could
24 give -- he could give the amplifier and speaker serial
25 numbers to the officers and they tracked it. They tracked

1 it to a pawnshop in Columbia.

2 They got it and brought it back. And they
3 realize, he's the guy. We find him now, we bring him --
4 and you're going to hear, you're going to hear that he was
5 brought back. He was placed under arrest. He was
6 Mirandized. Every right he had was protected. Officers
7 treated him with dignity, arrested him in Columbia,
8 Mirandized him in Columbia, was concerned about him talking
9 to them on the way down. They give him another Miranda.
10 So wait until we get to Bamberg. They let him eat a
11 hamburger. French fries, coke, smoke cigarettes. And they
12 took his statement.

13 You're going to hear and you're going to be
14 able to read what he wrote as to his involvement that
15 night. And you're going to see that he was right in the
16 middle of it. And he might try to tell you that it was a
17 little different, but you just listen to what Ms. Halman
18 and -- Mr. Sease and Ms. Sease who are seated here, as to
19 what happened that night.

20 And ladies and gentlemen, I'm convinced at the
21 end of the trial, after hearing all the evidence from the
22 witness stand, seeing the pictures, reading the statement,
23 that it will be clear to you that on May 5, 2003, right
24 before midnight, this defendant, along with two others, not
25 on trial today, two others, came in and violated the

1 American dream, busted down the door, are guilty of
2 burglary first, armed-robbery, kidnapping of all three of
3 them and keeping them at gunpoint through the whole time;
4 of assault and battery with intent to kill for pistol
5 whipping Steven that night. Conspiracy to do all this; and
6 use of a firearm during the commission of a violent crime.
7 And I am confident at the end of this, you will find him
8 guilty of all those charges.

9 Thank you very much.

10 MR. WILSON: Thank you, Your Honor, may it
11 please the Court.

12 THE COURT: Yes, sir.

13 MR. WILSON: Ms. Morgan, Mr. Gibbons, ladies
14 and gentlemen of the jury, Ms. Morgan told you that she's
15 going to prove to you that three individuals, three
16 individuals broke into the Sease home that night, came in
17 with guns ablazing, held the Sease's down, hit Mr. Sutton
18 in the head, took some items from Mr. Sease, tried to get
19 some money, held these people at gun point, took off, ran
20 out, got the trucks, took off and left. As she told you in
21 her opening statement, three individuals did that. Ladies
22 and gentlemen, my client's the only person on trial today.
23 And Ms. Morgan acknowledged we don't want to be here. You
24 don't want to be here. You've got other things that you
25 could do at work and home, what have you. Ms. Morgan's got

1 other things that she could be doing. I've got other
2 things that I could be doing and I promise you my client
3 don't want to be here today.

4 Ms. Morgan has told you that these three
5 individuals did this. And my client's on trial today. And
6 she's told you what he's charged with: Three counts of
7 kidnapping -- and the judge has also told you about the
8 indictments: Three counts of kidnapping; armed-robbery,
9 assault and battery with intent to kill; two counts of
10 grand larceny involving a vehicle; burglary first for
11 breaking into a home; possession of a weapon during the
12 commission of a violent crime and criminal conspiracy. And
13 Ms. Morgan has told you that she's going to prove these
14 three individuals did it and that my client was right in
15 the middle of it. And that's what she told you she was
16 going to show.

17 And the reason that she's told you that and the
18 reason that she's told you that there were three
19 individuals and that he's right in the middle of it, ladies
20 and gentlemen, is this -- that's not enough. That's not
21 enough. She has to be able to prove Mr. Gunnells guilty
22 beyond a reasonable doubt on each and every charge that
23 she's charged him with and each and every element of each
24 and every one of those charges and that's the law in this
25 State. It's a protection that every person that's charged

1 with a crime is entitled to. The defendant does not have
2 to prove anything. The defendant does not have to show
3 anything. The defendant does not even have to testify in a
4 case. Imagine how difficult it would be if someone accused
5 a person of a crime, for that person to disprove the crime,
6 to prove their innocence. And the law recognizes that.
7 And because of that, the law places the burden on the State
8 to prove guilty beyond a reasonable doubt. And it's a very
9 high burden that the State has and it's in every criminal
10 case. It's a protection that's afforded to every person,
11 every citizen of the State of South Carolina and it is a
12 very high burden that the State has and one that the State
13 must take very seriously and one that the State must
14 discharge very seriously and very thoroughly.

15 And what it requires that you as twelve jurors
16 be convinced unanimously, beyond a reasonable doubt that
17 Mr. Gunnells has been proven by Ms. Morgan in this trial
18 through the witnesses and the testimony they put forth and
19 the evidence that's put into evidence of guilt of every
20 single one of those charges and every single element that
21 makes up every single one of those charges. And the judge
22 will lay out the law to you at the end of this case. He
23 will charge you after the closing arguments. And he'll
24 tell you what each crime is and what each crime entails,
25 what the elements are because those are legal terms.

1 You know, we might think we know what
2 armed-robbery means, we might think we know what burglary
3 first means and in every day language and in our homes and
4 on the streets, those words have meaning to each other as
5 individuals. It's common language. But in the law, those
6 words have specific meaning, those words have specific
7 elements and each of those elements must be proven. And so
8 what I'm going to ask you to do is going to be a difficult
9 job. I'm going to ask you to listen very closely to the
10 entire case, and I know you are. That's why we chose you.
11 We chose you as jurors because we knew that you would be
12 able to discharge this very solemn duty that you have. And
13 the judge swore you, that you would listen to the evidence
14 and well and truly try the case and render a verdict. And
15 that's why you've been chosen.

16 The State has faith that you'll do the job and
17 the defense has faith that you'll do the job. And the job
18 that I'm going to ask you to do is listen to each and every
19 piece of this case very closely, very intently and hold the
20 State to that burden. If the State does not meet that
21 burden. Then under your oath -- you were sworn to uphold
22 the law -- and anywhere that the State has not met the
23 burden, under your oath, you would return a verdict of not
24 guilty. Anywhere that the State has not met its burden,
25 you would be required under the oath that you've taken and

1 following the law to return a verdict of not guilty. And
2 I'm going the ask you to uphold that duty, the duty that
3 you were sworn to when you were seated as jurors.

4 We went through a very pain-staking process
5 yesterday picking a jury. It was long and it took the
6 whole day to pick the jury. It may not take much longer
7 than that to try the case. And the reason we went through
8 that pain-staking process and the reason we went through so
9 much detail is for that one reason and for that one reason
10 alone, to pick 12 jurors and an alternate, who would uphold
11 that oath, that would be fair to the State and fair to the
12 defendant; would be truly, truly impartial jurors and would
13 listen to the evidence and follow the law. And that's why
14 you've been chosen.

15 I want to thank you in advance for your service
16 in the case. I know it's not a pleasant experience, it's
17 not a pleasant experience for anybody in this courtroom and
18 the things that you're going to hear and -- I mean I would
19 imagine this is going to be an emotional case and the
20 things that you're going to hear and the things that you're
21 going to see might not be pleasant things. But I'm going
22 to ask you to try to set -- the judge will tell you, your
23 decisions are not to be made on emotion. Your decisions
24 are not to be made on passion and I'm going the ask you to
25 set those things aside and your oath requires you to set

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 those things aside and decide this case based on the facts
2 that you hear, the facts, and the law that the judge gives
3 you.

4 And if you do those things and you follow the
5 law and you follow the facts and you do those things, at
6 the end you'll return a verdict. And the verdict that you
7 will return is a verdict that the defense has chosen to
8 accept and the State has chosen to accept. That's why we
9 chose you as jurors. The verdict that you return is the
10 verdict that we'll accept. And so I do want to thank you
11 in advance for your service and I look forward to working
12 with you over the next few days and I look forward to being
13 in front of you at closing argument time.

14 Thank ya'll very much.

15 THE COURT: Solicitor, you want to call your
16 first witness?

17 MS. MORGAN: Yes, sir. The State would call
18 Eunice Sease to the stand.

19 THEREUPON,

20 EUNICE ANN SEASE,
21 after being duly sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 By Ms. Morgan:

24 Q All right. Ms. Sease, you want to state your full name
25 for the record, please?

Eunice Ann Sease - Direct Examination by Ms. Morgan

- 1 A Eunice Ann Sease.
- 2 Q All right. Take a deep breath. I think that mike will
- 3 pick you up even if you don't get right in front of it.
- 4 Where do you live, Ms. Sease?
- 5 A Ashton Road, Erhardt, South Carolina.
- 6 Q And how long have you been living there?
- 7 A All my life.
- 8 Q I'm sorry?
- 9 A All my life.
- 10 Q All right. And at that house?
- 11 A No, we've been in that house 42 years.
- 12 Q All right. And when you say we, who lives with you on
- 13 Ashton Road?
- 14 A My husband and our friend Steven, our son.
- 15 Q Okay. And how long have you and your husband been
- 16 married?
- 17 A 45 years.
- 18 Q 45 years. And tell me, what do you do during the day?
- 19 Do you work outside the home? What are your hobbies?
- 20 A I'm a beautician and I work in my building next to the
- 21 home.
- 22 Q Uh-huh.
- 23 A And I go to Care Manor and fix hair for the older
- 24 people one day a week.
- 25 Q Okay. And tell me, the name of the Manor is?

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 A Carriage Manor on 301.

2 Q Okay. And you've lived in that house for 42 years.

3 You've got children that you raised in that house,

4 Ms. Sease?

5 A Three children.

6 Q Okay. And tell me how old are your children?

7 A Ginger is 44; one is 41 and Christy is 26.

8 Q All right. So most of their lives were spent at that

9 house?

10 A Yes.

11 Q Okay. And tell us a little bit about -- you've got the

12 house, do you have any out buildings around it?

13 A I have the house. We have a beauty shop to the right

14 of it. We have a boat shed to the right of the beauty

15 shop. We have a cook out house at the rear of the

16 house and he has his farm barn behind that. And my

17 mother's trailer, she's deceased, is to the right of

18 the house. So it's altogether.

19 Q Yes, ma'am. And are you actually in the town limits of

20 Erhardt?

21 A No, we're two miles toward Hampton.

22 Q Toward Hampton on Ashton Road?

23 A On Ashton Road, you take a left out of Erhardt.

24 Q Yes, ma'am. And two miles out, what's your closest

25 neighbor?

Eunice Ann Sease - Direct Examination by Ms. Morgan

- 1 A Halman's mother, which is, I'd say a fourth of a mile,
2 maybe, down the road.
- 3 Q All right. Now, that's on the road to Hampton, is it
4 on the main road to Hampton?
- 5 A No, my home isn't on the main road.
- 6 Q Okay. So, how about, if there's no neighbors real
7 close?
- 8 A Nobody is real close.
- 9 Q You got lights that are on at night? Security lights?
- 10 A We do, there is one yard light on all the time.
- 11 Q All right.
- 12 A We had one light on during the robbery.
- 13 Q I'm sorry?
- 14 A We had one yard light at the time of the robbery.
- 15 Q All right. And where was that yard light?
- 16 A It was near the chicken pen to the left of the house in
17 the backyard.
- 18 Q In the back toward the farm area?
- 19 A Yes, no lights at the front of the house.
- 20 Q Okay. And Ashton Road, does it get traveled much after
21 dark?
- 22 A Well, at times, seasonal, but not that much.
- 23 Q All right. How about back on May 5th? Is that the
24 season where there would be a lot of people traveling
25 it?

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 A No, not really, huh-huh.

2 Q I'd like to, if we could go to Monday night, May 5th,
3 2003. Tell us what were you doing that night.

4 A I was taking a bath, just got through brushing my
5 teeth.

6 Q Okay. How were you dressed?

7 A I had on pajamas.

8 Q All right.

9 A And I heard this noise.

10 Q What did it sound like?

11 A It was -- it sounded like something bursting in the
12 door or something and all I could hear was a terrible
13 noise. So...

14 Q Okay.

15 A So I ran out of the bathroom and when I got to the end
16 of the hallway, which you turn to the left ---

17 Q Let me do this -- Ms. Sease I'm going to hand -- to
18 help the jury, I'm going to let them have kind of a
19 diagram of the house. Not the out buildings, but just
20 the house which is State's 36. There's only one
21 bathroom in the house?

22 A No, it's -- at that end of the house where the bedrooms
23 are, there's only one bathroom. At the other end of
24 the house where the den is, there's a full bathroom to
25 the left there.

Eunice Ann Sease - Direct Examination by Ms. Morgan

- 1 Q But when you say you were in the bathroom, you're in
2 the bathroom in that hall where the bedrooms are?
- 3 A That's right.
- 4 Q All right. So you hear some kind of terrible noise?
- 5 A Yes.
- 6 Q And you go running out to the area where there's the
7 dining area and the front door?
- 8 A That's right. I came to the end of the hallway.
- 9 Q Yes, ma'am. And you turned right to get to the front
10 door?
- 11 A And I turned right to where I heard the noise and
12 whenever I got there, there appeared a black man
13 disguised and he had a pistol in his hand and he says,
14 U.S. Marshall. I said who are you. What do you want
15 and what have we done. And he told me to get down.
- 16 Q All right. Where were you in regards to the front
17 door?
- 18 A To the front door, I was at the end of the hallway,
19 going into the dining area which the door was to the
20 right of me.
- 21 Q Yes, ma'am. So you see a man -- you said disguised.
22 Tell me what you mean by this disguise. Can you
23 describe the color of clothing that he had on?
- 24 A Everything looked black to me.
- 25 Q All right.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 A And once he made me get down with the pistol, I never
2 ever turned back.

3 Q All right. When you -- did you try to do anything?

4 A No, I did exactly what he told me.

5 Q How about, did you try to call out to anybody?

6 A Yes. I tried to hesitate, hoping my husband would come
7 out of the bathroom and hear me or out of his bedroom.

8 Q Okay. Where was he, Ms. Halman (sic)?

9 A He was in the bedroom, already in his bed asleep with
10 the TV going and the air conditioner going.

11 Q And his bed -- ya'll's bedroom is the one right next to
12 the bathroom?

13 A That's right on the right going down the hall.

14 Q And he's down there, TV, air-conditioning going?

15 A Yes, and me calling and screaming, Halman, Halman, wake
16 up.

17 Q All right.

18 A Well he couldn't hear me, but once I turned around, I
19 was down on the floor, which he made me crawl all the
20 way to that bedroom with that gun to my head and.

21 Halman's door was closed and he shoved that door open
22 and when I got there, Halman, he was startled, He
23 said -- I said, Wake up baby. You just do what they
24 say, we're being robbed.

25 And he said, is it a dream, am I dreaming. And

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 by that time, he got there and he had the pistol to my
2 husband and he had made me get down behind the closet
3 door which was to the left and I laid at the closet
4 door; so therefore, I could just see people once in a
5 while and I could see Halman.

6 Q All right. And that fellow with the gun, was pointing
7 the gun at you?

8 A As I was going down the hall, yes.

9 Q All right. And when he got to the bedroom, the door
10 had been closed?

11 A Yes, uh-huh. And he -- the door was slung open then.

12 Q What was, if anything, was the fellow that had the gun
13 that was taking you down the hall, what was he saying
14 to you?

15 A He asked where my husband was and where was he and I
16 went, so I crawled into the bedroom so he could see
17 where he was. But I did stall a little bit hoping
18 during the hollering that Halman would wake up.

19 Q Okay. And how about Steve?

20 A Steve was in the den on the couch, watching TV when I
21 went to bed.

22 Q Okay. And that's on the other end of the house?

23 A That's on the complete other end of the house. The
24 dining room, the kitchen and hall separate that.

25 Q Okay. And so you kind of hesitated, did you try to use

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 anything?

2 A I picked the telephone up.

3 Q All right. Where was the phone?

4 A The phone was on our nightstand. But he saw me doing
5 that, so he took the phone from me and then he told me
6 to get down and that's when he pulled back the door and
7 I got behind the door. It happened that I had washed
8 my bedding that day and I left a pillow on that floor,
9 so I mostly kept my head in that pillow. Then he got
10 my husband and shook him and I said, Halman, this isn't
11 a dream, just get up. Do what they tell you, we're
12 being robbed. And then the man made him get down on
13 the floor.

14 Q Okay. And then ---

15 A I was settled in by that time and the pillow on my
16 belly is how they made me stay down, face down.

17 Q Okay. Face down, head in the pillow?

18 A Behind that door.

19 Q Yes, ma'am. The door that was flung open?

20 A There's a closet right above my head.

21 Q All right. What happened? Did you see Halman get up
22 and talk to him a minute? What is that person that had
23 the gun telling him?

24 A He had it to his head and he said, I want -- where is
25 the safe. And he wanted money. And Halman told him we

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 didn't have a safe. So by this time, we were both
2 begging for our lives, Please don't kill us. I told
3 him I have grandchildren and please don't kill us.
4 Then he went to talking to Halman and Halman said
5 please don't kill us. We'll give you anything you
6 want. So bless his heart, he pushed up against the
7 bed.

8 Q He made him get down?

9 A He made him get down on the floor. And he told him get
10 down and made him get on his belly.

11 Q Yes, ma'am.

12 A So therefore, I was still over there in the corner. I
13 could see him, see Halman though. I could see him with
14 him with the gun to his head and then he was -- he was
15 jumping around in the room pulling out the drawers and
16 everything in our bedroom.

17 Q All right. Did anybody else come in and join ya'll?

18 A Yes.

19 Q Tell us, what do you remember?

20 A I can remember red shorts with white -- with black
21 stripes down them and I could remember the shoes. But
22 I never did look -- I could see a red bandanna. I
23 never did look him in the face because I just kept my
24 head to the -- in that pillow, praying to God that we
25 would be safe.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q All right. When did that person -- are these the
2 shorts?

3 A Immediately after we got in the bedroom and got Halman
4 down and then he made Halman take off his jewelry
5 and ---

6 Q Wait, hang with me. You described the first person
7 that came in that dealt with you, took you down the
8 hallway to Halman?

9 A That's right.

10 Q That was a black man with all black on?

11 A Uh-huh.

12 Q Mask?

13 A Yes.

14 Q Or something ---

15 A Something covering his face.

16 Q All right. That was the one that took you down and
17 opened the door?

18 A Yes.

19 Q Now you're talking about another individual. Where
20 did -- you're down on your belly with your head in the
21 pillow, peaking and praying?

22 A Uh-huh.

23 Q Where does this person with red shorts and red bandana
24 and tennis shoes come from?

25 A He came in undoubtedly behind the black man.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q Okay.

2 A He was in the room.

3 Q Okay. And what did the man with the red shorts, the
4 red bandanna and -- are these the types of shoes you're
5 talking about he had on?

6 A Yes.

7 Q Okay. What did he do?

8 A He had the gun at Halman.

9 Q All right. So this person that came in, red shorts,
10 red bandanna and tennis shoes had a gun also?

11 A Yes.

12 Q Okay. Tell me what ---

13 MR. WILSON: Your Honor ---

14 THE COURT: Hold on just a second.

15 MR. WILSON: Your Honor, I'm going to object to
16 the leading.

17 THE COURT: Leading?

18 MR. WILSON: Yes, sir.

19 THE COURT: Don't lead the witness.

20 MS. MORGAN: Yes, sir.

21 By Ms. Morgan:

22 Q What did that individual do?

23 A He had the gun and he pointed at Halman and he asked
24 him for money, that he was going to kill him if he
25 didn't tell him where the safe was. And then, this

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 same individual, which this was later whenever he came
2 in and Halman kept begging and all of this time I was
3 begging and pleading every time I would hear him
4 threaten him, I would beg him, please don't kill us and
5 then went on and on and on. We were just begging,
6 please don't kill us. And Halman told him I will give
7 you anything, anything, just don't kill us. Please
8 don't kill us. And I was just talking to him, trying
9 to make him just, you know, get away.

10 Q Okay. What else did you see?

11 A You mean clothing or?

12 Q As to where they might have been, where was Halman
13 during this time?

14 A Halman was laying down on his belly and then whenever
15 he took Halman's jewelry.

16 Q All right. Who took Halman's jewelry?

17 A The one with the red shorts on. Which he wasn't as big
18 as the black guy.

19 Q And the one in the red shorts, what race was he?

20 A He was white.

21 Q Okay.

22 A I could tell from the boot to the short, just the color
23 of his skin. As far as looking at him in the eyes, I
24 knew he had the bandanna, I just kept praying that we
25 would be okay and safe.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q What did you see that person do about Halman's jewelry?

2 A Well he made him take off both his rings. He had a
3 wedding band and a little ring with diamond and a gold
4 serpentine chain. And Halman gave it to him and then
5 that's when he made Halman get down.

6 Q Okay. And that person is which person of the two
7 you've described?

8 A The one with the little red shorts on.

9 Q Okay.

10 A But he wasn't as big as the other guy.

11 Q Okay. What else did you see that either of those
12 individuals did?

13 A The one with the red shorts on, I have a vanity, a long
14 dresser and he was pulling out all the drawers and
15 getting -- we had a turquoise pillow case and he was
16 putting jewelry in that pillow case and then at my
17 nightstand, there were neckties and belts and things
18 and he got those out.

19 Q What, if anything, was done with the neckties and the
20 belts?

21 A What was done with them?

22 Q Did you see anything -- did you see anybody do anything
23 with the neckties and belts?

24 A At the end, they tied us up with the neckties and the
25 belts.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q All right. Continue on from where you were, about they
2 were -- with the turquois pillow case, what happened
3 next?

4 A The turquois pillow case and then they tied us up.

5 Q All right. When you say they, can you tell us who tied
6 whom up?

7 A I couldn't tell you which one of them -- I know it was
8 two in the room, but once I was down in the that
9 pillow, I never looked back. But when he went to tie
10 me up, I said, Please, don't hurt me. I've had a
11 rotary cuff that has been worrying me and I'd just been
12 to the doctor and so he did not tie me as tight. He
13 didn't tie me that tight up. He did ---

14 Q Do you know which of the two individuals was tying you
15 up?

16 A No, I sure don't.

17 Q Okay.

18 A I sure don't.

19 Q But how were you tied?

20 A I was tied like this at my back and at your legs. But
21 I wasn't tied real tight, but I was tied.

22 Q All right. So you're hands were tied behind your back?

23 A Uh-huh.

24 Q And what about your legs?

25 A Yeah, they were tied ---

Eunice Ann Sease - Direct Examination by Ms. Morgan

- 1 Q Okay.
- 2 A --- with a necktie.
- 3 Q All right. Did you see -- could you see what, if
- 4 anything, was happening to Halman?
- 5 A They tied him up and I couldn't tell you which one
- 6 because my head was still in the pillow.
- 7 Q Okay. Were there conversations going on? Were they
- 8 still -- did you hear them talking to Halman?
- 9 A Halman did tell them, he said the money is in my pickup
- 10 because the keys was in it. He told them the little
- 11 brown bag of money was in the pickup. Go get anything
- 12 you want. Please don't kill us. But all the time,
- 13 they had guns on us.
- 14 Q Okay.
- 15 A You know. When they were there.
- 16 Q All right. Did you have any idea or know what happened
- 17 to Steve?
- 18 A No, I sure did not. I never ever saw Steve.
- 19 Q Okay. You never heard, never knew what was going on
- 20 with Steve?
- 21 A No, I never did.
- 22 Q Okay. You said Halman had told them the money was in
- 23 the truck?
- 24 A Uh-huh.
- 25 Q What else was happening at that time? They tied him

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 up, tied you up, what happened next?

2 A Whenever they left, I would just glance up off and on
3 from the pillow, you know. And then Halman, after we
4 were tied up, he whispered to me and he said I think
5 they're gone. I said you think they're gone. I said
6 I'm scared to move. I don't want to get up. He said
7 we're going to have to get up. Can you get untied.
8 And I said I think I can get untied because they
9 haven't tied me so tight.

10 So when I got up, I had to untie and I could get
11 loose. So I said, Halman are you sure they're gone and
12 he said, Yeah. I crawled over to him and I started
13 untying him. I got him untied and then we embraced
14 each other. Thank God we were still alive and he said
15 he said, Look, look at Steve. Look at the blood. He
16 needs help. I said I'm scared to go out and Steve was
17 laying on the floor and once I saw him and I said,
18 Steve -- Steve said, I'm not going to move, but I feel
19 like I have -- I hear a pickup has left the house. I
20 said Steve are you sure. He said I'm going the lay
21 here because one might still be here. He was
22 whispering and I was standing back and by that time,
23 Halman said we have got to get help.

24 So finally when Steve said, I think I hear the
25 pickups have gone; Halman run to the phone and called

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 911. So he looked at me and he said go get something
2 to uncut Steve. But by the time I could get back to
3 Steve, he had gotten hisself untied.

4 Q All right.

5 A And that's ---

6 Q And did the police then come?

7 A Yes, and then the police came. And Steven -- he must
8 have heard it on his scanner. He's a fireman. And he
9 was the -- I think he was the first one there and he
10 got Steve because he was wobbly from being hit in the
11 head and we got Steve up and when Halman called, they
12 told us to get outside the house. And we got Steve on
13 the porch where it was cooler and then they got help
14 from them.

15 Q Okay. All right. Can you tell me when you were
16 untying Halman, what was he tied with?

17 A He was tied -- he had a belt around him and neck ties.

18 Q Okay. And how about Steve? When you finally got up
19 and embraced Halman, where was Steve?

20 A Where I was sitting behind the door, I could not see
21 Steve around the door. He was laying in the hallway at
22 the door with all this blood that -- I'm presuming they
23 had hit him with the gun.

24 Q But you didn't -- you didn't see any of that?

25 A I didn't see any of that.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q Okay. What was he tied with, do you know?

2 A Steve was tied with a belt and some neckties to0, I
3 think.

4 Q Okay. And tell us, when you got up, what was the
5 condition of the bedroom? What had happened to the
6 bedroom?

7 A All of the drawers were pulled out and they had pulled
8 everything out of the closet and even pulled out
9 Halman's old ball bag. It was right in the middle of
10 the floor and we tried to tell them there was nothing
11 in that. And ---

12 Q How about -- you mentioned something about a turquoise
13 pillow case that you had described somebody was putting
14 stuff in?

15 A Well, they didn't leave it in that bedroom and when we
16 went back, I found that at the doorway of my closet
17 where my shoes and things were, you know, they
18 undoubtedly dropped it.

19 Q Okay. And can you tell me, the front door, when you
20 originally heard and came to where you could see the
21 front door, what was different about it?

22 A Well the frame of the door, they had knocked off and
23 the frame of the door was at the hallway by that --
24 when it got knocked off is I guess when I heard the
25 noise.

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 Q Okay. I'm going to ask you to step down if you can.
2 Can you do that, Ms. Sease? You're going to have to
3 speak up and we're going to show the jury some of these
4 pictures about what you've testified too, okay. She
5 needs to take down what you say. That's why you have
6 to speak up. I'm going to show you State's ---

7 (WHEREUPON there was discussion between the
8 attorneys.)

9 By Ms. Morgan:

10 Q This is State's 1 and 2. Can you tell us what those
11 are pictures of?

12 A This is a picture of my home. This end of the house is
13 the den. Right here is the front door where they
14 entered.

15 Q Okay.

16 A This is the sun room right here.

17 Q All right.

18 A This is the front bedroom of my house.

19 Q And what road is that.

20 A Ashton Road, 983 Ashton Road.

21 Q You want to come down here and show them?

22 A Uh-huh. This is the den part of the house; this is my
23 front door and there are two bedrooms on this end and
24 the sun room. This is the back of the house.

25 Q State's 3?

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 A This is the entrance to the driveway to the home.

2 Q All right. And where are the trucks kept? Parked?

3 A They had -- Halman had it in the back that night.

4 Q Okay.

5 A And I guess Steve's pickup was right here, I think.

6 Q Okay. And that's at what end of the house?

7 A This is at the den end of the house.

8 Q Okay. State's 4 and 5, look at them a second.

9 A When they entered the house, this frame of the door
10 came off and this was all the way up here.

11 THE COURT: Which one is she talking about?

12 MS. MORGAN: Four.

13 THE COURT: Four, okay.

14 MS. MORGAN: Yes, sir.

15 By Ms. Morgan:

16 Q Go ahead.

17 A And this is the front, the door where they ripped that
18 out.

19 Q State's 5 is where it was ripped off?

20 A Uh-huh.

21 Q And tell us, the other end of -- tell me -- point to
22 State's 4 which is this one and tell them down here?

23 A This is the front door of the house where it was kicked
24 in and this is facing -- this is the pavements and this
25 is where the board came off of it that night. And this

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 is where it took out of the door. The door was warped
2 on the outside.

3 Q Okay. And is that what you would see as you're coming
4 out the hall looking out the front door?

5 A Yes, when I came out in the hall, I turned to my right.
6 This is my front door and I come down the hall.

7 Q And where did you see the individual that you
8 testified?

9 A He was standing right here when he hollered U.S.
10 Marshall. And I said, just asked him who are you and
11 what do you want and what have we done.

12 Q Okay. State's 6?

13 A All right. This is my dining area.

14 Q Where would the front door be from there?

15 A The front door is right back of me. When I get here,
16 you turn to the left and that's down my hall and I got
17 down right here when he put the gun to me and he asked
18 me where was my husband and I walked -- I crawled all
19 the way to my bedroom, past the bathroom on the right
20 is the bedroom.

21 Q State's 8 and 9, Ms. Sease?

22 A Yes, this is the hall that I crawled down and right
23 here -- I was thinking I could see a little turquois
24 pillow that was -- these are some of the ties and this
25 is one of the close sets. This is at the end of the

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 hallway with the shoes and bags in it.

2 Q Okay. And the bathroom that you were in, where is it?

3 A It's right here.

4 Q Where is it back on State's Exhibit 9?

5 A Right here with this pink ceramic tile. Right there's
6 the bathroom.

7 (WHEREUPON the witness was showing the picture
8 to the rest of the jury.)

9 By Ms. Morgan:

10 Q State's 12. Can you take that and show this part of
11 the jury and then show the other part of the jury?

12 A This is the entranceway into my bedroom and this is
13 where they had pulled things out of the dresser.

14 Q Where were you -- there's the entrance to the bedroom,
15 where are you?

16 A You see this door that's right here. This door pushes
17 in from my bedroom. I was behind that door. They had
18 me behind that door in the closet.

19 Q Okay. Show these people.

20 A And my husband was lying right here up under this bed.
21 They had both of us down on our stomachs. This is some
22 of the items that they pulled out of the closet and the
23 drawers. I was -- this is a door here. I was behind
24 this door.

25 Q And behind that door is what?

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 A Is a closet right above me. I was between the door and
2 the closet. My husband was laying right here. They
3 had him here on the floor. So I could peep from that
4 door to see him.

5 Q Okay. How about all this stuff that was out, was that
6 the way it was before they came?

7 A No, ma'am. This is Halman's old ball bag. These are
8 the neckties that came out of here, out of this night
9 table right there.

10 Q All right.

11 MR. WILSON: That's which exhibit?

12 MS. MORGAN: That was State's 12. I'm sorry.

13 By Ms. Morgan:

14 Q All right. How about the drawers that are opened and
15 the bureau in State's 12? Was that the way they were
16 prior to them arriving?

17 A No, huh-huh. They had pulled those drawers open.

18 Q And did you see who was -- who was over there doing the
19 drawers?

20 A It was the one that had the little red shorts on.

21 Q Okay. And can you explain State's 13?

22 A This was the bedroom across the hallway from my
23 bedroom.

24 Q And it looks into what?

25 A It looks into my bedroom right there. These drawers

Eunice Ann Sease - Direct Examination by Ms. Morgan

1 looked like they had been opened too.

2 Q All right. And what about the end of the hall? What,
3 if anything, can you tell us?

4 A This little turquoise bag right here, that was the
5 pillow case and that had costume jewelry in it when we
6 found it later in the night, that night.

7 Q And had you put the costume jewelry in a turquoise bag?

8 A No, I sure hadn't. It came out of the dresser drawer.

9 Q Show this one?

10 A This is a little door -- if you come out of this
11 bedroom, this is the bedroom in the hallway.

12 Q And this door, what does that go to in State's 13?

13 A That is a closet door which had been opened also.

14 Q And when you indicated when you got from behind the
15 closet and behind the door, you saw Steve?

16 A Yes.

17 Q Can you tell us where he was using State's 12? And --
18 yes, that's State's 12.

19 A Steve was laying right in here in the hallway. His
20 head right up in here. Is that one bloodstain? Right
21 here. Steve was laying right in here.

22 Q And that's State's 9, you were pointing to what's on
23 the carpet?

24 A It's blood on the carpet where he had gotten hit.

25 Q And that's on State's 9?

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 A He has blood on his pocket.

2 Q Number 10, is that right?

3 A Uh-huh.

4 Q Okay. And just for the record, Ms. Sease, State's 10
5 and 11, what are they pictures of, if you would?

6 A These are pictures of my bathroom.

7 Q Okay. And on -- that is where you were on that night
8 initially?

9 A Yes, when I heard the noise.

10 Q Okay. And you indicated that you -- at one time got on
11 the phone. Where was the phone?

12 A The phone was on the end table when I went in and I had
13 talked to Halman, I grabbed the phone.

14 Q Okay.

15 A But he took it from me.

16 Q Yes, ma'am.

17 MS. MORGAN: One second, please, Your Honor.

18 By Ms. Morgan:

19 Q Did you see any other individual than the two that
20 you've described that night?

21 A No, I never, huh-huh.

22 Q Thank you, Ms. Sease. Answer any questions Mr. Wilson
23 has for you.

24 THE COURT: Cross-examination?

25 MR. WILSON: Thank you, Your Honor.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

CROSS-EXAMINATION

By Mr. Wilson:

Q Ms. Sease, do you need to take a break?

A I'm fine.

Q Okay. Ms. Sease, you didn't see what happened to Steve? You saw him after the fact and you saw him laying on the floor and you saw that his head was bleeding, is that correct?

A That's exactly right.

Q But you didn't see what happened to him to cause his head to bleed or if he had gotten hit, who hit him, did you?

A No.

Q Okay. And on the photographs that you were shown, I want to show you what's State's Exhibit No. 4. I think you testified that was the -- that's the front -- the inside of the front door, is that correct?

A Uh-huh.

Q And that shows the entrance to your house?

A Right.

Q And I believe your testimony was that when you came out of the bathroom, you heard the noise and that alerted you and you came out of the bathroom. When you came out of the bathroom, there was a black male that was standing in the doorway saying U.S. Marshalls?

Eunice Ann Sease - Cross-Examination by Mr. Wilson

- 1 A Uh-huh.
- 2 Q And it's that black male that you saw that had a gun?
- 3 A Yes.
- 4 Q Was he tall?
- 5 A He was tall.
- 6 Q Was he thin?
- 7 A He had on all black.
- 8 Q Okay.
- 9 A You know, when you're just in such shock and you look
10 up and there stands someone hollering U.S. Marshalls
11 and I just ---
- 12 Q So you were in -- I mean obviously, somebody was there
13 in your house and they had a gun and you were in shock.
14 I mean you were shocked at what was happening?
- 15 A I was thinking I knew what was happening.
- 16 Q Okay. And did he have a bandanna or anything covering
17 his face?
- 18 A He had something that was dark.
- 19 Q Okay.
- 20 A I don't -- it just looked dark. Everything was dark
21 that he had on to me.
- 22 Q Okay. And the black male that was standing there, as
23 best you could tell was either dressed in dark or
24 covered in dark or looked dark?
- 25 A Uh-huh.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 Q Okay. And it's that person that had a gun and that
2 made you get on the ground and crawl down the hallway
3 to your bedroom; is that correct?

4 A Uh-huh.

5 Q Okay. And when you got to your bedroom, I think your
6 testimony was that you woke up your husband -- that you
7 had been calling his name as you went down the hallway?

8 A Yes.

9 Q But when you got to the bedroom, you actually somehow
10 woke him up and told him what was going on?

11 A I shook him and told him that we were being robbed.

12 Q Okay.

13 A And please do what they said because he had a gun.

14 Q Okay. And at this point in time, it's still just the
15 black male that's in the bedroom with you and your
16 husband and the black male has a gun?

17 A Uh-huh.

18 Q Okay. If you will just answer yes or no in words
19 instead of -- just so she can take it down a little
20 easier, okay?

21 A Okay.

22 Q Is that okay?

23 A That's fine with me.

24 Q Okay. And I want to show you what's State's Exhibit
25 No. 12. I think that was a picture of the inside of

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 your bedroom?

2 A Uh-huh.

3 Q Is that standing in the hallway taking a photograph
4 looking into the bedroom? Is that correct?

5 A Uh-huh.

6 Q Okay.

7 A Yes.

8 Q That's fine.

9 MS. MORGAN: And she can explain if he wants to
10 elaborate.

11 MR. WILSON: I was just trying ---

12 By Mr. Wilson:

13 Q If you can answer out in words, she's trying to type it
14 down.

15 A Yes, sir.

16 Q You're fine, you're fine. And at some point in time,
17 you indicated that this black male that had a gun made
18 you lie over here behind this door?

19 A This is the door here and behind here is a closet.
20 It's to my right and it's a little space he had me in
21 between there.

22 Q Okay. So what you were describing to the jury is that
23 you were made to lay in your bedroom, kind of behind
24 the door that opened into your bedroom?

25 A Uh-huh.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 Q And that door would have been opened around you and you
2 were kind of up behind the door?

3 A Yes.

4 Q Okay. And I believe you testified that at that point
5 in time, at the time that you were crawling down the
6 hallway, you never looked back?

7 A No, I was too scared.

8 Q Okay. And at the time you got into the bedroom after
9 you woke your husband up and you were made to lie
10 behind that door, I think you testified that you laid
11 your head into a pillow that was behind that door?

12 A Up and down. Yes, I laid my head on the pillow, but I
13 was still peeping up and down.

14 Q Okay. But you were down in the floor and you had your
15 head down in the pillow and you would try to look up
16 every so often when you had a chance to, is that what
17 you were doing?

18 A I did look up.

19 Q Okay. All right. I think you indicated that most of
20 the time your head was down on that pillow because you
21 were scared of what was going on and you were trying to
22 follow the instructions that were given to you by this
23 person, is that correct? I mean you were scared of
24 what was going on, obviously?

25 A Yes, but I could -- during the time I'd keep looking up

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 and down, I could still see things going on.

2 Q I understand that, but I think your testimony was that
3 most of the time your head was down in that pillow, is
4 that correct?

5 A Some of the time.

6 Q Okay. And you were laying down on your belly?

7 A Uh-huh.

8 Q And you were made to lie face down?

9 A Yes.

10 Q And while you were behind the door, is that when the
11 black male that had the gun that carried you down the
12 hallway with the gun, the gun pointed at you, is that
13 when that person started talking to your husband?
14 Because you said at one point in time he started
15 talking to your husband, asking where the money was,
16 things like that. Were you behind the door when all
17 this talking was going on?

18 A Yes, but I could see any husband.

19 Q Okay. And then he made your husband lie down; and I
20 think on State's Exhibit No. 12, you testified he made
21 your husband lie down over here closer to the bed?

22 A Yes.

23 Q And that's the same black male that had the gun,
24 carried you down the hallway?

25 A No -- yes.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 Q Okay. Ms. Sease, the whole time that this was going
2 on, you saw -- other than your husband and your son
3 that were in your home, the whole time this was going
4 on, you only saw two people, isn't that correct?

5 A Yes.

6 Q This tall thin black male that looked all dark?

7 A Yes.

8 Q And then the person that you described wearing red
9 shorts with black stripes and a red bandanna?

10 A Uh-huh. He was in the room most of the time, a lot of
11 the time too.

12 Q Okay.

13 A He was there.

14 Q Your husband was -- you were already on the floor
15 behind the door by the time the person with the red
16 shorts came into the room, isn't that correct?

17 A Yes, but it was immediately.

18 Q Okay.

19 A That the one with the red shorts came in too.

20 Q Okay. Your husband was already on the floor by the
21 time the person with the red shorts came into the room?

22 A Yes.

23 Q Okay.

24 A And that is when he was asking -- the other one came in
25 and got Halman's jewelry off of him.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 Q Okay.

2 A And he was in the room a lot of the time with a gun at
3 Halman's face.

4 Q Okay. And you saw red shorts with black stripes, a red
5 bandanna and shoes?

6 A Yes.

7 Q Okay. And I was going to ask you that, but I think you
8 just said -- were you ever able to see the person's
9 shirt or jacket or clothing that they had on above
10 their waist?

11 A Yes, I could see them, but I don't recall right off.

12 Q So you can't describe ---

13 A He had on shorts and bandana throughout.

14 Q You can't describe what kind of shirt or what the
15 person might have had on for a shirt?

16 A No, huh-huh.

17 Q Okay. And would you describe for me the type of shoes
18 that you saw?

19 A Looked like white tennis shoes and duck shoes or
20 whatever you call them.

21 Q Okay. And you weren't able to look up enough to even
22 decide or determine which one of the two people tied
23 you up, were you? I mean you weren't able to look up
24 from the pillow and behind the closet door to be able
25 to know for sure which one of the two, whether the

Eunice Ann Sease - Cross-Examination by Mr. Wilson

1 black man or the person with the red shirts was the one
2 that tied you up, are you?

3 A I don't know which one tied me up.

4 Q Okay. And you weren't able to look up or to look up
5 enough from the pillow or from behind the door where
6 you were to be able to determine which one of those two
7 people tied your husband up, are you?

8 A I saw one of them tying him up, but I don't know which
9 one.

10 Q Okay. And Ms. Sease, your testimony is that you were
11 able to see above the person's shoes but below the
12 shorts to determine that the person had white legs?

13 A Yes.

14 Q Okay.

15 A The white one was the one that was jumping around,
16 pulling out the drawers. He stayed in there while the
17 black one left and went to the den.

18 Q Okay. When you -- you recall giving a statement to the
19 police back on May 7, 2003, a written statement?

20 A Uh-huh.

21 Q I'm going to show you that and just ask if you'll just
22 take a look?

23 A I can't read it.

24 Q I will give you all the time you need to?

25 A I need my glasses.

Eunice Ann Sease - Cross-Examination by Mr. Wilson

- 1 Q Do you have them with you in the courtroom?
- 2 A Yes. He told Halman, the one with the red shorts that,
- 3 yes, he'll kill him if he don't tell him where the
- 4 money is. Is that what you're talking about?
- 5 Q No, ma'am, what I want to ask you is when you were
- 6 asked to describe the person, you were able to tell
- 7 them red shorts, I believe right here. You were able
- 8 to describe the person as having red shorts, isn't that
- 9 correct?
- 10 A Uh-huh.
- 11 Q And you were able to describe the person as being of
- 12 medium height?
- 13 A Uh-huh.
- 14 Q Let me get your glasses for you, okay.
- 15 (WHEREUPON the glasses were given to the
- 16 witness.)
- 17 By Mr. Wilson:
- 18 Q You were able to describe the person as having red
- 19 shorts, you see that?
- 20 A Yeah.
- 21 Q And being of medium height, see that?
- 22 A Yeah.
- 23 Q And having a bandanna covering up their head?
- 24 A Uh-huh.
- 25 Q And you said you thought they had tennis shoes and

Eunice Ann Sease - Redirect Examination by Ms. Morgan

1 kinky hair around the ears?

2 A Braids, right.

3 Q Okay. And at that time, you didn't give the police, or
4 they didn't take a description from you as the person
5 being white, did they?

6 A They knew he was white. I told them.

7 Q Okay. But you didn't put that in your statement back
8 in May of 2003, did you?

9 A Looks like I didn't, but I know he was white.

10 Q Okay. Ms. Sease, that's all the questions I have.
11 Thank you.

12 THE COURT: Any redirect?

13 MS. MORGAN: Just, just a quick one.

14 **REDIRECT EXAMINATION**

15 By Ms. Morgan:

16 Q You did describe the other individual in your statement
17 as to his race didn't you?

18 A Yes, black.

19 Q Okay. And Ms. Sease, on State's Exhibit 36, on the
20 drawing we have, the door to your bedroom isn't drawn
21 correctly, is it?

22 A No.

23 Q Okay. The door going into the actual bedroom, opens
24 to?

25 A To the wall.

Eunice Ann Sease - Redirect Examination by Ms. Morgan

- 1 Q To the wall and there's not a closet that's represented
2 on the diagram is there?
- 3 A No, there's not.
- 4 Q But the closet actually goes ---
- 5 A Is behind the door.
- 6 Q Yes, ma'am?
- 7 A On the right.
- 8 Q And it goes into -- really it takes up part of the
9 bathroom?
- 10 A Yeah, it's back in there.
- 11 Q Right. And the door to the closet is in State's 13.
12 Is that --
- 13 A This is -- this is the shoe closet in the hall right
14 there.
- 15 Q The door we see in State's Exhibit No. 13 is the shoe
16 closet door which opens one way?
- 17 A Uh-huh.
- 18 Q And the opposite way is the door to the bedroom?
- 19 A Yes.
- 20 Q All right. And you indicated you, you could -- did you
21 identify those as the shorts that were -- this is
22 State's 31, without objection, are the shorts that were
23 worn by the white man?
- 24 A By the white person.
- 25 Q All right. And you said that they were also wearing a

Eunice Ann Sease - Redirect Examination by Ms. Morgan

1 red bandanna?

2 A Yes.

3 Q 32?

4 A Uh-huh.

5 Q And are these the type of tennis shoes that were worn
6 by that individual?

7 A Yes.

8 Q Did you see anything else in between ---

9 A I could see his leg and he had a tattoo.

10 Q Okay. All right. And that individual, you described
11 with the bandanna and kinky or -- what did you describe
12 today?

13 A Braided, looking frizzed-up hair.

14 Q Okay. Is there any question he had a gun?

15 A Yes, he had a gun.

16 Q All right. And what was he doing with that gun?

17 A He had it pointed right to Halman asking for the safe
18 and for the money.

19 Q All right. And that individual ---

20 A He had on those clothes.

21 Q Yes, ma'am. And that individual, what did he take from
22 Halman?

23 A He took his jewelry off of him -- made him take it off.
24 Halman took his rings off and then his necklace, and
25 his Clemson watch.

Eunice Ann Sease - Recross-Examination by Mr. Wilson

1 Q Okay. All right. Thank you, Ms. Sease.

2 THE COURT: Any recross-examination?

3 MR. WILSON: Please, Your Honor.

4 **RECROSS EXAMINATION**

5 By Mr. Wilson:

6 Q Ms. Sease, you weren't able to describe what kind of
7 clothing the person had on above the waist other than
8 the bandanna on the face, is that correct?

9 A No, he had on t-shirt, but I couldn't tell you ---

10 Q You couldn't tell whether it was long sleeve or short
11 sleeve? Or you don't recall whether it was long sleeve
12 or short sleeve?

13 A A t-shirt would be more my answer. It didn't look like
14 a dress shirt. He had on a shirt, but I hadn't seen
15 him to tell you what color the shirt was. I
16 couldn't ---

17 Q You couldn't testify under oath as to whether it was
18 long sleeve or short sleeve?

19 A I didn't -- no, I sure can't.

20 Q Okay. And did I understand your testimony in response
21 to the solicitor's questions that you were able to look
22 at the person's leg and see a tattoo?

23 A I said I thought I saw a tattoo. I did not say I did.

24 Q Okay. Can you describe what you thought you saw on the
25 person's leg? What it looked like or how big it was?

Archie Steve Sutton - Direct Examination by Ms. Morgan

1 A No, I couldn't.

2 Q Okay. Well -- and I can respect that and appreciate
3 that. Would you describe it as a tattoo that ran the
4 length of the person's leg or a couple of inches or the
5 size of a quarter or how big is the tattoo?

6 A I couldn't tell you. I couldn't tell you.

7 Q Okay. But you're confident enough that you saw a
8 tattoo that you testified today about that in court,
9 correct?

10 A No, I said I thought.

11 Q Thought. Okay.

12 A I didn't say I did.

13 Q Okay.

14 A I just said I thought I did. I'm not even sure.

15 Q Okay. All right. Thank you, Ms. Sease.

16 THE COURT: You may step down, Ms. Sease.

17 Thank you so very much.

18 Call your next witness, Solicitor.

19 MS. MORGAN: The State would call Archie Steve
20 Sutton.

21 THEREUPON,

22 ARCHIE STEVEN SUTTON,

23 after being duly sworn, testified as follows:

24 ///

25 ///

Archie Steven Sutton - Direct Examination by Ms. Morgan

DIRECT EXAMINATION

By Ms. Morgan:

Q Would you state you're full name for the record, please

A Archie Steven Sutton.

Q You're going to have to speak up, we're going to have to hear you. Try it again.

A Archie Steven Sutton.

Q And how old are you, Mr. Sutton?

A I'm 26 now.

Q All right. And where do you -- where did you live back in May of 2003?

A I lived in the residence with Mr. Halman and Ms. Sease.

Q Do you still live there?

A No, ma'am.

Q Okay. How long had you been living there -- been with them back in May of 2003?

A Prior, probably 8 years.

Q Okay. You're kind of their adopted son, if you will?

A Yes, ma'am.

Q Okay. And do the math for me, you've been there 8 years, when did you start living with them?

A I was probably 18.

Q Okay. And what did you -- did you work with Mr. Halman?

A Yes, ma'am.

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 Q All right. And where was your room in the house back
2 then?

3 A My room, well my clothes was in what they call the
4 spare bedroom, which was Gene's, but I mostly stayed in
5 the den.

6 Q All right.

7 A Watching TV and sleeping on the couch.

8 Q Okay. And when -- on Monday May 5th when did you get
9 home?

10 A I got home probably around 7:30.

11 Q All right. And where do you park when you park your
12 truck?

13 A Right out the den door.

14 Q Okay.

15 A On a slab of cement.

16 Q Okay. And what kind of truck did you have back then?

17 A I owned a red '94 S-71, Chevrolet.

18 Q Is it actually titled in Mr. Sease's name back then?

19 A The truck was, that's right, yes, ma'am.

20 Q And so your truck is right at the back door where the
21 den area is?

22 A Yes, ma'am.

23 Q All right. And you said you were watching TV, sleeping
24 on the couch?

25 A I was -- I just -- I was watching TV because we just

Archie Steven Sutton - Direct Examination by Ms. Morgan

- 1 finished back in the den and I had laid down and had my
2 back facing the TV where my head was facing the back of
3 the couch.
- 4 Q Okay. And do you remember what was on TV?
- 5 A No, ma'am, I do not.
- 6 Q Okay. And what do you remember happening that night,
7 Mr. Sutton?
- 8 A That night, it was 10 minutes to 11:00, I was dozing
9 off and I didn't hear the calamity, but I heard someone
10 hollering, U.S. Marshall, get on the floor.
- 11 Q All right. And when you hear that, you're laying on
12 the couch, what do you do?
- 13 A I just hesitated for a minute.
- 14 Q Okay. What happened next?
- 15 A And then I heard Ms. Eunice Ann Sease ask them, What
16 have we done, you know, what do ya'll need, what ya'll
17 come for, you know.
- 18 Q All right. That's what you hear. Do you see anything
19 at that time?
- 20 A No, ma'am. I don't see nothing at that time.
- 21 Q All right. What happens next?
- 22 A Then after I heard that, like I said, the TV was on, my
23 head facing the back of the couch.
- 24 Q Let me ask you -- any other lights in that big old den?
- 25 A There was the TV on and that was the only light on in

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 the den at that time.

2 Q Okay.

3 A So I was laying there and then all of a sudden I heard
4 someone say, Get up, do not turn around put your hands
5 behind your back, while I was laying on the couch.

6 Q All right.

7 A So I proceeded, I got up and the way I was -- the
8 position I was laying in, I had to spin around to get
9 my feet from up under me so I could stand up. In the
10 meanwhile, as I was standing up I made a turn.

11 Q Okay. So you're laying on the couch. Did you get up
12 before you heard anybody? I mean heard somebody say
13 get up, put your hands ---

14 A No, ma'am, I didn't.

15 Q All right. And you had to spin around. I'm not quite
16 sure I understand.

17 A I was laying this way, so I spun around -- I had to
18 spin around this way to get my feet to come up where my
19 head was going to get up off the couch.

20 Q Okay. And where did -- the voice that you heard, where
21 was it coming from in relationship to where you were
22 laying down?

23 A It was coming from in front of the den door.

24 Q Okay.

25 A Where my truck was parked on the outside.

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 Q Okay. So what did you do? What did you see?

2 A So I -- I got up and I spun around and as I was
3 spinning around, I could see this fellow next to the
4 door and it was strictly black. And as I was turning
5 around to go face the kitchen, I seen another man in
6 front of the TV that had a blue bandanna on.

7 Q Okay.

8 A At the time it fell down and he snatched it up real
9 quick.

10 Q All right. You said there was a fellow in dark --
11 you're saying in dark that you could see dressed or
12 dark because you couldn't see him?

13 A It was both. It was in a dark area and from what I
14 noticed they had dark clothes on.

15 Q Could you say what the race was? Identify anything
16 about him?

17 A Only I could understand, know they had black and Navy
18 blue clothes on.

19 Q All right. Which one was that one?

20 A That was the one that had the deep heavy voice.

21 Q Okay. Is that the one that you said the bandana
22 slipped on?

23 A No, ma'am.

24 Q All right. Well, so tell us what the other one -- what
25 did you see of those two individuals?

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 A All right. So like I said, the one that I couldn't
2 hardly make out was in the dark area and as I was
3 turning around there was a lighter one that had a blue
4 bandanna on in front of the TV holding a pistol toward
5 me.

6 Q Okay. What did you do?

7 A So I cooperated, I put my hands behind my back and I
8 proceeded to go through the kitchen to the laundry room
9 and then I took a left to go into the dining room and
10 then took a right to go down the hallway ---

11 Q All right.

12 A --- as they followed me.

13 Q Who's the one closest to you?

14 A After I turned around, I could not tell you.

15 Q Okay.

16 A I just held my hands behind my back.

17 Q Okay. Did you see any weapons on any of those
18 individuals?

19 A They had two pistol pointing at me when I got up off
20 the couch.

21 Q Okay. And are they saying anything to you?

22 A They just told me to get off the couch, put my hands
23 behind my back and lead me to where the father's
24 bedroom is.

25 Q All right. So what did you do?

Archie Steven Sutton - Direct Examination by Ms. Morgan

- 1 A I led them back there to where Mr. Halman was in his
2 bedroom.
- 3 Q Okay. And did you see anybody else as you were making
4 the trip through the kitchen or the utility room to the
5 dining room to the hallway?
- 6 A As I got into the dining room to take the right to go
7 down the hallway to where Mr. Halman's bedroom is, I
8 seen Ms. Sease on the floor crawling toward her
9 bedroom. She just passed the bathroom where she was
10 previously brushing her teeth and taking her bath at.
- 11 Q Okay. Did you see the person with her?
- 12 A No, I don't.
- 13 Q Was there another individual -- was she crawling by
14 herself?
- 15 A Well, he was behind me and she was in front of me and
16 that's all I can remember.
- 17 Q Okay. And then what do you remember next?
- 18 A As she turned into the bedroom, I passed the bathroom
19 entrance and they told me to lay down.
- 20 Q Okay.
- 21 A So I laid down on the floor and cooperated with them.
- 22 Q All right. You laid down, how did you lay down?
- 23 A My belly first.
- 24 Q All right. Did you get a look back or could you see
25 anything?

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 A No, ma'am, not at that time.

2 Q All right. Tell us what you did or what happened next?

3 A All right. The next -- as -- where I laid down at,
4 well they told me to get down, there was a bedroom door
5 to go to their bedroom and I could see Ms. Sease
6 through the crack of the door and I could see
7 Mr. Halman just a little bit because of the way the
8 door was angled at the time.

9 Q Okay.

10 A And I could here a lot of motion going on.

11 Q Okay. What did you -- what can you remember anything
12 emotional or anything in particular that you heard or
13 saw?

14 A Yelling, you know, like draws opening, like jewelry
15 being clanged together and you know, people running
16 around.

17 Q Okay. What were you doing most of the time?

18 A Most of the time I was on the floor, laying there,
19 still.

20 Q All right. What's the next thing you remember
21 happening?

22 A The next thing I remember, as I was laying there, I had
23 my arms right in front of me and my neck started
24 hurting, so I kind of like tried to move just a little
25 bit and evidently, the fellow behind me seen me and

Archie Steven Sutton - Direct Examination by Ms. Morgan

- 1 must have thought I was trying to get up and that's
2 when they pistol whipped me. And I lunged forward
3 about a foot.
- 4 Q Okay. And when you lunged forward about a foot, what
5 do you remember?
- 6 A The only thing I remember is I could see Mr. Halman
7 pinned up against his bed and I could not see Ms. Sease
8 at all at that time.
- 9 Q Okay. You've been hit in the head, were you still
10 conscious?
- 11 A Yes, ma'am, it never knocked me out.
- 12 Q What did you ---
- 13 A I played dead.
- 14 Q I'm sorry?
- 15 A And I played dead.
- 16 Q What do you mean played dead?
- 17 A I didn't move or nothing.
- 18 Q Why not? Why did you play dead?
- 19 A Because I was bleeding very bad.
- 20 Q And you played dead, so what does that mean? Could you
21 see anything?
- 22 A Well I was laying there, trying not to make no motion
23 so maybe they wouldn't kill nobody.
- 24 Q Are you hearing anything about killing people?
- 25 A Yes, ma'am, I hear a lot of that.

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 Q What you mean? What did you hear?

2 A They said, you know, we need to kill one of them or
3 shoot one of them.

4 Q You hear that?

5 A Yes, ma'am.

6 Q And what else do you hear?

7 A And then after that, they tied me up and like I said,
8 after that I heard Ms. Sease, you know, begging them
9 not to shoot nobody.

10 Q Do you know who tied you up?

11 A I sure don't.

12 Q Do you know what you were tied up with?

13 A A belt and a tie.

14 Q Okay. Can you tell us, you played dead, you heard some
15 more, what do you remember doing next?

16 A After I was hit in the head, there wasn't very much I
17 could do.

18 Q Okay. How long did you stay there?

19 A I laid there for about 45 minutes.

20 Q Okay. What was going on?

21 A Like I said, they had the bags, trying to put jewelry
22 in it and I heard drawers sliding in and out.

23 Q Okay. And you heard some conversation by these people?

24 A Very little because by that time I was done hit in the
25 head.

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 Q Okay. When do you get up or how do you get up?

2 A Ms. Sease -- I was laying there and I heard the trucks
3 leave and Ms. Sease -- Mr. Sease told Ms. Sease that we
4 got to do something and he asked her could she get
5 untied and she told him yes and she got untied and
6 untied him and she didn't know I was at the door at the
7 time, you know, bleeding and when she untied herself
8 and got Mr. Halman untied, then that's when they
9 noticed me on the floor at the time.

10 Q Okay. And when they noticed you, what if anything did
11 you do?

12 A I just lady their and I whispered, don't -- leave me
13 alone, I'm fine, you know, just leave me alone in case
14 somebody runs back down the hallway and sees me gone
15 then they'll know somebody is moving in the back room
16 back there.

17 Q I'm not sure I understand. You told them to leave you
18 alone why?

19 A Because I didn't know if someone was going to come back
20 in and shoot one of us.

21 Q Okay. All right. So you stayed there?

22 A Yes, ma'am.

23 Q And what did they do?

24 A They got up and finally Mr. Halman said we got to get
25 help and he proceeded out his bedroom and Ms. Sease was

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 right behind him.

2 Q How long did you stay down?

3 A I stayed down long enough until I heard them say
4 everybody's gone.

5 Q And how did you get up?

6 A They had my hands tied but it wasn't real tight and
7 they had a belt around my ankle. After I got my hands
8 untied, I could untie myself.

9 Q I'll show you State's 8. Could you tell us what that's
10 a picture of?

11 A That's the hallway in front of the linen closet.

12 Q All right. When you first laid down before you got
13 hit, how far back were you?

14 A I was between -- from the bedroom door or the bathroom
15 door or in front of it.

16 Q Okay.

17 A I was probably a foot behind the bedroom door.

18 Q Okay.

19 A I heard Ms. Sease and Mr. Sease was in the bedroom.

20 Q And before you got hit, what, if anything, could you
21 see from that location?

22 A From that location, I couldn't see much.

23 Q Okay. Did you see any of them?

24 A No, ma'am, not at that time.

25 Q All right. And when you were hit in the head, you said

Archie Steven Sutton - Direct Examination by Ms. Morgan

- 1 you ended up going forward, where were you in
2 relationship to State's 12?
- 3 A I was laying right here, that's where my head was
4 laying. I got up, they hit me in the head ---
- 5 Q All right.
- 6 A --- I lunged forward then.
- 7 Q And the stuff on the ground, what is that?
- 8 A That's blood that come from my head.
- 9 Q And that's the blood in State's 12 and I think in the
10 corner on State's 13?
- 11 A Yes, ma'am.
- 12 Q Okay. Would you point to it for them, please. That's
13 where your head ended up?
- 14 A Yes, ma'am.
- 15 Q Okay. Do you know how many people there were in there
16 other than you and Mr. And Ms. Sease that night?
- 17 A I know there was two with me and one in the bedroom.
- 18 Q But other than that you don't know?
- 19 A No, ma'am.
- 20 Q Did you, you said your head got hit. Did you have to
21 go to the doctor?
- 22 A Yes, ma'am.
- 23 Q What kind of injuries did you have?
- 24 A I had to get 13 stitches on my head.
- 25 Q Beg your pardon?

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 A 13 staples to the head.

2 Q Okay. Where was the injury in your head? Could you
3 point it out?

4 A It was on this side.

5 Q Okay. And did you go to the hospital?

6 A They rushed me -- Colleton County EMS showed up first
7 and they rushed me immediately to Colleton County
8 Regional in Walterboro.

9 Q I'm sorry. You're going to have to speak up.

10 A Colleton County EMS showed up first.

11 Q Okay.

12 A And they immediately rushed me to Colleton County
13 Regional in Walterboro.

14 Q All right. And is that where you went in and they did
15 all that stapling?

16 A Yes, ma'am.

17 Q Did you stay in any length of time?

18 A I stayed in there about Ann hour after they were doing
19 the procedure.

20 Q And then what did you do?

21 A I went back with my father and I stayed out at the
22 house, outside with Mr. And Ms. Sease.

23 Q All right. And did you find out that your truck was
24 there or had been missing?

25 A After I got back out from the hospital, that's when

Archie Steven Sutton - Direct Examination by Ms. Morgan

1 they told me my truck was gone.

2 Q All right. And tell us, what, if anything, did you
3 have in your truck?

4 A I had an amp and some speakers and a necklace.

5 Q All right. And did you have an opportunity a couple of
6 days later to get your truck back?

7 A It was three days later, I was finally able to move
8 around where I could go outside and take a look at it?

9 Q All right. And what was missing out of your truck?

10 A Prior, when I got moving around, I went outside to see
11 it and I got to looking in it and I noticed that the
12 speakers and the amp was gone and the necklace on my
13 rear view mirror.

14 Q All right. And what kind of necklace was on the rear
15 view mirror?

16 A It was a 14 carrot gold rope chain.

17 Q All right. And did you get asked by law enforcement to
18 see if you could find anything about your amplifier and
19 your speakers?

20 A Yes, ma'am, they did.

21 Q Okay. What did you provide to law enforcement?

22 A The serial numbers on the speakers and the amp that I
23 kept in a closet at my daddy's house.

24 Q All right. And did you give them to Agent Darnell?

25 A Yes, I did.

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 Q Did you give anybody permission to use your truck that
2 night?

3 A No, ma'am.

4 Q Okay.

5 A I don't let nobody drive it but me.

6 Q You went to Colleton County ER, but Ashton Road is 2
7 miles out of Erhardt, what county is that in?

8 A That's Bamberg County.

9 THE COURT: Cross-examination?

10 MR. WILSON: Thank you, Your Honor.

11 **CROSS-EXAMINATION**

12 By Mr. Wilson:

13 Q Mr. Sutton, I don't know if we met before, but I'm
14 Chris Wilson. You testified that you know that there
15 were two people with you, there were two males with you
16 involved in this and there was one person in the
17 bedroom?

18 A Yes, sir.

19 Q Okay. You didn't ever see the person that was in the
20 bedroom, did you?

21 A I caught a glance of the red shorts at the end of the
22 bed.

23 Q Okay. So you saw a third person with red shorts in the
24 bedroom?

25 A Yes, sir.

Archie Steven Sutton - Cross-Examination by Mr. Wilson

- 1 Q Okay. And you caught a glimpse of that person at the
2 end of the bed?
- 3 A Yes, sir by the bed post.
- 4 Q Okay. Other than seeing a glimpse of that person and
5 seeing that that person had red shorts on, you're not
6 able to give any better description or any more
7 complete description of that person than what you've
8 just said, are you?
- 9 A Only I seen the red shorts and the legs was light and
10 that's all I remember.
- 11 Q Red shorts and white legs?
- 12 A Legs -- his complexion was white.
- 13 Q Okay. All right. So you saw the person in the bedroom
14 with the red shorts and white legs?
- 15 A Yes, sir.
- 16 Q Anything else?
- 17 A No, sir.
- 18 Q Was that before or after you had been hit in the head
19 and lunged forward this foot that you said?
- 20 A That was after.
- 21 Q So after you had been hit in the back of the head with
22 a pistol, as best you know you were hit in the back of
23 the head with a pistol?
- 24 A Yes, sir.
- 25 Q And after you were hit in the back of the head with a

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 pistol, you lunged forward down the hallway about a
2 foot, I believe?

3 A Yes, sir.

4 Q And your head came to rest on what's on State's Exhibit
5 No. 8 would be in the hallway just outside the door to
6 Mr. Sease's bedroom?

7 A Yes, sir.

8 Q Okay. And you were hit hard enough that you required
9 13 staples in the back of your head?

10 A Yes, sir.

11 Q And it was at that point in time that you looked in the
12 bedroom and caught a glimpse of this person that you
13 say had on red shorts and white legs?

14 A Yes, sir.

15 Q Any other -- any other descriptive -- any other
16 description or anything you can give us on that
17 person's description other than red shorts and white
18 legs?

19 A No, sir.

20 Q Okay. And the other two people, those were the two
21 people that were for, lack of a better term, were
22 involved with you?

23 A Yes, sir.

24 Q Okay. And the description that you were able to give
25 us involving those two people is that they are two

Archie Steven Sutton - Cross-Examination by Mr. Wilson

- 1 males?
- 2 A Yes, sir.
- 3 Q They were two black males?
- 4 A Yes, sir.
- 5 Q One of them had on a blue scarf and one of them was
- 6 tall and as best you could tell in all dark?
- 7 A Yes, sir.
- 8 Q And he was the one I think was kind of over in the
- 9 darker area that you had a harder time seeing maybe?
- 10 A Yes, sir, the one in the dark clothing.
- 11 Q The one in the dark ---
- 12 A Clothing.
- 13 Q The dark clothing?
- 14 A Yes, sir.
- 15 Q Okay. So he was in the area of the room that was a
- 16 little bit darker?
- 17 A Yes, sir, he was in the corner.
- 18 Q You were in the den?
- 19 A Yes, sir.
- 20 Q And the lights were off?
- 21 A Yes, sir.
- 22 Q The TV was going?
- 23 A Yes, sir.
- 24 Q That was the only light in the room?
- 25 A That's the only light, yes, sir.

Archie Steven Sutton - Cross-Examination by Mr. Wilson

- 1 Q You'd been laying on the couch?
- 2 A Yes, sir.
- 3 Q Had you fallen asleep yet?
- 4 A No, sir, I was fixing to doze off.
- 5 Q So you were dozing on off to sleep?
- 6 A Yes, sir.
- 7 Q So you remember -- I mean you were startled when this
- 8 came about, you were kind of -- you might not have been
- 9 in a deep sleep, you were beginning to fall asleep and
- 10 kind of startled and woken up by this?
- 11 A Yes, sir.
- 12 Q Okay. And your testimony is that both of those guys
- 13 had a gun?
- 14 A Yes, sir.
- 15 Q And they both pointing the gun at you?
- 16 A Yes, sir.
- 17 Q And you got off the couch?
- 18 A Yes, sir.
- 19 Q And then your testimony is that both of those people
- 20 were behind you as you were going down the hallway?
- 21 A Yes, sir.
- 22 Q And Ms. Sease was in front of you crawling down the
- 23 hallway?
- 24 A Yes, sir.
- 25 Q You didn't see anybody behind her but in front of you?

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 A Right.

2 Q Okay. So is -- your testimony is that there were at
3 least -- or as you recall, there were two people behind
4 you, telling you to go down the hallway with guns
5 pointed at you and Ms. Sease was in front of you, but
6 there wasn't anybody with a gun pointed at her that you
7 could see in front of you?

8 A From what I could tell there was nothing.

9 Q Okay.

10 A But they were behind me.

11 Q Okay. And I think in response to some of the
12 solicitor's questions earlier about these two men, if I
13 heard you correctly and if I didn't, you tell me, but
14 if I heard you correctly, you said you couldn't
15 identify them by race? Whether they were black or
16 white or Hispanic or whatever?

17 A The two who were in the room with me?

18 Q Yeah.

19 A One of them was black in front of the TV and the other
20 one I could not identify.

21 Q Okay. So you could identify one person as a black
22 male?

23 A Yes, sir, because his bandanna fell off his face as I
24 was getting off the couch.

25 Q Okay. And I believe in your testimony, that's the guy

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 that was in front of the TV, is that correct? The guy
2 whose bandanna felt off of his face?

3 A Yes, sir.

4 Q And that's the guy in front of the TV?

5 A Yes, sir.

6 Q And that's the guy you testified had on a blue scarf?

7 A Yes.

8 Q And that blue scarf or blue bandana fell down?

9 A Yes, sir.

10 Q Okay. And you said that he picked it up?

11 A Immediately.

12 Q Okay. Immediately pulled it back up?

13 A Yes, sir.

14 Q Were you able to make any identification about the
15 person's facial features, whether they had a mustache,
16 goatee?

17 A No, sir.

18 Q Big eyes or anything like that?

19 A No, sir.

20 Q Okay. Mr. Sutton I want to show you a statement that
21 you gave to law enforcement back on May 7, 2003. Do
22 you recall giving a statement to Agent Darnell back on
23 May 7, 2003?

24 A Yes, sir.

25 Q Okay. And at that time, obviously, you knew what the

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 statement was in connection with?

2 A Yes, sir.

3 Q And you knew that Agent Darnell was investigating the
4 crime, trying to be able to solve it and gather
5 whatever information was necessary to be able to do
6 that?

7 A Yes, sir.

8 Q Okay. And he asked you to provide him all the details
9 that you had about the case, everything you knew about
10 the case, he asked you to put it in this written
11 statement, didn't he?

12 A Yes, sir.

13 Q Okay. And at that time you put everything that you
14 knew about this case in this written statement, didn't
15 you?

16 A Yes, sir.

17 Q I want to show you what's -- I want to show you that
18 statement and let you take a look at it and you read
19 it, look it over. It's two pages, you take your
20 time -- it's a page and a half. You take your time and
21 read it okay.

22 (WHEREUPON the witness was reading the
23 statement.)

24 By Mr. Wilson:

25 Q Have you had an opportunity to read it?

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 A Yes, sir.

2 Q Okay. Mr. Sutton, do you recall telling Agent Darnell
3 that there were two black then that came into the house
4 and into the room that you were in?

5 A Yes, sir.

6 Q Okay. And you recall describing one of those as a
7 heavy-set fellow, wearing Navy blue or black?

8 A Yes, sir.

9 Q Okay. And is that the -- and then the second fellow is
10 a smaller built, 5 foot 7, younger looking person. Do
11 you recall that?

12 A Yes, sir.

13 Q And do you recall telling Agent Darnell that that
14 person had on a red scarf that night?

15 A I remember telling him, but now that I think about it
16 it was a blue bandanna.

17 Q Okay. But in your statement to Agent Darnell, you'll
18 agree with me that you told Agent Darnell that that
19 person had own a red scarf?

20 A Yes, sir.

21 Q And that's the statement you gave back on May 7, 2003,
22 just a day or a couple of days after this incident?

23 A Yes, sir.

24 Q Okay. And you went onto tell Agent Darnell that that
25 person who had the red scarf on, that's the person

Archie Steven Sutton - Cross-Examination by Mr. Wilson

- 1 whose scarf fell down and they immediately pulled it
2 back up?
- 3 A Yes, sir.
- 4 Q Okay. And your testimony today is that it was a person
5 with a blue scarf on?
- 6 A Yes, sir.
- 7 Q Okay.
- 8 A That's the best I remember it.
- 9 Q Okay. And you described these two people back then to
10 Agent Darnell as two black men, is that correct?
- 11 A Yes, sir.
- 12 Q And you said that one of them was heavy set with a deep
13 voice and he was at your feet, is that correct?
- 14 A Yes, sir.
- 15 Q At the couch?
- 16 A At the end of the couch by the den door.
- 17 Q And the other person was a younger fellow and he was
18 standing at the white railing that's kind of in front
19 of the TV, is that correct?
- 20 A No, he was standing directly in front of the TV.
- 21 Q Directly in front of the TV?
- 22 A That had the blue scarf on.
- 23 Q Okay. And that's the person you testified today had
24 the blue scarf on?
- 25 A Yes, sir.

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 Q You told Agent Darnell that he had on a red one?

2 A Yes, sir, it was blue though.

3 Q Okay. All right. Do you recall those two people would
4 have -- those two people that you've just described,
5 they're the ones that had the gun on you and told you
6 to get down and crawl down the hallway?

7 A Yes, sir.

8 Q And were they asking you about whether there was a safe
9 or whether there was money in the home?

10 A Yes, sir, they did ask me where was the safe and I told
11 them we do not own a safe in the house.

12 Q Okay. And so you got down on the floor and crawled
13 down on the floor like they asked you to or like they
14 told you to?

15 A I walked down the hall until they told me to get down.

16 Q Okay. At some point in time, did they tell you to get
17 down on your knees and crawl?

18 A No, sir.

19 Q Okay. So you walked down the hall some distance and
20 then they told you to get down on the floor?

21 A Yes, sir.

22 Q And did you get down on your belly?

23 A Yes, sir.

24 Q So you were laying flat out on your belly?

25 A Yes, sir.

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 Q That was before you were hit in the back of the head
2 with a gun?

3 A Yes, sir.

4 Q You're not able to testify as to who hit you in the
5 back of the head with the gun?

6 A No, sir.

7 Q As far as you're aware, it's one of those two men that
8 were behind you that hit you in the back of the head
9 with the gun, isn't that correct?

10 A I'm not certain but it did come from behind.

11 Q Okay. I mean you would agree with me that the most
12 likely thing is that one of these two men behind you
13 following you down the hallway is the person that hit
14 you in the back of the head with the gun?

15 A Yes, sir.

16 Q You didn't see anybody come from around and in front of
17 you come down the hallway and then come up behind you
18 and hit you in the back of the head, did you?

19 A No, sir.

20 Q You didn't hear anybody else come through the door as
21 you were doing down the hallway?

22 A Not as I was going down the hall.

23 Q Okay. And you didn't hear or sense anything behind you
24 that would make you think that there were more than two
25 people behind you right before you got hit in the back

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 of the head with the gun?

2 A No, sir.

3 Q Okay. And I think when you got hit in the back of the
4 head with the gun, you lunged forward in that hallway
5 about a foot. You couldn't see Ms. Sease, could you?

6 A Not after they hit me in the head, no, sir.

7 Q Okay. And your testimony today is that you could see
8 Mr. Sease?

9 A Yes, sir.

10 Q At the end of the bed or somewhere near the bed?

11 A Yes, sir.

12 Q And there was a red shorted person with light legs in
13 that room?

14 A At the end of the bed, yes, sir.

15 Q At the end of the bed. And what are you telling the
16 jury that person was doing? What did you see that
17 person doing?

18 A The only thing I can remember they had red shorts on
19 and their complex was light. And that's all I
20 remember.

21 Q Okay. Mr. Sutton, I want to ask you this, you reviewed
22 your statement, you didn't tell Agent Darnell that you
23 saw a third person in that bedroom, did you? At the
24 time you gave that statement?

25 A No, sir, because I was on medication and I was in and

Archie Steven Sutton - Cross-Examination by Mr. Wilson

- 1 out of it when I was writing it.
- 2 Q So you were on medication when you gave this statement?
- 3 A Yes, sir.
- 4 Q Okay. And you're saying you were in and out of things
- 5 when you gave this statement?
- 6 A Yes, sir. This statement here is correct.
- 7 Q But the statement is correct?
- 8 A Yes, sir.
- 9 Q Okay. And -- well one part is not correct. You agree
- 10 with me, you said it was a red scarf and today you
- 11 testified it was a blue scarf?
- 12 A It was supposed to be a blue one, yes.
- 13 Q But other than that the statement is correct?
- 14 A Yes, sir.
- 15 Q Okay. And what kind of -- you'll agree with me, you
- 16 didn't tell Agent Darnell anything about a third person
- 17 in the bedroom with Mr. Sease as you were knocked in
- 18 the back of the head and lunged forward down the
- 19 hallway?
- 20 A I agree with you. I did not write it down.
- 21 Q Okay. All right. And you didn't tell him anything
- 22 about that person having red shorts?
- 23 A No, sir, I didn't tell him that.
- 24 Q You didn't tell him anything about that person having
- 25 white legs?

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 A No, sir, not at that time.

2 Q Okay. And you're not able to tell this jury whether
3 that third person that you say was in that bedroom had
4 a gun or didn't have a gun?

5 A No, sir, I cannot say. At the time I was bleeding
6 pretty heavy.

7 Q Okay. When you got knocked in the back of the head,
8 and you fell to the floor, you were bleeding pretty
9 severely almost instantaneously?

10 A Yes, sir.

11 Q Okay. Now, Ms. Morgan asked you about if you overheard
12 any statements or anything being said and I think you
13 told her that you heard -- I'm not trying to put words
14 in your mouth, but I believe what you said is they
15 said, We need to kill one, is that correct?

16 A Yes, sir.

17 Q Okay. So, is that as you were walking down the hallway
18 or is that after you had been knocked in the back of
19 the head or after -- well, let's back up. Did you hear
20 that statement as you were walking down the hallway or
21 was it after you were made to lie down on the floor or
22 was it after you were hit in the back of the head with
23 the gun?

24 A After I was hit in the back of the head.

25 Q Okay. And ---

Archie Steven Sutton - Cross-Examination by Mr. Wilson

1 A And I was on the floor.

2 Q Okay. So you heard the statement, We need to kill one?

3 A Yes, sir.

4 Q Okay. And you don't know which one of these three
5 people that you say were in the home said that?

6 A No, sir, I do not.

7 Q And you don't -- are you able to tell whether that
8 sound came from -- sounded like it came from in front
9 of you -- and by in front of you, I mean something, you
10 know, from the direction your head was pointing or
11 whether it came from behind you in the direction that
12 your feet were pointing?

13 A At that time, I could not tell where it was coming from
14 but I did hear it.

15 Q And today, you're not able to testify under oath and
16 tell this jury whether that sound came from in front of
17 you or from behind you?

18 A No, sir, I cannot say that.

19 Q So you can't testify which person said it?

20 A No, sir.

21 Q Okay.

22 MR. WILSON: Just one moment, please, Your
23 Honor.

24 By Mr. Wilson:

25 Q Mr. Sutton, I appreciate it. That's all the questions

Archie Steven Sutton - Redirect Examination by Ms. Morgan

1 I have for you. Thank you.

2 THE COURT: Redirect?

3 MS. MORGAN: Yes, sir.

4 **REDIRECT EXAMINATION**

5 By Ms. Morgan:

6 Q Mr. Sutton, you described the person that the bandanna
7 fell down from?

8 A Yes, ma'am.

9 Q While you were on the couch or getting up from the
10 couch. That person, are you clear what their race was?

11 A Yes, ma'am.

12 Q What race was the person that the bandanna, whether
13 it's red or blue, what race was that man?

14 A It was the fellow with the blue bandanna.

15 Q I'm sorry? The blue bandanna?

16 A Yes, the blue bandanna.

17 Q And what was their race? Black or white?

18 A They were black.

19 Q Okay. And did you, you did indicate that you did see a
20 person with some red shorts, saw that they had white
21 complexion, did you know what kind of shoes they had
22 on?

23 A No, ma'am.

24 Q All right. And did after this was over, you
25 indicated -- did you ever pick out any shorts or

Archie Steven Sutton - Redirect Examination by Ms. Morgan

- 1 identify these shorts afterwards?
- 2 A Looking back, I did not write it down, but as I was
- 3 lunging forward, I do remember seeing a red pair of
- 4 shorts.
- 5 Q And do you remember talking to Investigator Darnell
- 6 about this after an arrest was made?
- 7 A I don't remember.
- 8 Q Okay. And I show you -- does this help you refresh
- 9 your memory? Let me ask it this way, Mr. Wilson was
- 10 showing you a statement that you made, do you remember
- 11 when that was made relative to when this crime
- 12 occurred?
- 13 A That was approximately two days after the incident.
- 14 Q Okay. And the incident occurred about midnight, when
- 15 was the statement that you first wrote out?
- 16 A The first statement was -- I can't remember if it was
- 17 the next day or the following day.
- 18 Q Okay. After that incident.
- 19 A Yes, ma'am.
- 20 Q While you got how many staples in your head?
- 21 A Thirteen.
- 22 Q Okay. And then do you, did this refresh your memory?
- 23 A Yes, ma'am, it did.
- 24 Q Did you have an opportunity to talk to George Darnell?
- 25 A After I wrote that statement, I mentioned little and

Archie Steven Sutton - Recross-Examination by Mr. Wilson

1 then I left it alone.

2 Q Did you identify red shorts?

3 A Yes, ma'am.

4 Q All right. And these are the shorts you identified as
5 the red shorts?

6 A Yes, ma'am.

7 Q Okay. Thank you.

8 MS. MORGAN: No further questions.

9 THE COURT: Any recross-examination?

10 MR. WILSON: Just briefly, Your Honor.

11 **RECROSS EXAMINATION**

12 By Mr. Wilson:

13 Q Okay. Mr. Sutton, you agree with me, May 7, 2003, I
14 understand it was just a couple of days after the
15 incident and you had some stitches in your head and I
16 think you testified you were on medication; you didn't
17 tell Agent Darnell anything about a third person in
18 that bedroom?

19 A No, sir.

20 Q Okay. And the third person that you saw in the bedroom
21 with the red shorts on, they were red, baggy, long
22 shorts like what I'm holding here?

23 A Yes, sir.

24 Q Okay. They were baggy shorts, long baggy?

25 A Yes, sir.

Archie Steven Sutton - Recross-Examination by Mr. Wilson

1 Q Okay. Do you recall that you told Agent Darnell that
2 same May 7, 2003 incident that -- let me strike that.
3 Let me ask you this, you recall telling Agent Darnell
4 back on May 7, 2003 that you were describing the same
5 two people, the two black males that came in on you in
6 the room, do you recall telling Agent Darnell that you
7 recognized a pair of Eddie Bower hiking boots with
8 beige trim?

9 A Yes, sir I do remember telling that.

10 Q Okay. And you also recall telling him that the boy,
11 which I assume you're referring to smaller of the two
12 people, that the boy had on big -- I'm not sure what
13 that is, but a pair of baggy shorts on?

14 A Yes, sir.

15 Q Okay. And you're still referring to the same two
16 people that you were describing to Agent Darnell, those
17 two black males that you were describing to him on May
18 7, 2003, those are the only two people you told him
19 about then, right?

20 A Yes, sir.

21 Q So if you're describing them down here, you've got to
22 be describing one of those two people, right?

23 A Yes, sir.

24 Q Okay. And you described one of them as having on a
25 pair of baggy shorts?

Archie Steven Sutton - Recross-Examination by Mr. Wilson

1 A Yes, sir.

2 Q Okay. Now the solicitor asked you about a follow-up
3 statement that you gave to Agent Darnell, June the
4 11th, 2003. And I think she showed you a copy of that,
5 but that's it right there. You recall that?

6 A Yes, sir.

7 Q You recall that?

8 A Yes, sir.

9 Q And that was some month or so after this incident?

10 A Yes, sir.

11 Q No problems with medication affecting what you did at
12 that time?

13 A No, sir.

14 Q You still had the staples in your head? Or had they
15 been removed?

16 A I had to keep them in there for three weeks, almost
17 four.

18 Q So they're either out or they're close to out at this
19 time?

20 A Yes, sir.

21 Q Okay. And I think Agent Darnell contacted you and
22 asked you to come down and take a look at some
23 clothing?

24 A Yes, sir.

25 Q He told you that that was some clothing that James

Archie Steven Sutton - Recross-Examination by Mr. Wilson

- 1 Gunnells was wearing at the time of this robbery,
2 didn't he?
- 3 A No, sir, he didn't.
- 4 Q He's asked you to come down and look at the
5 clothing ---
- 6 A He asked me to come down and with my box.
- 7 Q Okay. He asked you to come down and look at some
8 clothing that James Gunnells had? Told you where they
9 got it from, didn't they?
- 10 A Yes, sir.
- 11 Q And he told you they got them from James Gunnells' home
12 or his apartment he was staying in?
- 13 A Yes, sir.
- 14 Q And he showed those clothes to you, didn't he?
- 15 A Yes, sir.
- 16 Q Okay. And you were able to pick out the clothing. At
17 that time, you picked out some white silver Shaq shoes?
- 18 A Yes, sir.
- 19 Q And some red and white striped shorts?
- 20 A Yes, sir.
- 21 Q And you picked those materials out of a box of items
22 that Agent Darnell showed to you?
- 23 A Yes, sir.
- 24 Q Okay. And at that point in time, you didn't tell Agent
25 Darnell anything about this third person that you saw

1 (WHEREUPON the jury left the courtroom at 12:08
2 p.m.)

3 THE COURT: Mr. Wilson, I understand you have
4 a -- the next witness, the witness is going to be
5 Mr. Sease. You had an objection to an in-court
6 identification, is that correct?

7 MR. WILSON: I do, Your Honor.

8 THE COURT: You said you'll be glad for us to
9 hear that before we bring the jury out? Or do you want to
10 wait until later?

11 MR. WILSON: Judge, I don't know what is the
12 most expedient way to handle it. I'd like -- at this
13 stage, she's going to put Mr. Sease up and Mr. Sease at
14 some point in time, she's going to ask him to identify the
15 person who was in the home.

16 THE COURT: Well, why don't we bring it to that
17 and at that time you can make your objection.

18 And Solicitor, before Mr. Sease makes
19 identification, we'll go in-camera and I will listen to his
20 motion at that time, okay?

21 MS. MORGAN: Judge, my only concern is it's
22 going to come up pretty quickly and if I can ---

23 THE COURT: That's fine, we'll just work
24 through it. We'll just do it in camera whenever it comes
25 up and I will listen to his motion at that time.

Halman Sease - Direct Examination by Ms. Morgan

1 MS. MORGAN: Okay.

2 THE COURT: Okay.

3 MS. MORGAN: Yes, sir.

4 THE COURT: Anything else before we bring the
5 jury in?

6 MS. MORGAN: No, sir.

7 THE COURT: Bring us the jury, please.

8 (WHEREUPON the jury entered the courtroom at
9 12:30 p.m.)

10 THE COURT: Solicitor, please proceed.

11 MS. MORGAN: The State would call Halman Sease
12 to the stand.

13 THEREUPON,

14 HALMAN SEASE,

15 after being duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 By Ms. Morgan:

18 Q Could you state your full name for the record,
19 Mr. Sease?

20 A Halman Eugene Sease.

21 Q And how old are you Mr. Sease?

22 A I'm 64.

23 Q All right. And you live on Ashton Road outside the
24 city, or town of Erhardt?

25 A Yes, ma'am, that's where I live, on Ashton Road.

Halman Sease - Direct Examination by Ms. Morgan

1 Q And that's really, is that Lodge or Erhardt address?

2 A That's a lodge address.

3 Q But there's no question that's in Bamberg County?

4 A In Bamberg County.

5 Q And how long have you been living there?

6 A All my life.

7 Q All your life?

8 A Uh-huh.

9 Q And tell me what kind of businesses you run or work in?

10 A I'm in the car business. I have two businesses and I
11 have a dollar store and I farm a little bit on the
12 side.

13 Q Okay. The car business, where is that located?

14 A In Ehrhardt and in Hampton.

15 Q Okay. And what's the name of those businesses?

16 A Erhardt Motor Company is one and the Erhardt Motor
17 Company Two.

18 Q Okay. And the Two one is located?

19 A In Hampton.

20 Q Okay. And you said you've got a dollar store?

21 A A Dollar Day Store across the street from Erhardt Motor
22 Company.

23 Q And what does that sell?

24 A It's like a Dollar General or Family Dollar. I think
25 it's better than them.

Halman Sease - Direct Examination by Ms. Morgan

- 1 Q Okay. People in Ehrhardt appreciate having it. And
2 you say you do a little farming on the side. What do
3 you farm, Mr. Halman?
- 4 A Watermelons and cantaloupes.
- 5 Q Okay. And where is the land that you farm?
- 6 A Out where I live and in town. I got some land in town.
7 Two or three different farms.
- 8 Q You don't mess with any cotton or soybeans?
- 9 A No, ma'am.
- 10 Q Okay. All right. And you're married?
- 11 A Yes, ma'am.
- 12 Q And how long have you been married Mr. Sease?
- 13 A 45 years.
- 14 Q That was good. And your wife is -- what do you call
15 her, Mr. Halman?
- 16 A I call her Slusie.
- 17 Q Slusie, you been calling her all this 40 something
18 years?
- 19 A Ever since high school.
- 20 Q Okay. All right. And how about your children? How
21 many children do you have?
- 22 A I've got three.
- 23 Q And they got -- you got out numbers, what kind of
24 children do you have?
- 25 A Two girls and one boy.

Halman Sease - Direct Examination by Ms. Morgan

1 Q Okay. Tell me what their ages are?

2 A My oldest daughter is 44.

3 Q Uh-huh.

4 A And my son is 42, but my youngest daughter is 29
5 instead of 26.

6 Q Okay. And tell me about Archie Steve Sutton. You call
7 him your son?

8 A Yes, ma'am.

9 Q How did you all start ---

10 A His father drove cars for me and that was his son and I
11 started using him to pick watermelons and cantaloupes
12 when he was about 17 or 18 and I just got tired of
13 carrying him home and I made him stay with me. He's
14 been there ever since.

15 Q And you keep him working?

16 A Yes, ma'am. He works with me full time now.

17 Q All right. And how about your wife? Does she ever
18 work with you?

19 A No, ma'am.

20 Q What did she do?

21 A She's a beautician and housewife.

22 Q Okay. And tell me, you were at home May 15, 2003?

23 A Yes, ma'am.

24 Q All right. Tell me your habits, Mr. Halman. What were
25 you doing that evening?

Halman Sease - Direct Examination by Ms. Morgan

- 1 A Well, I just mess around on the farm until it gets dark
2 and then I come home.
- 3 Q Because May, where's the cantaloupes and watermelons in
4 May?
- 5 A Well, I don't even recall. We pick them in June or
6 July, so I had to be in the fields. Okay.
- 7 Q That -- did you go out or anything that night.
- 8 A No, ma'am, I come in the house approximately around
9 7:30.
- 10 Q Okay.
- 11 A About 8 o'clock, something like that.
- 12 Q Have some dinner for an evening meal?
- 13 A Yes, I took a shower and then had lunch.
- 14 Q Okay. Lunch or dinner?
- 15 A Supper.
- 16 Q Okay. I always get it confused at what you call it.
17 The evening meal?
- 18 A (Witness nodded head.)
- 19 Q Yes, sir. And what did you do after you got some food
20 and ---
- 21 A I watched TV until approximately 9:00 or 9:30 and I
22 just got up and went on back in the bedroom, cut my TV
23 on and had the air-conditioning on. At that time we
24 didn't have central air. We had window units.
- 25 Q Okay. So when you said you were watching TV earlier,

Halman Sease - Direct Examination by Ms. Morgan

- 1 that wasn't in your bedroom?
- 2 A That was in the den.
- 3 Q The den.
- 4 A Sitting around in the den approximately about an hour.
- 5 Q You got a bigger TV in the den?
- 6 A Yes, ma'am.
- 7 Q Okay. And then you went back to your bedroom?
- 8 A Yes, ma'am.
- 9 Q And you got a TV and the air-condition unit going?
- 10 A That's correct.
- 11 Q All right. And you know about what time you went back
- 12 there?
- 13 A Approximately 9:00 or 9:30.
- 14 Q Okay. You'd been working, did you go to sleep? Did
- 15 you know what you were watching?
- 16 A I always go back there and watch TV and it puts me to
- 17 sleep.
- 18 Q Okay. Do you remember what put you to sleep that
- 19 night?
- 20 A It had to be a ball game.
- 21 Q Okay. And do you remember getting awakened that night?
- 22 A Yes, ma'am.
- 23 Q All right. Can you tell me -- you were in bed. What
- 24 do you remember happening after you kind of fallen
- 25 asleep?

Halman Sease - Direct Examination by Ms. Morgan

1 A I was in bed and I had two pillows on my head and all
2 of the sudden my door just flew open and I raised up
3 just a little bit and then I looked and I seen my wife
4 in the floor.

5 Q All right. So you used to seeing her on the floor?

6 A No, ma'am.

7 Q Okay. And when you saw her on the floor, what do you
8 remember?

9 A There was tall black gentlemen with a black suit on.
10 He had a pistol and had it by her head and he pointed
11 it toward me and he said, Get up. And my wife said, Do
12 whatever they tell you to do, we're being robbed. And
13 I said, Am I dreaming, am I dreaming? She said, No,
14 we're being robbed, just do what they say.

15 Q Okay. And where did this person go? She was on the
16 ground ---

17 A They made her go to the right-hand side in the closet
18 and I don't know -- well she crawled in there and she
19 had a pillow. Ann then he told me to get on the floor,
20 which I did but I got on the side and he made me get on
21 my belly.

22 Q All right. Just so ---

23 A That was the tall gentlemen that had on the black --
24 everything was black.

25 Q Okay. And did he have anything covering his face?

Halman Sease - Direct Examination by Ms. Morgan

- 1 A He had a black scarf or bandanna.
- 2 Q Okay. He's tall, does he have anything in his hand?
- 3 A He had a pistol.
- 4 Q Okay. And that pistol, where did it get pointed at?
- 5 A Me and my wife, back and forth.
- 6 Q All right, sir. You're laying down and you get up.
- 7 You said then you got down -- how did you get down?
- 8 A On my side and he told me to get on my stomach.
- 9 Q All right. You've got your bed there and you're laying
- 10 where you can see ---
- 11 A Right beside the bed, I could see to my right up this
- 12 way.
- 13 Q Okay. And you did that. Then what did he do?
- 14 A Then he stood in the door just up against the corner of
- 15 the door.
- 16 Q Yes, sir.
- 17 A And just held the pistol on my wife and myself around
- 18 about that time, the gentlemen come in the bedroom and
- 19 he had on some red shorts, had on a red bandanna and he
- 20 had on some white shoes. I don't know if it was tennis
- 21 shoes or what kind because you're not looking at
- 22 clothes right then.
- 23 Q Yes, sir. He's got a red bandanna on, red shorts,
- 24 could you tell what race he was?
- 25 A White.

Halman Sease - Direct Examination by Ms. Morgan

1 Q Okay. And what -- does he have anything in his hand?

2 A Yeah, a pistol.

3 Q All right. So red shorts, red bandanna, some kind of
4 white shoes comes in the room, what's he do?

5 A He points the pistol at me and tells me that I want to
6 know where your safe deposit box, your safe is. I said
7 I don't have one. I don't have any money in the house.
8 He said, Well I know you do got money in the house.
9 Because you own three businesses.

10 Q All right.

11 A And I said, I don't have anything. Just get whatever
12 ya'll want to get and please don't hurt us. Don't kill
13 us.

14 Q That's what you ---

15 A That's what I told him.

16 Q All right. And then what happens next?

17 A Well, he was going back and forth, jumping around in
18 the drawers, pulling out the drawers, looking behind my
19 wife in the closet. He pulled out a red bag, which is
20 my ball bag and I told him wasn't nothing in it. And
21 he just back and forth, getting stuff. You know, it
22 went on for quite a while.

-23 Q Are they talking to you?

24 A To me and my wife.

25 Q What are they saying to you?

Halman Sease - Direct Examination by Ms. Morgan

1 A Well, Tell us where the stuff's at or we're going to
2 kill one of you.

3 Q All right. And did that go on a while?

4 A Yes, ma'am.

5 Q And who were the people saying that to you?

6 A The gentlemen that had the red shorts on.

7 Q How about the other fellow?

8 A I never did hear him say anything.

9 Q All right.

10 A I did, well the third person, which -- and I just got a
11 glimpse of him, he jumped in behind my wife one time
12 and I know he had a pistol, but I couldn't tell you how
13 big he was, how tall he was or nothing. But he had on
14 black.

15 Q Okay. So you had -- you saw the third individual come
16 in?

17 A Yes, ma'am.

18 Q All right. And did any -- you say that they were
19 asking about a safe. Did you tell them about anything?

20 A I told them I didn't have a safe that I put my money in
21 the back. I don't bring much money home with me.

22 Q And what did they say to that?

23 A Well in the end, the one with the red shorts on put the
24 pistol to my head and told me he was going to give me
25 two to three seconds to tell him where the money was or

Halman Sease - Direct Examination by Ms. Morgan

1 he was going to kill me. And I told him that there was
2 a big bag of money in my pickup and my billfold was in
3 my pickup and my keys was in my pickup and to get
4 whatever ya'll want, to just please don't kill me and
5 my family.

6 Q What was your wife doing?

7 A Still staying over there on top of a pillow, tied up.

8 Q Was she saying anything?

9 A Well, she kept praying and begging.

10 Q Did the person in the red shorts, did they go over to
11 your wife?

12 A He did a couple of times, walked over there. I thought
13 he was going over there again to shoot her because he
14 put the pistol behind her head while she was laying
15 down.

16 Q Okay. And was he saying anything to you when he was
17 doing that?

18 A No, ma'am, not that I recall.

19 Q All right. There's been talk about something being
20 taken from you. Was something being taken from you?

21 A Yes, ma'am, before they tied me up, they took my
22 wedding band and my ring and an old Clemson watch and
23 my necklace.

24 Q All right. Let me ask you, how did -- where was that
25 in the time frame?

Halman Sease - Direct Examination by Ms. Morgan

1 A I was sitting beside the bed.

2 Q That was before you got down?

3 A Before they tied me up.

4 Q When you're saying you remember sitting beside the bed,
5 that's you on the floor?

6 A I turned around and sit down and put my feet down and
7 he told me to get down on the floor.

8 Q Yes, sir.

9 A And he, the fellow with the red shorts on, the white
10 fellow is the one that took my rings and watch.

11 Q Tell me how he did that Halman. You're on the floor?

12 A I was on the side of the bed, next to the floor when he
13 asked me for my rings and stuff. Give me your jewelry,
14 give me your jewelry; and I took it off myself and put
15 it in his hand; and as I recall I saw him put it in his
16 pocket. I never known him to be putting it in the bag.

17 Q Okay. When you said he took your rings. Show me which
18 rings he took from you.

19 A That one right there and that one right there and my
20 necklace is at home and the watch that was -- I've
21 never seen.

22 Q You never recovered the ---

23 A No.

24 Q And what kind of watch was it?

25 A A Clemson watch.

Halman Sease - Direct Examination by Ms. Morgan

- 1 Q I thought it might be Clemson. And he took that from
2 you. What, if anything, did he have in his hand when
3 he was taking it from you?
- 4 A He had a pistol in his hand. He operated with one hand
5 mostly. He had a pistol. He was swinging it all over
6 the place.
- 7 Q After you gave him two rings, a necklace and a watch,
8 you said you gave it to some fellow?
- 9 A The gentleman who had the red pants on.
- 10 Q The white fellow?
- 11 A Right, he was white.
- 12 Q Yes, sir. And what did he do with them?
- 13 A I thought he put them in his pocket as I recall.
- 14 Q Okay. You said this went on a while?
- 15 A I can't judge time. It had to -- I thought it was
16 forever, you know.
- 17 Q Yes, sir, yes, sir. And you indicated somebody said --
18 they put the gun at the end?
- 19 A The man with the red pants come up at the end and put
20 his pistol -- I felt it when he touched me and he said,
21 I'm going to blow your brains out. I'm going to give
22 you two to three seconds to tell me where the safe is
23 at and where the money is at. And then I told him
24 about the money in my truck.
- 25 Q All right. Tell me about the money in your truck.

Halman Sease - Direct Examination by Ms. Morgan

1 A Well, every afternoon I close up my shop, the car
2 business and I bring the money home with me except if I
3 got a lot, I deposit it in the night deposit.

4 Q All right. And how about on May 5th, 2003?

5 A I had just closed at 5:30 and I had about 4,000 or
6 5,000, but I brought home all the ones and fives,
7 approximately \$250, \$350 plus a bunch of checks.

8 Q Okay. And what do you do with them? What was your
9 habit back then?

10 A I always left it in the side pocket of my pickup.

11 Q And what did you put that money in?

12 A In a peanut bag.

13 Q A peanut bag?

14 A A little brown paper bag.

15 Q Okay. And you said it was approximately how much
16 money?

17 A Approximately \$250, \$350.

18 Q Okay. And what kind of -- what did it look like, being
19 ones and fives?

20 A It looked like it was real big. All of it was ones.
21 It was that big.

22 Q Okay. And you said -- what did you tell them at the
23 end when they told you you had two or three seconds?

24 A I told him where the money was at and where my truck
25 was at and that I had left my billfold in there and I

Halman Sease - Direct Examination by Ms. Morgan

1 just told him to go get whatever they wanted in the
2 house or out of the truck but just don't kill us and
3 leave us.

4 Q Okay. What happened?

5 A Well, after he jumped over around me and over Steve and
6 went out and I looked -- I had my head down and I kept
7 trying to get up under the bed but my bed was real
8 close and I couldn't get under there and I looked
9 around and the tall dude that had on the black stuff
10 was standing in the doorway and he had never moved from
11 the time he got to the door. When my wife came in
12 there. He held the pistol, he kept pointing it towards
13 me and my wife and I kept looking. And he would look
14 back behind because there was somebody else operating
15 out in the other room, which I couldn't see who it was.

16 Q All right.

17 A And during the time when I was looking back, I seen a
18 reflection of somebody hit Steve. Now who hit him, I
19 do not know.

20 Q Okay. And --- go ahead?

21 A Anyhow, after he jumped out of the room I looked back
22 and the tall dude was still standing there.

23 Q And when ---

24 A I didn't say nothing. I just waited a few, probably a
25 minute or two minutes. I don't recall the time and I

Halman Sease - Direct Examination by Ms. Morgan

1 looked back and he was there a second time. And I put
2 my head back down. I just figured he was going to
3 shoot us at any time or kill my wife or me, whatever.
4 And when I looked back the third time he was gone and I
5 never heard anybody leave like footsteps or nothing.
6 And I just was glad he was gone. I told my wife, I
7 think they're gone. And I said, Let's lay here a while
8 and be sure because if they come back and we're moved,
9 they'll probably kill us. And I don't know, I told her
10 that I couldn't get loose. And she said, well I
11 believe I can.

12 Q Let me ask you this, you -- they -- after they took
13 your jewelry, they tied you up?

14 A They tied me up with ties and a belt and they really
15 had me tied tight.

16 Q Yes, sir. How were your hands and ---

17 A They had my hands behind my back and they took my feet
18 and crossed them and took a leg and took it up under me
19 and it was about to kill me. I'm 64, you know, I don't
20 bend easy.

21 Q Yes, sir. But they crossed your legs?

22 A They twisted my legs up under me then they tied it with
23 a belt or either a tie because I couldn't see.

24 Q Okay. Okay. And you couldn't move?

25 A No, ma'am, I couldn't move nothing but my head.

Halman Sease - Direct Examination by Ms. Morgan

1 Q Okay. All right. So you don't see him for the third
2 time. You talk to your wife for a second?

3 A I told her, I think they're gone. And she said, Well
4 let's just don't move for a while, you know.

5 Q Okay. Then what happened.

6 A And when I told her I couldn't get loose, she said,
7 well I believe I can. I said you try to get loose and
8 when you get loose just lay back -- I made her lay --
9 she sat up and I made her lay back down and wait a few
10 more -- a few seconds probably and then I told her to
11 crawl over there and untie me, which she did.

12 Q Okay.

13 A And when she got through untying me, I stood up and
14 embraced her and I told her, I said I'm going outside.
15 And she said, Oh no, don't go. I said if you want to
16 go, you better follow me because I'm going. And I --
17 when I went over to Steve, I thought he was either dead
18 or knocked out, but he never said -- I didn't hear him
19 say anything.

20 Q Okay.

21 A And when I got to the end of the hall, I looked to the
22 right and I told my wife, I said, Oh my God, they
23 knocked the whole door out of the wall. And then I
24 turned and went in there and I had to get me some
25 nitroglycerin that I had in the counter there and I

Halman Sease - Direct Examination by Ms. Morgan

1 went and I called 911. And I told my wife, I told her
2 to go in there and see about Steve and try to untie
3 him. And she hollered back and I think she said that
4 he was already loose.

5 Q Okay. And describe what you saw about Steve?

6 A Well he was laying there in blood and when they hit him
7 in his head, blood was shooting of his head and landed
8 on my feet. Blood was coming on my feet. It was
9 bubbling like a pump. I thought he was going to -- I
10 thought he bled to death.

11 Q Okay.

12 A But he's got really thick hair and I think that's the
13 only thing that kept him -- he's got really coarse
14 hair.

15 Q And did -- how was your wife afterward?

16 A Well, naturally she was upset and proud that the Lord
17 had left us there for a reason.

18 Q Yes, sir. All right. And you took your nitroglycerin
19 and you called 911. Who came first, Mr. Sease?

20 A I think it was Steven Sachro. He works there with the
21 fire department.

22 Q Okay.

23 A And I walked out the back door and he was coming up and
24 he said what's wrong and I told him. About that time,
25 I believe my brother -- after I called 911, I called my

Halman Sease - Direct Examination by Ms. Morgan

- 1 brother's house.
- 2 Q Yes, sir. And you told him what?
- 3 A That I'd been robbed to come on up we needed help.
- 4 Q And they came?
- 5 A Yes, ma'am.
- 6 Q And police, other additional police came that night?
- 7 A Yes, ma'am. They kept coming from everywhere.
- 8 Q Yes, sir. And what did they do to your house?
- 9 A Well -- SLED and stuff?
- 10 Q Yes, sir.
- 11 A They inspected everything. I mean we stayed out the
- 12 house and they went around to the door they knocked in
- 13 and first when I walked out of the house and my brother
- 14 walked up and we was standing there and I told him to
- 15 go get me something to drink out my truck and he went
- 16 around there and he was gone and there was people up on
- 17 my deck and I told them he must have gotten lost.
- 18 And finally he come back around there and he
- 19 said, Your truck ain't out there.
- 20 And I said, What.
- 21 He said, No, it's gone.
- 22 I said, Well go in Steve's truck. I know he's
- 23 got a cooler back there with something to drink in it.
- 24 Q And we're talking about a little ---
- 25 A Just something to drink.

Halman Sease - Direct Examination by Ms. Morgan

1 Q Yes, sir?

2 A Anything. My throat was so dry. And he come back and
3 said it was gone too.

4 Q Okay. So, tell me what -- tell me about those two
5 trucks.

6 A Well Steve always parks his truck at the end there by
7 the den where the fireplace is at and that's always his
8 parking place. I park anywhere. Whether I pull up --
9 I pulled up by the chicken yard that night and got out.
10 Sometimes I'm on the driveway, wherever I get out of it
11 and I just get out.

12 Q Okay. And tell me about your truck and Steve's truck.
13 You're in the automobile business, tell us about them.

14 A Well, mine is a red Dodge truck, extra cab and tool box
15 and full of bunch of open -- oh, I live out of that
16 truck.

17 Q Yes, sir.

18 A And Steve's got all his speakers and all kind of what
19 the young people like in his truck ---

20 Q Yes, sir.

21 A --- jewelry and CD's and stuff like that.

22 Q How about, can you tell us the value of your truck and
23 Steve's truck, which actually was in your name,
24 Mr. Sease?

25 A I would say approximately 10, \$12,000. My truck and

Halman Sease - Direct Examination by Ms. Morgan

- 1 Steve's probably around \$7500.
- 2 Q All right. And they were gone?
- 3 A Yes, ma'am.
- 4 Q Did you give anybody permission to take them?
- 5 A No, ma'am.
- 6 Q Okay. What else was in your truck?
- 7 A Well I had a bunch of camouflage stuff that I -- I
- 8 don't hunt, but I carry them to my car sales to put
- 9 stuff on to keep warm.
- 10 Q Yes, sir.
- 11 A I got about two sets of camouflage gloves and that
- 12 camouflage hat right there. I was given that that
- 13 Christmas. And I had a brand new pistol that I had had
- 14 for years in the pocket of that pickup. I never had
- 15 shot it.
- 16 Q Okay.
- 17 A It was a .25.
- 18 Q Okay. All right. So you had a pistol, how about that
- 19 peanut bag? Was that in that truck?
- 20 A The peanut bag was gone.
- 21 Q All right. How about the wallet?
- 22 A My wallet was gone. I understand they found it where
- 23 they found the truck at in the road.
- 24 Q Okay. I'll ask you about that ---
- 25 A Okay. I'm sorry.

Halman Sease - Direct Examination by Ms. Morgan

1 Q It's all right. It's all right. Your wallet was in
2 your truck?

3 A Yes, ma'am.

4 Q And you're living out in the country, where are your
5 keys.

6 A In my truck.

7 Q All right. And when you say in your truck are they ---

8 A In the ignition.

9 Q Okay. And that's what you do?

10 A I've been doing it all my life up until I got robbed.

11 Q Okay. And yours is -- what make is your truck?

12 A A Dodge.

13 Q And what's Steve's?

14 A A Chevrolet S71.

15 Q Okay. I'm going to show you State's Exhibit 18?

16 A That's my truck there.

17 Q And how about the Chevrolet?

18 A That's Steve's.

19 Q Okay. Those are both your truck and Steve's truck?

20 A Yes, ma'am.

21 Q Okay. But that night they were gone?

22 A That night they were gone.

23 Q Yes, sir. And ---

24 MS. MORGAN: Give me one second.

25 ///

Halman Sease - Direct Examination by Ms. Morgan

1 By Ms. Morgan:

2 Q All right. Mr. Halman, when -- tell me who some of
3 your neighbors are.

4 A Mr. -- well my neighbor is my mama.

5 Q Yes, sir.

6 A She lives down there, not even a quarter of a mile and
7 my brother lives about a half a mile from both his
8 sons, about a half mile from me.

9 Q Do you know ---

10 MR. WILSON: Your Honor, I have a matter we're
11 going to need to take up.

12 THE COURT: Pardon me?

13 MR. WILSON: I've got a matter we're going to
14 need to take up outside the presence of the jury.

15 THE COURT: Okay. All right.

16 MR. WILSON: It may take a little bit. I'm not
17 sure how you want to handle that. It may take a few
18 minutes to handle that.

19 THE COURT: Madame Forelady and ladies and
20 gentlemen of the jury, please don't discuss the case and
21 don't discuss what we're going to do at this time. I'm
22 going to take this up outside of your presence. There are
23 occasions during the trial that has to be done. I'm not
24 permitted to comment on the facts of the case. You're the
25 fact finders. I'm the person that tells you what the law

Halman Sease - Direct Examination by Ms. Morgan

1 is and I have to make certain rules according to the rules
2 of evidence and I may have to comment on the facts during
3 these motions; therefore, to avoid that happening in front
4 of the jury, I ask you to go to the jury room occasionally
5 during the trial so that I can make a determination on some
6 rules of evidence. And I want to be free to comment on the
7 facts if I so choose in making my decision. But we're
8 going to take a lunch break at this time. So don't discuss
9 the case amongst yourselves or with anyone else. If anyone
10 tries to talk with you about the case, please walk away,
11 don't listen to them.

12 If you'll be back in the jury room at 2:30,
13 we'll get started at that time. Have a good lunch.

14 (WHEREUPON the jury left the courtroom at 12:38
15 p.m.)

16 THE COURT: All right. What is your motion?
17 What's your motion, Mr. Wilson.

18 MR. WILSON: I was letting the jury get all the
19 way out the door, Your Honor. Judge, at this time I'm
20 going to move to ask the Court to suppress any in-court
21 identification of the defendant by Mr. Sease. That 's
22 where I anticipate the solicitor's next question is going
23 to be or one of the next questions. I would move to have
24 the Court suppress or to exclude Mr. Sease from being able
25 to identify Mr. Gunnells by pointing him out in the

Halman Sease - Direct Examination by Ms. Morgan

1 courtroom or anything of the like.

2 Judge, I won't belabor the law. I'm sure Your
3 Honor is familiar with it. There are a number of cases
4 that have come down. I refer to State vs. Cheeseboro,
5 which is 552 SE 2nd 300. It is a 2001 Supreme Court case.
6 And there are just a multitude of cases that follow this
7 law. But basically, Your Honor. In those cases, the Court
8 has determined that if an in-court identification has
9 become so tainted as to create a substantial likelihood of
10 irreparable misidentification, then it's inadmissible. If
11 the pre-court identification process has been so
12 impermissibly suggestive that it creates the ---

13 THE COURT: I'm familiar with those cases.
14 Just tell me how that has occurred in this case.

15 MR. WILSON: Sure, Judge, Mr. Sease -- the
16 incident happens with Mr. Sease -- and if I need to elicit
17 testimony, I will. But the incident happens on May 5th,
18 2003. Mr. Sease provides an identification or a
19 description and a statement to Agent Darnell on May 7 of
20 2003. In that identification, he describes the person
21 as -- the second person and the one I'm concerned with as
22 being short with baggy pants and that's the entire
23 description that he gives of that person at this time. He
24 does not identify Mr. Gunnells by any identifying
25 characteristics as far as tattoo, facial, you know,

Halman Sease - Direct Examination by Ms. Morgan

1 anything whatsoever, hair color.

2 And in that statement, he doesn't identify that
3 person as being white. He just says baggy pants and
4 shorts. And that's the only description given. It is not
5 until August the 11th of 2003 that Mr. Sease identifies to
6 law enforcement or at least as far as I'm aware, it's not
7 until August 11, 2003 that Mr. Sease identifies to law
8 enforcement, Mr. Gunnells as being this person. That's
9 after law enforcement has shown Mr. Gunnells -- I mean
10 shown Mr. Sease the materials that they've recovered from
11 Mr. Gunnells' girlfriend's apartment.

12 THE COURT: How was that identification made?

13 MR. WILSON: Sir?

14 THE COURT: How was that identification made?

15 MR. WILSON: Judge, the statement that was
16 provided to me says that they showed him the materials that
17 they gathered and he says in there that the red shorts with
18 the red stripes were similar to the pants that the white
19 person had on and that he had been told that those were the
20 clothing of James Gunnells', that had been recovered from
21 James Gunnells and he -- that's the first time he
22 identifies Mr. Gunnells by anymore specific description
23 other than baggy shorts and -- red shorts and shirt.

24 Like I said, there's been no descriptive
25 characteristic identification made nor any name made until

Halman Sease - Direct Examination by Ms. Morgan

1 after he's already been told by law enforcement that they
2 recovered these items from Mr. Gunnells' house. And he's
3 identified Mr. Gunnells based on the fact that he's been
4 told by law enforcement here are a clothes.

5 THE COURT: Does he ever identify Mr. Gunnells
6 either by a photo lineup or any kind of lineup or anything
7 prior to today.

8 MR. WILSON: No, sir.

9 THE COURT: To your knowledge?

10 MR. WILSON: No, sir.

11 THE COURT: Sit down, Solicitor, I'll listen to
12 you.

13 MR. WILSON: No, sir, Your Honor, there was no
14 photo lineup done in this case. He has not identified
15 Mr. Gunnells by photo lineup. He identified Mr. Gunnells
16 by name only after he's shown the materials and told where
17 they came from. The only other time that I'm aware of that
18 Mr. Sease told anybody anything that might identify
19 Mr. Gunnells prior to pointing him out in court today is
20 that a few days after the incident, he had contact with
21 Debra Meyers who's one of the State's witnesses.

22 She came by, I think the day after this
23 incident. She came by his place to check on him and he
24 told her that the person -- that if the person that robbed
25 him wasn't James' twin, it had to be James. And I think

Halman Sease - Direct Examination by Ms. Morgan

1 that's the statement he gave then.

2 THE COURT: That was several days afterward.

3 MR. WILSON: That was the next day.

4 THE COURT: And that's when he told Debra ---

5 MR. WILSON: It's Debra Meyers.

6 MS. MORGAN: The defendant's aunt.

7 MR. WILSON: The defendant's aunt, Your Honor.

8 And Your Honor, I would argue to the Court that the process
9 of him identifying Mr. Gunnells today, the pre
10 identification process has been so suggestive as to taint
11 any in-court identification and it does give the problem of
12 an irreparable misidentification. He -- I will tell you
13 exactly what Ms. Meyers' statement says, Your Honor. Mr.
14 Halman told me that if it wasn't James it was his twin
15 brother.

16 THE COURT: I want that statement marked as
17 Court's Exhibit No. 1.

18 MR. WILSON: Sir?

19 THE COURT REPORTER: 3.

20 MR. WILSON: I will.

21 THE COURT: No. 3. Mark that statement No. 3.

22 MR. WILSON: I will.

23 THE COURT: All right. Anything else you want
24 to put in the record as a Court's Exhibit pursuant to your
25 motion?

Halman Sease - Direct Examination by Ms. Morgan

1 That's not already a part of the record. Take
2 a few minutes and think about it. I will be glad for you
3 to do that. In the meantime, I'm going to listen to the
4 solicitor's argument, if you're through.

5 MR. WILSON: Well, Judge, I -- the only thing I
6 was thinking is, if there's a dispute about the facts in
7 the testimony we have to listen to the testimony, but if
8 she doesn't dispute what I've ---

9 THE COURT: There's a dispute?

10 MR. WILSON: Yes, sir.

11 THE COURT: All right. But do you have any
12 further argument?

13 MR. WILSON: No further argument or exhibit.

14 THE COURT: All right. Go ahead and mark that
15 as Court's Exhibit No. 3. If you have anything else you
16 want to mark pursuant to your motion, I will be glad to
17 mark it. Solicitor, let me hear from you, please.

18 MS. MORGAN: Judge, I ---

19 THE COURT: I wasn't trying to cut you off. I
20 didn't want you to interrupt him. I won't let him
21 interrupt you. I will let you tell me anything you want to
22 tell me before I rule. Okay. Please proceed.

23 THE COURT REPORTER: Could I have a second to
24 put this sticker on, Your Honor.

25 (WHEREUPON Court's Exhibit 3 was marked by the

Halman Sease - Direct Examination In Camera by Ms. Morgan

1 court reporter.)

2 THE COURT: Solicitor, you want to stand up and
3 get it out. I appreciate your enthusiasm.

4 MS. MORGAN: Yes, sir.

5 THE COURT: But we're going to do it in an
6 orderly fashion because I can't listen to both of you at
7 the same time.

8 MS. MORGAN: Yes, sir.

9 THE COURT REPORTER: Thank you, Your Honor.

10 MS. MORGAN: I wasn't planning to interrupt, I
11 was just standing.

12 THE COURT: I will be glad to hear from you,
13 Solicitor.

14 MS. MORGAN: Yes, sir. Judge, I was going to
15 elicit from Mr. Sease how he knew this individual prior to
16 May 5th, 2003. And ---

17 THE COURT: For purposes of the record, you
18 want to go through some in-camera testimony so we can see?

19 MS. MORGAN: I think it might clarify this for
20 all of us.

21 THE COURT: Okay. Please proceed.

22 **DIRECT EXAMINATION - IN CAMERA**

23 By Ms. Morgan:

24 Q Mr. Sease, prior to May 5th and the robbery, have you
25 seen this individual before?

Halman Sease - Direct Examination In Camera by Ms. Morgan

1 A Yes, ma'am.

2 Q Could you tell the Court what those circumstances were,
3 please, sir?

4 A I used to work with Ms. Debra Meyers' son and I carried
5 him home in the afternoons when he would get off work
6 and I would see that gentleman out in the yard at
7 Ms. Debra Meyers'. I seen him around town a lot and on
8 the Wednesday -- I think it was Wednesday before we
9 were robbed on Monday, I picked him up and one of
10 Debra's youngest little boys that was walking by my
11 house. I passed them as they were walking by my place
12 and I backed up and they came up and I recognized them
13 and I said, What are ya'll doing?

14 And they said, We've been turkey hunting.

15 And I said, Ya'll want to catch a ride? And I
16 said, Where are ya'll turkey hunting. And they pointed
17 back behind my house. And I said, That land has been
18 leased, you didn't have any business back there. But I
19 carried them on to town, pulled up into the front yard
20 and put him out and her son got out and they -- one of
21 them thanked me, it may have been both of them, I can't
22 recall, it was dark.

23 Q Okay.

24 A And I just seen him around on different occasions, you
25 know.

Halman Sease - Direct Examination In Camera by Ms. Morgan

1 Q Yes, sir. And to Debra Meyers' house -- where is it
2 located?

3 A It's located inside the town limits going out of
4 Erhardt towards my house right on the sharp curve.

5 Q All right. And you had employed one of her sons to
6 work with you?

7 A Yes, ma'am, Chris Hutto.

8 Q And was that during some of this time? Was it during
9 May?

10 A Yeah, I was working him all the time, yes.

11 Q Yes, sir. And the actually the time when you picked up
12 this defendant and another son of Debra Meyers', that
13 was the Wednesday before you picked them up?

14 A I think it was the Wednesday. I'm pretty sure it was.

15 Q The week before the robbery?

16 A The week before the robbery.

17 Q Monday being the robbery?

18 A Right.

19 Q Yes, sir. And the day after, did you -- I mean when
20 did you think that this might be the same guy?

21 A I knew it the night of the robbery but I wouldn't say
22 nothing because I figured if I would have said
23 something he would have probably shot me, but I
24 recognized him.

25 Q All right. Go ahead.

Halman Sease - Direct Examination In Camera by Ms. Morgan

1 A He was running around in my room. When he would bend
2 over, you could see the braided hair and I had seen
3 that plenty of times when I would go up to Ms. Debra's
4 house and I know -- he had on those red britches like
5 that, a pair that was identical.

6 Q Okay. And did you say, the next day Debra Meyers came
7 to check on you ---

8 A Her -- she brought her son up there.

9 Q Yes, sir. And what day was that?

10 A That was that Monday afternoon I was at my place of
11 business. Which I had been to the doctor and they had
12 given me something for my nerves.

13 Q Tuesday afternoon?

14 A Tuesday afternoon, I'm sorry.

15 Q Yes, sir. All right.

16 A Tuesday afternoon.

17 Q And what did you tell her that day?

18 A Well, they was in the back of the shop and I spoke to
19 them and I came up with my daughter Christy, we was
20 fixing to close. And we walked out of one door and
21 they walked out of another one and they came over there
22 and wanted to know how I was doing and I told them, I
23 said, if that wasn't your cousin or whoever it was,
24 that was his twin brother that robbed us. I can tell
25 you that now.

Halman Sease - Direct Examination In Camera by Ms. Morgan

1 Q All right. And somebody hadn't told you about him at
2 that time, had they? Had anybody identified him to
3 you?

4 A No, ma'am.

5 Q Anybody suggested that idea to you?

6 A Onliest thing that night of the robbery with SLED and
7 all, I can't recall, but day after, they asked all of
8 us if we recognized anybody and I said I got somebody
9 in mind that I'm 99 percent sure it was him. And I
10 told them where I had seen him at and that's why
11 Ms. Meyers' name got in the -- in the going that night.

12 Q Yes, sir. And then after you talked to Ms. Meyers ---

13 A Yes, ma'am, I just told her that, you know. But I
14 don't know if SLED had went and talked to her or
15 whatever, I have no idea.

16 Q Okay. All right. Did you know his name?

17 A I didn't really know his name.

18 Q Okay. All right. And did anybody suggest his name to
19 you?

20 A No, ma'am.

21 Q Show you anything that put a name to him that you
22 didn't already ---

23 A No, ma'am, nobody mentioned nothing. I'm the one that
24 started that night and told SLED.

25 Q Yes, sir. And you're the one that started with

Halman Sease - Cross-Examination In Camera by Mr. Wilson

1 Ms. Meyers?

2 A Yes, ma'am.

3 Q Okay.

4 THE COURT: I didn't -- he also said the SLED
5 agent, is that correct?

6 MR. SEASE: Yes, sir.

7 MS. MORGAN: He's saying he told them that
8 night out on the porch.

9 MR. SEASE: It was about 1 or 2 o'clock in the
10 morning.

11 MS. MORGAN: Yes, sir.

12 MR. SEASE: That Mr. Ed Carroll and the -- I
13 can't think of his name he's sitting right back there.
14 That's bad isn't it.

15 MS. MORGAN: Yes, sir. It happens.

16 THE COURT: Anything else, Solicitor?

17 MS. MORGAN: No, sir.

18 THE COURT: Cross-examination from you?
19 Anything you want to ask pursuant to your motion?

20 **CROSS-EXAMINATION - IN CAMERA**

21 By Mr. Wilson:

22 Q Mr. Sease, you said you recognized the person that
23 night by the hair?

24 A I seen the braided hair when he was leaning down and
25 jumping around in the room. He had a red hat on.

Halman Sease - Cross-Examination In Camera by Mr. Wilson

1 Q And you were convinced enough by what you saw that
2 night that Mr. Gunnells was the person that was in your
3 room?

4 A Yes, ma'am -- yes, sir.

5 Q You didn't know his name at that time though?

6 A No, sir, I did not. I knew he was kin to them, but I
7 didn't know he was a Gunnells or what, I didn't know.

8 Q But you knew who he was?

9 A I knew him by face, yeah.

10 Q Okay. And it's your testimony that you told the SLED
11 agents that same night on your porch that you thought
12 it was Debra Meyers' family member or cousin or
13 whatever the relationship is?

14 A Yes, sir, I said that.

15 Q Did you describe him in any other way to the SLED
16 officers? Did you describe him by height, build,
17 weight, hair?

18 A I told him he was a little stocky, well-built person.

19 Q Did you tell them what color hair he had?

20 A I just told them he had braided hair and ---

21 Q Did you tell him anything about his eye color?

22 A I couldn't tell.

23 Q Did you tell them anything about scars or tattoos
24 or ---

25 A I couldn't tell if he had any or not.

Halman Sease - Cross-Examination In Camera by Mr. Wilson

- 1 Q Facial hair?
- 2 A I couldn't tell. He had a scarf around him.
- 3 Q Did you ever identify him by name for SLED or any law
- 4 enforcement officer before Agent Darnell brought you
- 5 the clothes that had been recovered from Mr. Gunnells'
- 6 house and showed you and told you that here, we got
- 7 these out of James Gunnells' house, do these look like
- 8 the clothes?
- 9 A He had a bunch of clothes.
- 10 Q Okay.
- 11 A And he had a bunch of clothes. He had the red -- I
- 12 picked out that pair and a hat.
- 13 Q Okay.
- 14 A I picked out the clothes but that other gentlemen that
- 15 stood up in the door, he had on all black and he was
- 16 kind of thin. I picked up his clothes.
- 17 Q All right. Mr. Halman, when Agent Darnell brought that
- 18 bunch of clothes in and ya'll went through it and then
- 19 you pick -- you had out clothes and said these look
- 20 like the ones that the person had, the red baggy
- 21 shorts?
- 22 A Yeah.
- 23 Q And then he told you that these had been recovered from
- 24 James Gunnells' house?
- 25 A And they found them -- when they arrested him, he had

Halman Sease - Cross-Examination In Camera by Mr. Wilson

1 my rings on and had my -- everything I had he had on
2 his body when they arrested him and he had a bag of
3 clothes I think they confiscated out of the house or he
4 had them with him.

5 Q Okay. But after you picked out the clothes, then Agent
6 Darnell told you that those had been recovered from
7 James Gunnells' house?

8 A Somewhere in Columbia. I hadn't -- a house or either
9 on him, I don't know.

10 Q But he told you those had been recovered from James
11 Gunnells?

12 A That they had been recovered from James Gunnells.

13 Q And I had never ID 'd Mr. Gunnells to SLED or law
14 enforcement -- you had never identified the person that
15 was in your rooms that night with the red shorts on as
16 James Gunnells prior to that time when you found those
17 clothes and they told you they took them from James
18 Gunnells; isn't that correct?

19 A That's correct.

20 Q Okay. And the only identification that you had ever
21 given before was you had told the SLED officers out on
22 the porch that you thought it was Debra Meyers' family
23 and then you told Debra the next day that you thought
24 it was either James' twin brother or James?

25 A I just told her that if that wasn't him, that was his

Halman Sease - Cross-Examination In Camera by Mr. Wilson

1 twin brother.

2 Q Okay.

3 A His twin brother, not hers.

4 Q Okay.

5 MR. WILSON: Your Honor, that's all the
6 questions I have. Thank you.

7 THE COURT: Any redirect?

8 MS. MORGAN: No, sir.

9 THE COURT: Okay. Any further argument from
10 the State or the defendant?

11 MS. MORGAN: None.

12 THE COURT: I'm going to deny your motion.

13 All right. Anything else before we break for
14 lunch?

15 MS. MORGAN: No, sir. , nothing from the State.

16 THE COURT: All right. We'll see you at 2:30.

17 Mr. Sease, during lunch don't discuss your
18 testimony with anybody. Okay. The solicitor, your family,
19 neighbor. Okay?

20 MR. SEASE: Yes, sir.

21 THE COURT: Don't talk about it.

22 MR. SEASE: Yes, sir.

23 (WHEREUPON a recess for lunch was observed.)

24 THE COURT: Anything from the State before we
25 bring THE jury out?

Halman Sease - Direct Examination by Ms. Morgan

1 MS. MORGAN: No, sir.

2 THE COURT: Anything from the defendant?

3 MR. WILSON: No, sir.

4 THE COURT: Bring us the jury, please, sir.

5 (WHEREUPON the jury entered the courtroom at
6 2:48 p.m.)

7 THE COURT: Please proceed, Solicitor.

8 MS. MORGAN: Thank you, Your Honor.

9 **DIRECT EXAMINATION**

10 By Ms. Morgan:

11 Q Mr. Sease, I think prior to the jury leaving, I asked
12 you prior to the robbery on May 5th, the night of
13 Monday night, Tuesday morning. Had you seen the
14 individual sitting next to Mr. Wilson before?

15 A Yes, ma'am.

16 Q Could you tell the members of the jury when?

17 A Well, I had seen him a week or two weeks before around
18 town. Plus I picked him up on a Wednesday afternoon in
19 front of my house walking with one of Debra Meyers'
20 boys. It was about dark.

21 Q Okay. Let me ask you, slow you down just a second.
22 You said you'd seen him around town. Did you know who
23 he was kin to?

24 A That would be Ms. Meyers -- Ms. Debra Meyers.

25 Q Okay.

Halman Sease - Direct Examination by Ms. Morgan

- 1 A And I seen him when I used to carry her son home from
2 work in the afternoon. I'd seen him out in the yard
3 out there probably two or three different occasions. I
4 don't know how many.
- 5 Q And you don't remember exactly when you -- when it was
6 that you were taking Ms. Meyers' son home?
- 7 A It was probably a week before that ---
- 8 Q Okay.
- 9 A --- the robbery.
- 10 Q Okay. And tell me who is Ms. Meyers son? What
11 relationship do you have with him?
- 12 A He worked for me. He was washing cars and paying his
13 way to go to school.
- 14 Q And so he'd been employed with you?
- 15 A Yes, ma'am.
- 16 Q And what's this son's name that was working with you?
17 What's his name?
- 18 A Chris Hutto.
- 19 Q Okay. And you had had occasion to do what with Chris?
- 20 A Well, I just -- he worked with me washing cars all the
21 time and he made his money, paid his own way to school.
- 22 Q Yes, sir.
- 23 A But I used to carry him home in the afternoon because
24 he didn't have a ride.
- 25 Q All right. And you're telling the jury that prior to

Halman Sease - Direct Examination by Ms. Morgan

- 1 this event, you'd taken him home and you'd seen that
2 individual?
- 3 A I'd seen that individual right there.
- 4 Q Did you know his name?
- 5 A No, ma'am, I didn't at the time.
- 6 Q Okay. So that's within a week?
- 7 A Yes, ma'am.
- 8 Q All right. Did you have another occasion to see him
9 prior to the robbery?
- 10 A I can't recall right this second. I seen him.
- 11 Q The Wednesday afternoon.
- 12 A Wednesday afternoon, I'm sorry.
- 13 Q Just tell us about that if you would?
- 14 A I was leaving my house. I think I was going to get
15 supper somewhere and I seen -- I drove right by two
16 gentleman walking and I stopped and backed up and I
17 recognized especially her youngest son and I recognized
18 him too. And offered them a ride home.
- 19 Q All right. Where did you see them?
- 20 A Right -- just not even a block from my house, walking
21 down the side of the road with rifles -- they had two
22 guns.
- 23 Q Okay.
- 24 A And I stopped and backed up and asked them.
- 25 Q All right. And you said that it was another one of

Halman Sease - Direct Examination by Ms. Morgan

- 1 Ms. Meyers' sons, right?
- 2 A Yes, ma'am.
- 3 Q Is it the son that was working with you?
- 4 A No, ma'am.
- 5 Q Another son?
- 6 A (Witness nodded head.)
- 7 Q All right. Did you know his name?
- 8 A Frankie.
- 9 Q All right. And what did you do with Frankie and that
- 10 individual?
- 11 A I asked them if they wanted a ride. And the first
- 12 thing I asked them was what they'd been doing and they
- 13 said hunting. And I asked them, Where ya'll been
- 14 hunting at? And they pointed back behind my house and
- 15 I said, well, ya'll know that land is leased back
- 16 there, you don't need to be back there. Ya'll aren't
- 17 supposed to be back there. It belonged to my cousin.
- 18 But I give them a ride. I told them to get in the back
- 19 and I carried them to Ms. Meyers' home and pulled up in
- 20 the yard and they got out and thanked me, one of them
- 21 or even both, I can't recall.
- 22 Q Okay. Other than talking about they shouldn't have
- 23 been hunting where they were ---
- 24 A That's when they got in the truck.
- 25 Q Okay. They got in the truck and you took them ---

Halman Sease - Direct Examination by Ms. Morgan

1 A In the back of my truck, yes, ma'am.

2 Q Okay. And does he look the same today as he did back
3 then?

4 A I can't -- well, basically, I guess, but he -- I think
5 he had on camouflage that night. I didn't really see
6 them until I got past them and I said there's somebody
7 walking. And I backed up and I recognized her son
8 because I'd been around him a lot.

9 Q Okay. And the night of the robbery, you described
10 white male, shorts, red bandanna. Did you tell anybody
11 that night that you thought you knew who it was?

12 A Yes, ma'am, when the SLED got there. It must have been
13 about 1 or 2 o'clock in the morning and they asked me
14 did I recognize any of them and I said the onliest one
15 I recognized was the white boy that was in my room
16 pulling the pistol on me or whatever. And I told him
17 he was visiting on the curve out there. But I didn't
18 know his name.

19 Q Visiting on the curb. Did you say visiting on the
20 curve?

21 A Out there where Ms. Meyers and them live.

22 Q Okay. Okay. And you told them that about what time in
23 the morning?

24 A It was 2 or 3 o'clock in the morning. 1:00, 2:00 or
25 3:00.

Halman Sease - Direct Examination by Ms. Morgan

1 Q Okay. And did -- did you have an opportunity the next
2 day to talk to Ms. Meyers?

3 A I don't know whether it's the next day or the following
4 day. She brought her son up there to see me.

5 Q Okay.

6 A And that's when I talked to them. They asked me how I
7 was doing.

8 Q Okay. And what did you tell her?

9 A I told her that if that person that went in my room
10 that was robbing my room and pulled the pistol, if it
11 wasn't James ---

12 MR. WILSON: Your Honor, I just renew my
13 objection in this regard.

14 THE COURT: The objection is overruled. Go
15 ahead.

16 By Ms. Morgan:

17 Q You can continue Mr. Sease.

18 A I said it was Mr. Gunnells. I said if it wasn't him,
19 it was his twin brother.

20 Q Okay. And what did you -- did you describe to
21 Ms. Meyers at that time what he had on and what he
22 looked like?

23 A No, ma'am, I didn't, not as I recall.

24 Q Okay. And that person that you -- that robbed you that
25 night, is he in the courtroom?

Halman Sease - Direct Examination by Ms. Morgan

1 A Yes, ma'am.

2 Q Would you point him out?

3 A Right there.

4 MR. WILSON: Your Honor, I'd renew the same
5 objection.

6 THE COURT: Objection overruled.

7 MS. MORGAN: Let the record reflect that he
8 identified the defendant, James Gunnells.

9 By Ms. Morgan:

10 Q Did you have any idea what his name was?

11 A That night, no, ma'am.

12 Q How long was it that you might have figured out -- how
13 did you find out what his name was?

14 A I think talking back with the SLED agent the next few
15 days, you know.

16 Q Okay. And did you get your truck back? Both your
17 trucks essentially?

18 A I think they found them that next day. But they had
19 pulled both of them back with wreckers.

20 Q And they processed -- they didn't ---

21 A They did a lot of process. I couldn't get my truck
22 back until probably two or three days later because
23 they had left the switch on and the battery was dead.

24 Q Okay. And did you get some items returned from your
25 truck? Any items that you had did Mr. Darnell return

Halman Sease - Direct Examination by Ms. Morgan

- 1 any of them to you?
- 2 A They returned my billfold later.
- 3 Q Yes, sir.
- 4 A They found it in the road with all my cards and all
- 5 just laid out in the road.
- 6 Q And let me ask you this, your billfold, did it have any
- 7 money in it?
- 8 A Yes, ma'am.
- 9 Q Was the money still in the billfold?
- 10 A Yes, ma'am.
- 11 Q Where was the money in the billfold?
- 12 A In a hidden compartment I that had.
- 13 Q Okay. So you got that money back?
- 14 A Yes, ma'am.
- 15 Q How about the sack of money?
- 16 A I never got it back.
- 17 Q All right. How about any other items? When they
- 18 finally brought the truck back to you, did you go
- 19 through it to see what other things might have been
- 20 missing from the truck?
- 21 A Yes, ma'am, I told them I had a new .25 caliber pistol
- 22 in the pocket and it was missing. And I had some
- 23 camouflage gloves that I used to go to car sales
- 24 because I don't hunt.
- 25 Q Yes, sir.

Halman Sease - Direct Examination by Ms. Morgan

1 A And that cap right there was given to me at Christmas.

2 That was gone.

3 Q Okay. And did you have an opportunity to get this cap
4 back?

5 A Yes, through the SLED agents later.

6 Q All right. And how did you -- who was with you when
7 you identified it?

8 A Mr. George Darnell had this stuff in a bag and before
9 he pulled it out, I said there's my hat right there.

10 Q Okay.

11 MS. MORGAN: And that, for the record, is
12 State's Exhibit 33, Your Honor.

13 By Ms. Morgan:

14 Q So you identified it. Was there other items like your
15 hat that you were still missing and that you never
16 recovered?

17 A No, ma'am, I never got the gloves back nor my pistol,
18 but I got my rings back and my necklace and stuff,
19 later.

20 Q You got that back later?

21 A Yes, ma'am.

22 Q From Agent Darnell?

23 A Yes, ma'am, after I identified it.

24 Q And, Mr. Sease, the items in State's 34, do you know
25 what those are?

Halman Sease - Direct Examination by Ms. Morgan

1 A Those are my ties.

2 Q And there's something else in there?

3 A The belts.

4 Q Do you know where they came from?

5 A They was in my little dresser drawer right there beside
6 the bed.

7 Q And what were they used for on May 5th?

8 A To tie me up.

9 MS. MORGAN: That was State's 34.

10 By Ms. Morgan:

11 Q And Mr. Sease, did you also have an occasion some
12 months or so after this robbery to identify State's 31?

13 A Yes, ma'am, I did.

14 Q And tell us about that, please, sir?

15 A Well, when he had all kinds of bags of clothes and I --
16 that was the first time. I picked out right there that
17 he had on.

18 Q All right. Tell me -- when you say he had that bag of
19 clothes, who we talking about?

20 A Mr. Gunnells.

21 Q Did you look at ---

22 A You talking about who had it on?

23 Q No, sir. Who -- when you said he had a big old bunch
24 of clothes?

25 A Mr. George Darnell.

Halman Sease - Cross-Examination by Mr. Wilson

1 Q Mr. George brought a bunch of clothes for you to go
2 through?

3 A At his office.

4 Q Yes, sir and I ---

5 A And I think he might have been to my place later. I
6 don't know, there was so much stuff they brought back.

7 Q And at that time, you identified first this?

8 A That.

9 Q Which is State's 33. And then ---

10 A That.

11 Q And what did you identify these as?

12 A He had on -- I knew they was red and they was baggy. I
13 thought there was a stripe, black on the side.

14 Q Okay. And that's State's 31.

15 A My head was down in the floor and that's all I could
16 see most of the time. And he had on some white shoes,
17 but I couldn't identify what kind.

18 Q Yes, sir. And when that person, you're saying he --
19 who's the person that had those on the night that you
20 were robbed?

21 A Mr. Gunnells.

22 Q The one you previously pointed out. Thank you,
23 Mr. Sease.

24 THE COURT: Cross-examination?

25 MR. WILSON: Thank you, Your Honor.

Halman Sease - Cross-Examination by Mr. Wilson

CROSS-EXAMINATION

By Mr. Wilson:

Q Mr. Halman, how long have you been running Sease
Automotive?

A All my life.

Q Yes, sir.

A 40 years.

Q 40 years. Part of that, you buy and sell cars?

A Yes, sir.

Q Buy and sell trucks?

A Yes, sir.

Q So you're real familiar with the value of trucks and
you can place the value on a used truck probably better
than anybody in Bamberg County, can't you?

A Well, sometimes I mess up, but I can get it close.

Q Most of the time you're pretty good, aren't you.

A I think so.

Q All right. Now, Mr. Halman, when this incident took
place, you were asleep in the bedroom?

A Yes, sir.

Q And you were laid back there, the TV was running the
air conditioner running and you were asleep?

A Yes, sir.

Q And you didn't wake up until your wife came in and woke
you up?

Halman Sease - Cross-Examination by Mr. Wilson

1 A Well, the door slammed open. That's why I -- I raised
2 up like that and then I saw the tall gentleman -- told
3 me to get out of the bed and I just turned around and
4 sat on the side of the bed and he said, I told you to
5 get on the floor.

6 Q So you heard the door slam open. You woke up. It took
7 you a little while to come to your senses?

8 A That's when I seen him with a pistol over my wife's
9 head.

10 Q Okay. All right. And that's the tall thin black male?

11 A Yes, sir.

12 Q And he was the first person in your bedroom?

13 A That's the first person I seen standing in the door.

14 Q And I think your testimony was he stood at the corner
15 of the door and kept rotating the gun back and forth
16 between you and your wife?

17 A Well he had a pistol pointed toward my and my wife.

18 Q Okay. And you said at some point in time another
19 person came into the room. That was the person wearing
20 the baggy pants?

21 A Right.

22 Q And you described him today as having a red bandanna,
23 red shorts, white shoes and a white person, is that
24 correct?

25 A That's correct.

Halman Sease - Cross-Examination by Mr. Wilson

- 1 Q Okay. And that person came in and I think you said
2 that he went back and forth to you and your wife and
3 went through your drawers while a tall thin male still
4 stood in the doorway?
- 5 A That's correct.
- 6 Q Okay. And so we've got both of these people in your
7 bedroom or at least in the bedroom and in the doorway
8 to your bedroom?
- 9 A That's correct.
- 10 Q Okay. You saw Steve get hit?
- 11 A I seen Steve get hit.
- 12 Q Okay. You saw the reflection on ---
- 13 A I saw the reflection and I couldn't tell whether it was
14 the tall dude or either the other boy. I don't know.
15 I know he had on black. I could see that too. But he
16 wasn't tall.
- 17 Q Okay. So at the time Steve got hit in the back of the
18 head with a pistol there are two people in your room,
19 the tall thin male standing in the doorway and the red
20 baggy shorts, white fellow that's in the room?
- 21 A That's correct.
- 22 Q Okay. And so whenever Steve got hit, there's no doubt,
23 there are two people in your room?
- 24 A That's correct.
- 25 Q And as I understand your testimony is that night you

Halman Sease - Cross-Examination by Mr. Wilson

1 believed there were three people in the home?

2 A Yes, I know there was.

3 Q Okay. You know there were three people?

4 A Yes.

5 Q Two of them in your bedroom at the time Steve gets hit
6 in the back of the head?

7 A Yes.

8 Q Okay. The fellow with the red baggy shorts on, I mean,
9 you don't know 100 percent for sure that these are the
10 shorts that the person that was in your room had on,
11 you just know that they look like the shorts that
12 night?

13 A I could tell they was red and they look just like them.

14 Q Looked like these?

15 A I couldn't tell you how baggy they are.

16 Q Okay. And -- but you described that person had a red
17 bandanna on also?

18 A That's correct.

19 Q Okay. Did you ever notice what kind of shirt that
20 person had on?

21 A No, sir. I did not. I couldn't tell if he had a shirt
22 on or not. I couldn't tell you.

23 Q You don't know whether it was long sleeve or short
24 sleeve?

25 A I have no idea.

Halman Sease - Cross-Examination by Mr. Wilson

1 Q You didn't notice any other identifying characteristics
2 about that person other than the red bandana, the red
3 shorts, the white shoes, the white skin and I think you
4 testified about some braided hair?

5 A Braided hair, yes, sir.

6 Q That's the only thing you can identify the person that
7 was in your room that you say took your rings and had
8 the pistol and took your rings?

9 A Yes, sir.

10 Q Okay. And I believe on your testimony in response to
11 Ms. Morgan's questions, you had indicated to her that
12 you saw in the reflection Steve get hit in the back of
13 the head with a pistol, but you weren't able to see who
14 hit him?

15 A I didn't know whether it was the tall fellow standing
16 in the door because he had a pistol in that hand, or
17 whoever was working that back bedroom. I seen a
18 reflection of him coming and one of the other hit Steve
19 in the head. And when they hit him in the head, he
20 lunged forward just like you shot him out of a cannon
21 about a foot approximately.

22 Q And at the time he was hit at the back of the head, you
23 were already on the floor beside your bed?

24 A I'd been tied up for a long time, yes, sir.

25 Q And your wife was behind the door in the bedroom?

Halman Sease - Cross-Examination by Mr. Wilson

1 A My wife was -- I could see her over there.

2 Q Okay. Mr. Sease, Mr. Halman, do you remember giving
3 SLED Agent Darnell a statement on May 7th, 2003 in
4 connection with this case?

5 A Yes, sir.

6 Q Okay. And you told him everything at the time of the
7 statement that you knew about the case?

8 A About this, that night, yes.

9 Q You told him everything you knew about it?

10 A I told him everything I knew about it.

11 Q He asked you to write down everything you knew about
12 the case?

13 A Yes, sir.

14 Q On May 7, 2003?

15 A Yes, sir.

16 Q And you wrote down everything you knew about the case?

17 A Yes, sir.

18 Q And you wrote it down the best way you could remember
19 at this time didn't you?

20 A Correct.

21 Q Okay. I want to ask you to just look right here if you
22 would. These top two sentences on the second page.
23 You see those sentences on there?

24 A I said that the tall black dude hit Steve in the head
25 that I thought it came from his arm or either that

Halman Sease - Cross-Examination by Mr. Wilson

1 other fellow's arm. I thought it was the tall one.

2 Q All right. So you told Agent Darnell back on May 7th
3 that the person who hit Steven in the head with a
4 pistol was a tall thin black male?

5 A Yes, sir.

6 Q You went onto describe him even further as the person
7 who had on the black bandanna and was dressed in all
8 black?

9 A Right.

10 Q So you were able to tell him back then the person that
11 hit Steve in the head was a tall black male?

12 A Well I wrote that testimony by myself and then -- I
13 thought he hit him looking at the reflection. All I
14 know is he got hit. It could have been the other
15 fellow hit him. I don't know.

16 Q Okay. But the person that hit Steve in the back of the
17 head wasn't one of the two people in your room, either
18 the guy standing in the doorway or the guy that was in
19 there with the red shorts holding ya'll -- holding you
20 and your wife at gunpoint?

21 A Right.

22 Q Had to be somebody else?

23 A Had to be -- somebody else or either the black fellow
24 that was at the door. The fellow with the red britches
25 was in my room when I seen him get hit.

Halman Sease - Cross-Examination by Mr. Wilson

1 Q So when you saw Steve get hit, the man with the red
2 britches was in your room?

3 A Yes, sir.

4 Q Okay.

5 A Yes, sir.

6 Q All right. Now, I also want to ask you to take a look
7 at that same statement, on the first page. And as I
8 understand your testimony, the tall thin black male was
9 the first person in the room?

10 A Yes, sir.

11 Q And he stood at the doorway and had your wife and you
12 at gunpoint and then you said at some point in time a
13 second person came into your room?

14 A Yes, sir.

15 Q Okay. And you described him today as being white, a
16 white person with red shorts and a red bandanna and
17 white shoes, isn't that correct?

18 A Uh-huh.

19 Q If you would look right here on the statement. Did you
20 describe him to Agent Darnell as being short and
21 wearing baggy pants?

22 A The one coming in my room had on shorts and baggy
23 pants.

24 Q Okay. And that's the second person that came in your
25 room that you're describing?

Halman Sease - Cross-Examination by Mr. Wilson

- 1 A Right, yes.
- 2 Q And you went on to describe him as short with red
- 3 pants?
- 4 A Yeah.
- 5 Q I think right here, right?
- 6 A Yes, sir.
- 7 Q All right. You didn't tell Agent Darnell at any one
- 8 time that night that the person was a white person, did
- 9 you?
- 10 A No.
- 11 Q It wasn't until August the -- I want to show you a
- 12 statement dated August 11, 2003, some three months
- 13 after the incident at your home. It wasn't until then
- 14 that you told Agent Darnell that the person that had on
- 15 the red shorts was a white person; isn't that correct?
- 16 A Well, that's when I was asked.
- 17 Q Okay.
- 18 A I knew what color he was. But I wrote that, there
- 19 wasn't anybody there to tell me to put it there.
- 20 Q So when you wrote this statement in May of 2003, they
- 21 didn't ask you what color the person with the red
- 22 shorts on was?
- 23 A I wrote it out myself.
- 24 Q Agent Darnell just left you alone and let you write it
- 25 yourself?

Halman Sease - Cross-Examination by Mr. Wilson

1 A He placed us in separate rooms.

2 Q Okay. And since nobody asked you what color the person
3 with the red shorts on, you didn't think about it, you
4 didn't write it down?

5 A Right.

6 Q Okay. And it wasn't until August 11, 2003 that
7 somebody asked you if the person with the red shorts on
8 was white and you put that in your statement that the
9 person with the red shorts was white?

10 A I put he had on red shorts and he was white.

11 Q That was after Mr. Gunnells had been arrested, I
12 believe; isn't that correct?

13 A I think so.

14 Q Okay.

15 A I'm pretty sure he was.

16 Q And that was after SLED Agent Darnell had come to
17 you -- I think you testified he had come to you at
18 either your home or business and brought you a bag that
19 had a bunch of items, a bunch of clothes and showed you
20 these things, the camouflage hat and the red pants and
21 the red bandanna and shoes. He showed you all those
22 things and told you those things had been taken from
23 James Gunnells.

24 A He had big bags and a bunch of other stuff and I picked
25 them out.

Halman Sease - Cross-Examination by Mr. Wilson

1 Q Okay.

2 A He asked me could I pick out any of these clothes that
3 I thought Mr. Gunnells had on or one of the others had
4 on that night. And I picked out the black suit for the
5 tall fellow first.

6 Q Okay.

7 A Then I picked out them and I said -- first I said
8 something about that camouflage hat, I picked it out,
9 then the red shorts and the red bandanna.

10 Q All right. So Agent Darnell brought a big bag in and
11 you went through it and picked out the things you
12 recognized from that night. Is that fair enough?

13 A Yes, sir.

14 Q Or the things that you had owned before like that
15 camouflage hat?

16 A (WHEREUPON the witness shook his head.)

17 Q Okay. And at that time, you were aware that those
18 things had been recovered from Mr. James Gunnells or
19 from his apartment?

20 A Right.

21 Q Okay. And Agent Darnell told you that's who they had
22 been recovered from?

23 A That's right.

24 Q And that's the first time you were ever asked to tell
25 whether the person that had on the red shorts was white

Halman Sease - Cross-Examination by Mr. Wilson

1 or not?

2 A That's right.

3 Q And that's the first time you told law enforcement
4 about it?

5 A Yeah, that's the first time I was asked.

6 Q Okay. And that's the first time that you were able to
7 identify to law enforcement, Mr. Gunnells by name, too;
8 isn't that correct?

9 A Well I'd heard his name, after that. I knew his name
10 then.

11 Q Had you ever identified him by name to law enforcement
12 prior to August 11th 2003?

13 A Well after the -- after that first time, I found out
14 his name.

15 Q Did you go to law enforcement and tell them his name?

16 A I don't recall whether I did or didn't.

17 Q Okay. Now, Ms. Morgan asked you if you had identified
18 him by the clothes and you had ID'd these things some
19 month or so after the incident at your home, but it
20 looks to me like from the timing on this statement that
21 it was in August of 2003, some three months after the
22 incident at your home; does that sound correct to you?

23 A That's probably when I told them I knew what color the
24 clothes was. That's probably the first time I'd been
25 asked.

Halman Sease - Cross-Examination by Mr. Wilson

1 Q Okay. All right. Mr. Halman, you said -- I think in
2 your testimony you said that night when the person with
3 the red shorts was in the room, you thought you knew
4 who it was because you thought you'd seen that person
5 before. You had seen Debra Meyers' cousin before when
6 you took your employee, her son home; and you had also
7 seen him when you picked him up hunting, walking home
8 from hunting with rifles that day. And you thought
9 that was the same person that was in your home that
10 night?

11 A Yes, sir.

12 Q You were pretty certain that night that that was the
13 same person that was in your home that night with the
14 red shorts on?

15 A Yes, sir.

16 Q And I think you said -- you didn't say anything while
17 all that was going on because you were afraid if you
18 said something, somebody might get shot or killed?

19 A That's right.

20 Q And so you didn't say anything while all of it was
21 going on that you thought you knew that person, did
22 you?

23 A I never mentioned nothing.

24 Q All right. And is it your testimony that you didn't
25 tell the police that you knew who that person was until

Halman Sease - Cross-Examination by Mr. Wilson

1 after they brought the bag of items for you to look
2 through?

3 A No, I told the SLED and whoever officers out there that
4 same night that I thought I knew who it was. But he
5 asked if I recognized anybody, I said the one that was
6 in my room. And I told them, I said, if that ain't
7 him, it was his twin brother.

8 Q Okay. Now the person that was in your room had a
9 bandanna across the face?

10 A Yes.

11 Q And you weren't able to get a look and see if they had
12 any tattoos or scars or anything, information like
13 that?

14 A I didn't look for that. I was just looking at that
15 pistol.

16 Q Could you tell what color eyes the person had?

17 A No, sir.

18 Q The color of skin the person had?

19 A I just knew he was white.

20 Q Okay. Could you tell whether the person had any kind
21 of facial hair?

22 A He had braids. When he would lean over, I could see
23 the top of his head when he bent over my wife.

24 Q How about a beard or a goatee, mustache?

25 A I couldn't see on account of the bandanna that he had

Halman Sease - Cross-Examination by Mr. Wilson

1 on.

2 Q Okay. You weren't ever asked to provide any of those
3 descriptive characteristics about the person to tell
4 them what kind of face, whether they had a wide face or
5 the thin face or fat face or skinny face?

6 A Not that night, no, sir.

7 Q At any point after that were you ever asked to provide
8 any of those identifying characteristics?

9 A Just about the hair and the bandanna, you know, that he
10 had on. That's it. I couldn't see nothing. I
11 couldn't identify nothing.

12 Q Okay.

13 A I couldn't tell you what kind of shirt he had on or
14 nothing.

15 Q Okay. So the extent of your being able to identify
16 James Gunnells as the person that was in the red shorts
17 in your bedroom pursuant to your testimony, holding the
18 gun on you and taking the rings off your fingers and
19 going through the items in your room, the extent of
20 your being able to identify him is that you had seen
21 him before and you thought that's who that was?

22 A I knew who that was. I didn't say anything that night.

23 Q But you weren't able to describe him other than you had
24 seen him a few times before and you knew that's who it
25 was?

Halman Sease - Cross-Examination by Mr. Wilson

1 A Yes, sir.

2 Q And the extent of your having seen him before was when
3 you had taken -- I don't remember the employee's name
4 you said before -- but you had an employee that was
5 Debra's son, what was his name?

6 A Chris Hutto.

7 Q Chris Hutto. You had seen Mr. Gunnells a few times
8 when you had taken Chris Hutto home.

9 A Yes, sir. And around there sometimes.

10 Q You hadn't seen him for any extended periods of time?
11 Ya'll hadn't sat down and carried on a conversation?

12 A No, no.

13 Q Hadn't eaten lunch together?

14 A No, sir.

15 Q Hadn't been at the same ball game or anything like that
16 and sat beside each other?

17 A No, sir.

18 Q Okay. Hadn't gone to church together or sat together
19 in a pew or anything like that?

20 A No, sir.

21 Q Okay. And so you had just kind of seen him in passing
22 around town and when you had taken Chris Hutto home?

23 A Right.

24 Q And then you had this one other situation where you
25 testified you'd seen him before when you picked him and

Halman Sease - Cross-Examination by Mr. Wilson

1 the other, Debra Meyers' son up on the road after that?

2 They had been hunting?

3 A Yeah, they were walking down the road, yes, sir.

4 Q And I think you testified that you didn't really get a
5 good -- you didn't really see him all that well because
6 it was night?

7 A It was night.

8 Q And you was going to pass them before you realized
9 there were people on the road?

10 A When I backed up then I could recognize him. But I
11 didn't recognize him at first.

12 Q When you backed up. And they were -- they had just
13 finished hunting, they had camouflage on?

14 A Yes, sir.

15 Q You don't recall whether -- you know, when you're
16 turkey hunting, you wear a whole bunch of camouflage?

17 A Yes, sir.

18 Q Okay. And they got in the rear bed of your truck?

19 A Yeah. I told them I didn't have enough room in the
20 front for them but they could get in the back and I
21 would drive slow.

22 Q Okay. So you would have spoken to them a brief second,
23 maybe at the window or the door and they hopped in the
24 bed of the truck?

25 A Yes, sir.

Debra Meyers - Direct Examination by Ms. Morgan

1 Q When you dropped them off at the house, these two
2 people got out of the truck, said thank you and went on
3 in?

4 A That's exactly right.

5 Q There wasn't any long conversation carried on?

6 A Just thank you. I don't know which one said it or
7 either, both, I have no idea.

8 Q But they didn't hang around out there for you to look
9 at them and talk to them or anything like that?

10 A No, they didn't.

11 Q Okay.

12 MR. WILSON: Just one moment, please.

13 By Mr. Wilson:

14 Q Mr. Halman, that's all the questions I have. Thank you
15 sir.

16 THE COURT: Any redirect, Solicitor?

17 MS. MORGAN: No, Your Honor.

18 THE COURT: Thank you, Mr. Sease, you may step
19 down. Thank you, sir. Be careful stepping down.

20 Solicitor, you want to call your next witness?

21 MS. MORGAN: Yes, sir, Debra Meyers.

22 THEREUPON,

23 DEBRA MEYERS,

24 after being duly sworn, testified as follows:

25 ///

Debra Meyers - Direct Examination by Ms. Morgan

DIRECT EXAMINATION

By Ms. Morgan:

Q Take a deep breath. State your full name for the record, Debra?

A Debra Meyers.

Q And where do you live, Debra?

A Erhardt, South Carolina.

Q And who you live with in Erhardt?

A My husband and my -- well I have six children. Four kids now.

Q Okay.

A Two have moved out.

Q Two have left?

A Yes.

Q Any of those sons work for Mr. Halman in the past?

A Yes, sir, my son has, Chris.

Q And how old is Chris now?

A He just turned 20 yesterday.

Q Okay. And how long did he work for Mr. Halman?

A I would say maybe three years, four years.

Q What kind of work would he do for him?

A He would wash his cars and vacuum them out; go to car sales with him and drive the cars back home with him and stuff.

Q Okay. How about any of your other children? Have they

Debra Meyers - Direct Examination by Ms. Morgan

1 worked for him or done any work around there for him?

2 A I think he might have picked one up, I'm not sure. I'm
3 a little bit nervous.

4 Q What's that?

5 A I'm kind of a little bit nervous.

6 Q How long have you lived out in Erhardt?

7 A Ten years now.

8 Q Okay. And what is your relationship to the defendant,
9 James Gunnells?

10 A He's my nephew.

11 Q He's your brother's?

12 A He's my brother's son.

13 Q Okay. And did he come and stay with you in the past?

14 A Yes, ma'am. When he was 14, he come lived with me and
15 my husband and we took care of him for a while because
16 nobody else wanted to take care of him. And then he
17 moved out and went to North Carolina, somewhere in
18 North Carolina, and then he came back and got back
19 friends with us again because I hadn't seen him for a
20 long time.

21 Q Did he come down and visit last -- early summer of last
22 year?

23 A Yes, ma'am. And the summer before. He came down like
24 two summers in a row and would go fishing and hunting
25 with me and my husband and children.

Debra Meyers - Direct Examination by Ms. Morgan

1 Q And so he kind of knew the area when he would come stay
2 with you?

3 A Yes, ma'am.

4 Q And he'd go fishing and hunting -- who would he go
5 fishing and hunting with besides you and your husband?

6 A My son Frankie would go with him a pretty good bit.

7 Q Okay.

8 A Him and his girlfriend would come to the house and pick
9 Frankie up and take him with them to go fishing.

10 Q He and his girlfriend, what's his girlfriend's name?

11 A Nickie.

12 Q I'm sorry?

13 A All I know is her name is Nickie.

14 Q They would come to your house?

15 A Yes, ma'am.

16 Q All right. And, tell me, did the defendant come stay
17 with you sometime close to May 5th?

18 A Yes, ma'am, he come on the weekends like on the Friday
19 and him and his girlfriend would stay Friday and
20 Saturday and on Sunday they got in an argument and she
21 left him and he thought she was just going to go for a
22 little bit and come back but she left him like all week
23 and then she came back the following Sunday. And I
24 guess they kind of made up and he went home with her.

25 Q Okay. All right. So Friday and Saturday with his

Debra Meyers - Direct Examination by Ms. Morgan

- 1 girlfriend. Sunday she left?
- 2 A Yeah.
- 3 Q Whole week, Sunday?
- 4 A Yeah.
- 5 Q When did the robbery occur?
- 6 A That Monday night and Tuesday morning.
- 7 Q Okay. So within a day of him leaving or a little more
- 8 than a day?
- 9 A Yes, ma'am.
- 10 Q He had been at your house?
- 11 A Yes, ma'am, for a whole week.
- 12 Q Could he -- tell me what he looked like back then. Did
- 13 he have anything different about his hair?
- 14 A He would, well Nickie had braided it before he had left
- 15 her -- before she had left him. She took and braided
- 16 his hair for him. And he had long braids in it and he
- 17 would put it up in a pony tail and braid.
- 18 Q And would he wear any kind of head stuff around the
- 19 braids?
- 20 A Yes, ma'am. He would wear bandannas wrapped around the
- 21 braids sometimes.
- 22 Q Did he wear a particular color of bandanna?
- 23 A Not any particular color sometimes it was blue
- 24 sometimes they were red.
- 25 Q Okay. Did you have a conversation with him midweek

Debra Meyers - Direct Examination by Ms. Morgan

1 about Mr. Halman? Did he talk to you ---

2 MR. WILSON: Your Honor, I've got a matter that
3 we probably need to take up.

4 THE COURT: You want to do it at the bench or
5 you want to do it ---

6 MR. WILSON: We can probably take it up at the
7 bench.

8 (WHEREUPON there was a bench conference out of
9 the hearing of the jury and the court reporter.)

10 THE COURT: All right. Madame Forelady, ladies
11 and gentlemen of the jury, I'm going to have to ask you to
12 go to the jury room. And I would get you back -- we're
13 going to take about a five, ten minute break and I'm get
14 you back very shortly. I have to hear arguments on this
15 evidence issue. Our rules of evidence have evolved over
16 time. They came to this country from England and there
17 designed to give you the most trustworthy testimony that we
18 can give you in the courtroom.

19 And as I told you earlier, my job is to see
20 that the testimony does comply with the rules of evidence
21 and that's what I'm doing in this issue. Whenever the
22 attorneys make an objection and they state the grounds for
23 their objection and then I will say overruled or I sustain
24 the objection. If I use the term overrule, that means I
25 disagree. It is admissible. If I use the word sustain,

Debra Meyers - Direct Examination by Ms. Morgan

1 that means I agree and that testimony will not come in and
2 I may have to comment on the facts of this particular
3 issue. Therefore, I'm going to ask you to go to your jury
4 room and we'll take a very short break.

5 Don't discuss the case amongst yourselves. If
6 you'll follow the bailiff, please.

7 (WHEREUPON the jury left the courtroom at 3:31
8 p.m.)

9 THE COURT: Solicitor, how much time do you
10 want and then I will hear arguments.

11 MS. MORGAN: Just a couple of minutes, Judge.

12 THE COURT: Okay. We'll take about five
13 minutes and then I'll hear Mr. Wilson's arguments and then
14 I'll hear the solicitor on her argument. All right.

15 (WHEREUPON a short recess was observed.)

16 THE COURT: Solicitor, first of all, I think
17 what we need to do is put on the record what she's going to
18 say. I don't think anybody knows what she's going to say
19 at this point in time because he made the objection. I
20 don't know what she's going to say.

21 MS. MORGAN: Okay.

22 THE COURT: So why don't we -- let's find out
23 what she's going to say first. And then I'll hear your
24 arguments and make a decision.

25 MS. MORGAN: All right.

Debra Meyers - Direct Examination In Camera by Ms. Morgan

DIRECT EXAMINATION - IN CAMERA

By Ms. Morgan:

Q Debra when -- the week before the robbery, when the defendant was staying with you, do you remember him being dropped off by Mr. Sease? Getting a ride home from turkey hunting from Mr. Sease?

A Yes, ma'am, him and my son he dropped them off.

Q And do you remember the defendant talking to you about Mr. Halman that night?

A I remember a conversation, something about Mr. Halman, yes.

Q What did the defendant say about Mr. Halman?

A Said something about that that old man didn't believe in the bank and that he kept his money in his home.

Q And what -- go ahead?

A And I said something -- saying something around the lines of why would you think that because if you think anything like that because people have to turn back over their money turn it back over to the business, turn it back over to have more.

Q And what did he say after you told him that?

A He was like -- he said something like and I just kind of disregarded it and I dropped the conversation and I didn't say any more about it.

Q But he told you that Mr. Halman didn't believe in banks

Debra Meyers - Direct Examination In Camera by Ms. Morgan

1 and that he kept his money at his house?

2 A He did say that.

3 Q Did you tell him how many businesses Mr. Halman had?

4 A I think I told him he had the two car lots and he might
5 have had more businesses.

6 Q So you told him he had three businesses?

7 A Yeah.

8 THE COURT: Let me hear your argument on your
9 objection. I believe your objection is hearsay.

10 MR. WILSON: Yes, sir, it was, Your Honor.

11 THE COURT: I will be glad to hear you.

12 MR. WILSON: Judge, if I could -- if I heard
13 her testimony correct, she said he might have said
14 something like that. If her testimony is going to be he
15 might have said something like that, I don't think she has
16 the ability to testify ---

17 THE COURT: That would go to the weight and
18 sufficiency. Not whether or not it's admissible or not.
19 You can cross-examine on that but what's your legal
20 objection and let me hear your argument.

21 MR. WILSON: Your Honor ---

22 THE COURT: I don't think that if she said
23 might have said it or said it, I don't think that rules it
24 out from a legal standpoint, but I think it goes to the
25 weight and sufficiency, which you can very well argue to

1 the jury.

2 MR. WILSON: Your Honor, I raised the objection
3 to this on the grounds of hearsay. I believe it is an
4 out-of-court statement made by my client is being offered.
5 It falls under the definition of hearsay as being offered
6 as I understand it, they're kind of offering it as an
7 admission that he made against himself. Your Honor, this
8 is a statement that was made before the crime ever took
9 place. I don't think it rises to the level of the
10 admission to fall under that exception to the hearsay rule.
11 I tried to look while we were on break to see -- I don't
12 have a cite to hand up to you and I apologize for that,
13 Your Honor. I tried to look to see if I could find any
14 case law directly on point and I could not in that time,
15 but I would argue that it doesn't fall to the level of
16 admission against my client's interest and in order to be
17 admissible as hearsay testimony it would have to.

18 THE COURT: All right. Solicitor, I think you
19 say it's an admission under Rule 803(B)2; is that correct?
20 Admission by party or opponent? Or any other basis you
21 think it's admissible under. I will be glad to hear you.
22 I'm not trying to limit it you to that.

23 MS. MORGAN: Yes, sir. I think -- Judge, I
24 think the truth -- it's not -- it's probably not offered
25 for the truth of the matter asserted.

1 THE COURT: Okay.

2 MS. MORGAN: It is said -- if you take the
3 statement he doesn't -- he keeps his money in his home,
4 we're not offering it for the truth of the matter asserted.
5 But the State is allowed to prove knowledge, motive and
6 other elements and that is -- it's given some weight for.
7 But it's not offered for the truth of the matter asserted.
8 That's one, that it's not hearsay because it's not offered
9 for the truth of the matter asserted.

10 THE COURT: Two.

11 MS. MORGAN: Two, I think it is, under the
12 circumstances of this case, an admission and I guess the
13 best way I can put it -- and I'm not -- I don't know if
14 this is correct, but he gave the statement that's going
15 to ---

16 THE COURT: Let me ask you this, how does he
17 admit to something before it's done.

18 MS. MORGAN: That's why I think my first one,
19 it's not for the truth of the matter asserted.

20 THE COURT: Okay.

21 MS. MORGAN: That's where I think it's
22 relevant. Although, my analogy is, if you talk about
23 admissions or confessions if you will. The confession you
24 are not limited, otherwise, we are redacting everything.
25 Even in his confession, he talks about knowledge of and

1 that, that's why, in his own words, he's admitted that they
2 went down there, that he knew that this guy had money,
3 thought he had a lot of money.

4 THE COURT: As far as that goes -- I don't
5 think there's any question if he decides to testify you
6 could impeach him with that. I think you can impeach him
7 if he decides to testify with his statement if he denies it
8 in that statement. You can impeach him with that plus her
9 testimony.

10 MS. MORGAN: Yes, sir, but I believe the
11 statement can come -- the statement is going to come in and
12 my analogy is ---

13 THE COURT: I think -- is the statement already
14 in?

15 MR. WILSON: It's in, yes, sir.

16 THE COURT: All right.

17 MS. MORGAN: And I think it's -- this whole
18 belief that he had a safe, money, I think the whole idea of
19 how he learned that there were three businesses.

20 THE COURT: It goes to his motive, that's what
21 it goes to.

22 MS. MORGAN: Yes, sir. And knowledge and ---

23 THE COURT: Knowledge and prior motive and
24 prior knowledge.

25 MS. MORGAN: Yeah.

Debra Meyers - Direct Examination by Ms. Morgan

1 THE COURT: All right. Mr. Wilson, let me hear
2 very shortly on her argument that it's not offered for the
3 truth of the matter asserted because I really think that's
4 probably her best argument.

5 MR. WILSON: I think so too.

6 THE COURT: Okay. I think that's probably her
7 best argument. Let me hear you on that because I don't
8 think it's admission by party opponent.

9 MS. MORGAN: Right.

10 MR. WILSON: Yes, sir. Your Honor, I stand on
11 my argument I already submitted.

12 THE COURT: You'll just stand on your argument.

13 All right. I'm going to overrule your
14 objection and allow it in on the basis that it's not
15 offered for the truth of the matter asserted, i.e. whether
16 or not he actually had money in the home.

17 MR. WILSON: Thank you, Your Honor.

18 THE COURT: Okay. Anything else while we've
19 got the jury out?

20 MS. MORGAN: No, sir.

21 THE COURT: Bring us the jury, please.

22 (WHEREUPON the jury entered the courtroom at
23 3:52 p.m.)

24 THE COURT: Solicitor, please proceed.

25 MS. MORGAN: Thank you.

Debra Meyers - Direct Examination by Ms. Morgan

DIRECT EXAMINATION

By Ms. Morgan:

Q Ms. Meyers, you indicated that the defendant was at your house a little more than a week?

A Yes, ma'am, from Sunday to Sunday.

Q Sunday to Sunday?

A Well from Friday to Sunday.

Q Sunday to Sunday by himself?

A Yes, ma'am.

Q And that during that week he had gone hunting with your younger son Frankie?

A My middle son, Frankie.

Q Middle, yes, ma'am. And do you remember when they got back home?

A Sometimes it would be right before dark, sometimes it would be at dark.

Q Do you remember the day that Mr. Halman Sease dropped him off?

A It was right at dark.

Q And what day was that?

A On the Wednesday.

Q The Wednesday before the robbery?

A Yes, ma'am.

Q And when they came in, what did he have on? What was he wearing?

Debra Meyers - Direct Examination by Ms. Morgan

1 A Camouflage. I think it was my camouflage and some of
2 Butch's camouflage that we loaned to him.

3 Q And did he talk to you about Mr. Halman?

4 A Talk about what we discussed earlier?

5 Q Yes, ma'am.

6 A Yes, ma'am. He had said something about Halman. He
7 said, That old man don't believe in banks and I kind of
8 said, Well, why do you think that. Ann then he says
9 that -- I don't know if my ---

10 MR. WILSON: Just renew the objection to this
11 questioning.

12 THE COURT: For the record, overruled. Go
13 ahead.

14 By Ms. Morgan:

15 A I don't know if my son had said something to him about
16 it or if he just thought that. I'm not sure about that
17 part.

18 Q Okay.

19 A But I said why do you think that and he says because
20 when -- what I was saying, him and my son had been
21 talking and I don't know if Frankie had told him that
22 he kept his money in his house or if he just thought
23 that Halman kept his money in his house. And I said
24 Well, I don't think that's so because if you've got
25 three businesses and you have to turn your money back

Debra Meyers - Direct Examination by Ms. Morgan

- 1 over in the businesses to make money.
- 2 Q All right. So that night he indicated that that old
- 3 man don't believe in banks and kept his money at home?
- 4 A Yes, ma'am.
- 5 Q And that was stated by that man the Wednesday before
- 6 this robbery?
- 7 A Yes, ma'am.
- 8 Q Okay. And the day after this occurred, the robbery or
- 9 the day after, Tuesday?
- 10 A Uh-huh, on Tuesday.
- 11 Q When did you find out what had happened to the Sease's?
- 12 A I'm pretty sure my sister had called me from Bamberg
- 13 and asked me if I had heard anything about Halman
- 14 getting robbed and I told her, No, I hadn't heard
- 15 anything.
- 16 Q Okay. What did you do later that day?
- 17 A I went and picked my son up from school, my son, Chris
- 18 and I asked him had he heard anything about Halman
- 19 getting robbed and he said, yes, ma'am, why hadn't you
- 20 heard about it. And on the way back from the store, we
- 21 stopped at the car lot.
- 22 Q All right. And did you ---
- 23 A We went in ---
- 24 Q All right. Let me ask you these questions. Just hang
- 25 with me. Did you have a discussion with Mr. Sease?

Debra Meyers - Cross-Examination by Mr. Wilson

1 A Yes, ma'am.

2 Q And did he talk to you?

3 A Yes, ma'am. He was talking to me and my son at the
4 time.

5 Q All right. And did he describe certain things to you?

6 A Yes, ma'am, he did.

7 Q And did he have a conversation about who had robbed him
8 that night?

9 A Yes, ma'am, he did.

10 Q He told you that?

11 A Yes, ma'am.

12 Q Thank you.

13 THE COURT: Cross-examination?

14 MR. WILSON: Very briefly, Your Honor.

15 CROSS-EXAMINATION

16 By Mr. Wilson:

17 Q Ms. Meyers, how are you today?

18 A Not so good. Not so good.

19 Q Do you recall we had a hearing while the jury was out
20 and we talked about these statements that you said
21 Mr. Gunnells made to you that Mr. Halman kept his money
22 at home?

23 A Yes, sir.

24 Q You recall in response to one of the solicitor's
25 questions, you said well he might have said something

Debra Meyers - Cross-Examination by Mr. Wilson

1 like that?

2 A I know there was a conversation about the money being
3 in the home; and I don't know where he got the part
4 where the money was in the home from.

5 Q So now, your testimony is, you know that he said these
6 statements of, That man keeps his money in his home,
7 has a lot of money and keeps it in his home?

8 THE COURT: Mr. Wilson, ask your question and
9 give her a chance to explain it before you ask another.

10 By Mr. Wilson:

11 A There was a conversation about the money being in the
12 home.

13 Q So your testimony now in front of the jury is that you
14 know he said something about Mr. Halman keeping that
15 money in the home?

16 A I know for a fact that there was a conversation about
17 the money.

18 Q That's your testimony in front of this jury now?

19 A Yes.

20 Q And in that hearing that we had while the jury was out
21 about these same statements, in response to the
22 solicitor's questions, you said he might have said
23 something like that, isn't that what you answered to
24 her?

25 A Yes, sir.

Debra Meyers - Redirect Examination by Ms. Morgan

1 Q Thank you.

2 MR. WILSON: That's all I have.

3 THE COURT: Any redirect?

4 MS. MORGAN: Yes, sir.

5 **REDIRECT EXAMINATION**

6 By Ms. Morgan:

7 Q Debra did you have any doubt that your nephew talked to
8 you about Mr. Halman having money, keeping money in his
9 house?

10 A No, ma'am, I know there was a conversation about that.

11 Q Yeah, you just weren't sure where he got that
12 information ---

13 MR. WILSON: Your Honor, I object.

14 THE COURT: I'm sorry what's the objection?

15 MR. WILSON: Objection to the leading.

16 THE COURT: Don't lead the witness. Ask your
17 question. Go ahead and ask your question.

18 MS. MORGAN: Yes, sir.

19 By Ms. Morgan:

20 Q And when he said something about the money at home,
21 what did you tell him?

22 A I told him that Mr. Halman had to put his money in the
23 bank and turn it back over in his businesses to remake
24 money. I mean anybody that's got a business, you got
25 to turn back around and buy stuff to put back on a car

George Darnell - Direct Examination by Ms. Morgan

1 or another car or in the business to make money.

2 Q And did you give him any idea of how many businesses?

3 A I'm pretty sure I might have said two or three.

4 Q Okay. Thank you, Ms. Meyers.

5 THE COURT: My recross-examination?

6 MR. WILSON: Nothing further, Your Honor.

7 THE COURT: Ms. Meyers, you may step down.

8 Thank you very much.

9 Solicitor, you want to call your next witness?

10 MS. MORGAN: Yes, sir. George Darnell.

11 THEREUPON,

12 GEORGE DARNELL,

13 after being duly sworn, testified as follows:

14 THE COURT: Have a seat in the witness stand
15 and state your full name, sir.

16 AGENT DARNELL: George Darnell.

17 **DIRECT EXAMINATION**

18 By Ms. Morgan:

19 Q And Mr. Darnell, where are you employed, please, sir?

20 A I'm employed by the South Carolina Law Enforcement
21 Division, which is commonly known as SLED.

22 Q And how long have you worked for SLED?

23 A I've been with SLED since 1991.

24 Q And how long have you been totally in law enforcement?

25 A Going on twenty-five, twenty-six years.

George Darnell - Direct Examination by Ms. Morgan

1 Q All right. And where's your region? What area of the
2 state do you work?

3 A I'm assigned to the low country.

4 Q And what ---

5 A They're are nine counties, Bamberg County is one of
6 them.

7 Q Okay. And were you called out May the 5th 2003?

8 A Well, actually, I got called on May 6.

9 Q Okay. Tell me about that?

10 A Shortly after 12 o'clock. Approximately 20, 21 minutes
11 after 12:00.

12 Q All right. And what did you do when you got the call
13 on -- a little after 12:00 on May 6th?

14 A I responded to the Sease residence along with Ed
15 Carroll from SLED also and we responded to the Sease
16 residence on Ashton Road in Erhardt.

17 Q And tell me what you had did as an assisting agency
18 that night?

19 A Once we got there, we met with Deputy Chad Dillon. He
20 briefed us on what had taken place. We talked with Mr.
21 Halman, talked with Eunice, talked with Steve after he
22 got back from the ER.

23 Q Okay. And what is your primary duty that night?

24 A Primary that night was getting the forensics done at
25 the scene and any preliminary information we could as

George Darnell - Direct Examination by Ms. Morgan

1 far as who may have done the incident.

2 Q All right. And that night, that morning, you talked to
3 the three victims in this case?

4 A Yes, ma'am.

5 Q Did you actually get anything in writing that day or
6 that morning?

7 A We didn't get them to do statements at that time. They
8 were all upset, scared to death. They were crying, you
9 know, we talked to them as much as we could, but it was
10 getting even more upset going over and over it so we
11 got what information we could and we did statements the
12 next day.

13 Q Okay. Did you spend a good bit of time through that
14 morning with them?

15 A Yes, ma'am. We were there -- I think we left around
16 six or seven and went home to get showered and so forth
17 and then we received a call that the trucks had been
18 found and then we responded back to Erhardt.

19 Q Okay. So you spent midnight to six at the house?

20 A Yes, ma'am.

21 Q You mentioned something about forensics, what, if
22 anything, were forensics doing?

23 A They were searching for prints, any footwear latent
24 prints, taking pictures of the crime scene, just
25 totally going through the house for any evidence they

George Darnell - Direct Examination by Ms. Morgan

1 could find.

2 Q And at that time are the victims allowed to go back in
3 the house?

4 A No, ma'am, they were sitting on the deck on the back
5 porch.

6 Q Okay. And you went home. And then you said you got a
7 call back. What did you do when you got a call back?

8 A We responded back to Erhardt, 64 West of Erhardt to
9 Mayflower Road, probably a mile or mile and-a-half up
10 that dirt road by Mr. Grant's fish pond.

11 Q Okay. And why were you called out there?

12 A Mr. Grant had went out there checking on his pond and
13 so forth and he observed two pickups sitting there, one
14 on each side of the road and he drove on through. He
15 thought it was somebody out there scanning timber and
16 so forth. He came back through fifteen or twenty
17 minutes later and realized that that the Chevrolet
18 truck was sitting there running. And he got out and
19 when he did he saw a bunch of papers scattered in the
20 edge of the weeds next to the Dodge truck.

21 Q And law enforcement was called; isn't that correct?

22 A Yes, ma'am.

23 Q All right. And did you go to that area?

24 A Yes, ma'am, I did.

25 Q And, I'll show you what's marked as State's 18 and 20.

George Darnell - Direct Examination by Ms. Morgan

- 1 Can you identify those, please, sir?
- 2 A Yes, ma'am.
- 3 Q You can turn them around so they can see.
- 4 A State's 18 is the back of the '94 Chevrolet pickup
- 5 which was Mr. Sutton's truck. The other one is of
- 6 Mr. Sease's Dodge truck.
- 7 Q All right. If you'll give us the number on that.
- 8 A State's 20, is the left side and partial front of the
- 9 '94 Chevrolet, Mr. Sutton's truck and the headlights
- 10 are still on because the vehicle is running. And
- 11 Mr. Sease's truck is across the road. That's the front
- 12 of it.
- 13 Q Okay. State's 21?
- 14 A State's 21 is the inside of Mr. Sutton's Chevrolet
- 15 pickup.
- 16 Q Okay. And does it reflect where -- is that the one
- 17 that you previously stated was running?
- 18 A Yes, ma'am. The keys are still in the ignition, it's
- 19 running.
- 20 Q Okay. All right. You were indicating that there were
- 21 some items beside one of the trucks?
- 22 A Yes, ma'am.
- 23 Q Did you assist in collecting that?
- 24 A Yes, ma'am.
- 25 Q Okay.

George Darnell - Direct Examination by Ms. Morgan

1 A State's No. 23, the right front fender of Mr. Halman's
2 truck and out in here is credit cards and papers and
3 pictures of his grandchildren and so forth scattered
4 out in the weeds.

5 Q And is State's 19 ---

6 A State's 19 is a little closer view that shows Mr.
7 Halman's wallet and credit cards and so forth. State's
8 22 is the keys to Mr. Halman's Dodge pickup. It was
9 thrown down the dirt road with the key chain, No. One
10 Grandpa.

11 Q And those are the keys to Mr. Sease's truck?

12 A Yes, ma'am.

13 Q Okay. And as part of your investigation, did you
14 follow up with them as to items that might have been
15 missing out of the trucks later?

16 A Yes, ma'am, we made contact with Mr. Halman and had him
17 to send his rollback out there and towed both of the
18 trucks in and put in a secured area so we could process
19 them. And in doing that, Mr. Halman was able to look
20 in his truck and told us about his camouflage gloves,
21 hat and his .25 automatic was missing out of there.

22 Q All right. And that was the day that the trucks were
23 recovered; is that correct?

24 A Yes, ma'am.

25 Q All right. So that's the next day. What else are your

George Darnell - Direct Examination by Ms. Morgan

- 1 leads. What else are you following up on Tuesday?
- 2 A Mr. Halman mentioned to us that he had talked with
- 3 Ms. Debra Meyers and related to her his description of
- 4 the -- one of the suspects that came in the house and
- 5 then she advised him that her nephew had had some
- 6 clothes and so forth that fit that description.
- 7 Q Okay. Did you contact her?
- 8 A Yes, ma'am.
- 9 Q Based on what you were told from Mr. Sease?
- 10 A Yes, ma'am.
- 11 Q And when did you go see her?
- 12 A It was the same day.
- 13 Q All right. And did she explain to you that he had been
- 14 down, different things as to the defendant,
- 15 Mr. Gunnells?
- 16 A Yes, ma'am.
- 17 Q Okay.
- 18 A We talked to her on the 7th?
- 19 Q Two days after. Did you have anything else to go on at
- 20 that time?
- 21 A No, ma'am, not right at that time. The following day,
- 22 Mr. Sutton got where the doctors would let him get out
- 23 of the house a little bit and he could stir around
- 24 without getting dizzy and so forth and he went down to
- 25 check on his truck and then he advised us that his box

George Darnell - Direct Examination by Ms. Morgan

1 speakers and his gold chain and his amplifier were
2 missing out of his truck. And he was able to locate
3 the boxes that he bought the amp and stuff and
4 furnished the serial numbers for us.

5 Q Okay. And you kept that information?

6 A Yes, ma'am, we did.

7 Q All right. So that's like May 7th or 8th?

8 A Yes, ma'am, that's the 8th.

9 Q You've got some information about this nephew, what are
10 you trying to do in any follow up?

11 A We're trying to track it down and ---

12 Q Did you work on it for the next couple of weeks?

13 A Yes, ma'am.

14 Q Any real leads?

15 A Not in succession. We had to take a break because we
16 had a similar trial going on in Federal Court at that
17 time. But every break we got out of there and
18 afterwards we were on this, sixteen, eighteen hours a
19 day.

20 Q Okay. Did you, in June, get what I call a break or
21 some kind of a lead in this case?

22 A Yes, ma'am. On June 3rd.

23 Q Did you receive some information about the location or
24 possible location of the speakers?

25 A Yes, ma'am.

George Darnell - Direct Examination by Ms. Morgan

1 Q And what did you do with that information?

2 A Received information that those speakers and the amp
3 and so forth had been pawned at a pawnshop on Bush
4 River Road in Columbia. Didn't know the name of it,
5 but told us it was on Bush River Road by a restaurant
6 and a car wash.

7 Q So what did you do?

8 A We were somewhat familiar with that area. We went
9 there on June 4th and spoke with the lady in there,
10 Ms. Monique Gardener and gave her the name of James
11 Gunnells. She put it in the computer and it pulled up
12 that he had pawned those items there.

13 Q All right. Because you had the actual serial numbers
14 of those items?

15 A Yes, ma'am.

16 Q All right. So when you go to a pawnshop and you give
17 them identification and it comes up James Gunnells,
18 what happened? What do you do with that?

19 A We went -- well, first of all, she let us go in the
20 back and match up the serial numbers. We advised her
21 that that was the items we was looking for and asked
22 her what it was going the take for us to get those
23 items right then. She said that a police incident
24 report. I had the initial copy of the sheriff's office
25 incident report. I furnished that. She gave the items

George Darnell - Direct Examination by Ms. Morgan

1 to us.

2 Q All right. Well you get the items, what do you do with
3 the items?

4 A Transported them to Bamberg. We put them in my office
5 over in the back of the sheriff's office and based on
6 that information and so forth, we met the Magistrate
7 Singleton and obtained a warrant for Mr. Gunnells at
8 that time for burglary, first-degree.

9 Q Okay. Breaking into the house in the nighttime?

10 A Yes, ma'am, breaking into a house during the nighttime
11 hours.

12 Q All right. Tell me, this is on June the?

13 A June 4th.

14 Q All right. So you go up to Columbia. You come back to
15 Bamberg. What time are we talking about?

16 A It was lunchtime or after when we got back with the
17 speakers; and if my memory serves me correctly, we had
18 to wait a little bit for the magistrate to get back
19 from lunch?

20 Q All right. When you get the warrant from the
21 magistrate where do you go?

22 A We got the warrant. I called our Midlands Office in
23 Columbia and spoke with one of our lieutenants and told
24 them I needed an agent to assist us and he told us when
25 we got up there to call him and Rick McDermott would

George Darnell - Direct Examination by Ms. Morgan

1 make arrangements and meet us. We headed to Columbia,
2 met with him and we went to two different magistrate
3 offices to get the warrant countersigned.

4 Q What's countersigned mean?

5 A Any time you go out of one county with a warrant signed
6 into another one, you have to go by the judge's office
7 in that county and they countersign it and authorize us
8 to serve that warrant in his county.

9 Q Okay. All right. So you got the warrant back to
10 Columbia and got it countersigned, then what do you do?

11 A Got in touch with Richland County and they furnished a
12 deputy to meet us out at t

13 which we had found out was the address of
14 Mr. Gunnells and his girlfriend Nicole Brooks.

15 Q All right. So what did you do?

16 A Upon our arrival, no one was at home. So myself, Agent
17 Carroll and McDermott, we were waiting sort of off
18 between the apartment buildings in the shade while the
19 deputies went up and contacted the manager to see if he
20 could tell us anything about the occupants where they
21 might be and so on. During the time, I looked up and I
22 seen Ms. Nicole's green Rodeo truck coming into the
23 complex and you have to come in and circle around to
24 the right. You come back around to their apartment.
25 There's a median. They circled around and when they

George Darnell - Direct Examination by Ms. Morgan

1 did, I seen Mr. Gunnells in the passenger side.

2 They pulled up, slowed up in front of the
3 apartment, never turned in and then took on off. And
4 when they did, when they made the left to go around
5 that median again, myself, Agent Carroll and McDermott
6 and the deputy from Richland County was coming back
7 around again. We ran out there and hailed the vehicle
8 down and removed Mr. Gunnells from the vehicle and
9 placed him under arrest.

10 Q Okay. And when you took him down, were you all, did
11 you all have your guns out when you arrested him?

12 A We did until we got that vehicle stopped and we made
13 sure everything was secure.

14 Q Okay.

15 A For our protection and their's.

16 Q You get -- who's in the car again?

17 A Ms. Nicole Brooks, his girlfriend, black female, it was
18 a young black male in the back seat and Mr. Gunnells.

19 Q And what do you do with Mr. Gunnells at that time?

20 A We handcuffed him. Our normal procedure, handcuffs,
21 black box, angle chains. Agent McDermott read the
22 arrest warrant to him and -- he read the arrest warrant
23 and I read his Miranda warnings off my card and then
24 we ---

25 Q Tell me, when you said McDermott read him the warrant

George Darnell - Direct Examination by Ms. Morgan

- 1 and you read him what?
- 2 A His Miranda warnings.
- 3 Q Okay. Which means what?
- 4 A It means he has the right to remain silent. Anything
- 5 he says can and will be used against him in court. He
- 6 has a right to an attorney if he so desires if he talks
- 7 to us now without an attorney present, he has the right
- 8 to stop answering any questions; two, if and when he
- 9 could get an attorney.
- 10 Q All right. Did you talk to him after you read him his
- 11 Miranda rights? Did you ask him any questions?
- 12 A I removed -- I confiscated what I identified as
- 13 Mr. Sease's jewelry.
- 14 Q All right. So did you do anything with him after he
- 15 was handcuffed?
- 16 A Yes, ma'am. We talked to Ms. Brooks. She signed a
- 17 consent for the apartment.
- 18 Q How about when you placed the handcuffs on him and you
- 19 were saying you identified something?
- 20 A Oh, we took pictures of him.
- 21 Q Who took pictures of him?
- 22 A I did.
- 23 Q All right. And why did you take pictures of him?
- 24 A Because I identified Mr. Sease's jewelry on his person.
- 25 Q Okay.

George Darnell - Direct Examination by Ms. Morgan

1 A And I wanted pictures of proof of that before I removed
2 it off his hands and around his neck.

3 Q All right. I show you State's Exhibit 14. Can you
4 tell us what those are pictures of, please?

5 A Yes, ma'am. Of course, this is Mr. Gunnells with
6 Mr. Sease's gold chain around his neck. This is him
7 again with the rings on his fingers plus two other
8 rings that he had and this is the same thing and
9 Mr. Sease's ring is on the index finger here and on the
10 right hand is the wedding band and this is a picture of
11 where I had it in my office and I made another -- just
12 another picture of it.

13 Q All right. And that's the three items that were taken
14 from Mr. Sease the night of the robbery?

15 A Yes, ma'am.

16 Q And you indicated he got -- how many rings does he have
17 on his hands?

18 A He has a total of four.

19 Q But which two were the ones that were Mr. Sease's?

20 A The wedding band and then the one with the diamond in
21 the center and then a little small one on each side of
22 it.

23 Q He was wearing them on which one of his fingers?

24 A On the index fingers.

25 Q Okay. Did you remove them at that time after you took

George Darnell - Direct Examination by Ms. Morgan

1 the pictures?

2 A Yes, ma'am, I did.

3 Q Okay. Then what did you do?

4 A Then we talked with Ms. Brooks and she signed a consent
5 for us to search her apartment and she told us that ---

6 MR. WILSON: Your Honor ---

7 THE COURT: Don't go into what she told you.

8 AGENT DARNELL: Okay.

9 THE COURT: I will sustain the objection.

10 MS. MORGAN: Yes, sir.

11 By Ms. Morgan:

12 A We got in the apartment and ---

13 Q Did you secure items of clothing?

14 A Yes, ma'am. They were all -- there were some items of
15 clothing already packed up in a plastic container and
16 looking through those items, it was items that had been
17 described to us in our investigation such as the red
18 pants, bandanna, the shoes, the shoes were Shaq shoes,
19 which I had turned them up and looked at the soles
20 because I had seen the print on the door and the Shaq
21 shoes had like a little man throwing a basketball.

22 Q All right. And where had you seen that little man with
23 a basketball before?

24 A On the gelatin print off the front door of the Sease
25 residence.

George Darnell - Direct Examination by Ms. Morgan

1 Q Okay.

2 A And we -- there were some other clothing in there,
3 men's pants, camouflage cap and I just confiscated the
4 whole plastic container.

5 Q You took a bunch of clothes?

6 A I took it all, yes, ma'am.

7 Q And you had consent to take it?

8 A Yes, ma'am.

9 Q All right. So you took a bunch of clothes and you got
10 the defendant and what do you do?

11 A We transport him to Bamberg, to the sheriff's office.
12 I was driving the vehicle, Agent Carroll rode in the
13 back with James Gunnells.

14 Q Okay. And during that time, did you ask him any
15 questions as you were driving?

16 A No, ma'am.

17 Q What were your plans to do?

18 A Once we got to Bamberg, we were going to talk to him if
19 he would talk to us.

20 Q All right. Did -- did he question or did Mr. Carroll
21 say anything to him?

22 A He was running his mouth about different things and
23 Mr. Carroll told him, you know -- Agent Carroll --
24 said, let me tell you one more time, and advised him of
25 his rights again. So that's pretty much it as far as

George Darnell - Direct Examination by Ms. Morgan

1 anything to do with a investigation riding along then.

2 We were talking about different things. He was more or
3 less running his mouth, shooting the bull.

4 Q Okay. And -- but you were -- Agent Carroll Mirandized
5 him again on the way here?

6 A Yes, ma'am.

7 Q All right. So what did you do when you got to Bamberg?

8 A Once we got to Bamberg, we carried him to my office at
9 the sheriff's office and when -- when I opened the door
10 to my office, he observed the speakers and amplifier
11 sitting on the floor in my office and he made the
12 remark, Oh shit, ---

13 MR. WILSON: Your Honor, if you'd just
14 renew ---

15 AGENT DARNELL: --- you got me.

16 MR. WILSON: Renew my objection from earlier.

17 THE COURT: Overruled, go ahead.

18 By Ms. Morgan:

19 A And he asked us where did ya'll get that stuff from.
20 We said the First Cash Pawnshop in Columbia on Bush
21 River Road. It was pawned in your name. And he said
22 well, you want the original pawn receipt and he pulled
23 out a copy and gave it to us.

24 Q All right. Let me show you -- there it is. State's
25 Exhibit 15, can you turn that around and show the jury

George Darnell - Direct Examination by Ms. Morgan

1 what that is a picture of?

2 A State's Exhibit 15, the top left photograph is the
3 Jensen amplifier sitting on top of the speakers that
4 came out of the truck. The picture right next to it on
5 the right is the sticker off of the Jensen speakers
6 with the serial number and so forth on it. And the
7 left bottom picture is the pawnshop's sticker on there.
8 And this one over here is the -- again, the pawnshop
9 sticker and the serial numbers.

10 Q And the top left hand corner picture of State's 15, is
11 that how the amplifier and player were positioned at
12 your office in Bamberg County on June the 4th. I think
13 it's the 4th?

14 A No, ma'am. Actually, to get the picture, I was wanting
15 all -- I set them out in the hallway.

16 Q Okay.

17 A This is right by the back door in the hallway, back
18 over to the right. This the half way here. So I could
19 get a got shot of them and then I put them back in my
20 office and I did position them then that when -- if we
21 located him and got back to Bamberg with him, he would
22 see them sitting in the office.

23 Q Okay. So this is the amplifier and the speaker the ---

24 A Box speakers.

25 Q Box speakers. Those are the ones from Mr. Steve

George Darnell - Direct Examination by Ms. Morgan

- 1 Sutton's truck?
- 2 A Yes, ma'am, they are.
- 3 Q All right. And they're the ones that you had gotten
- 4 earlier that day?
- 5 A Yes, ma'am.
- 6 Q Okay. Now, the defendant walks in, he makes that
- 7 statement and he says do you want what?
- 8 A Do you want the original pawn receipt. We told him,
- 9 yeah that would be nice and he pulled it out of his
- 10 pocket and gave it to us.
- 11 Q And would you identify State's 28?
- 12 A State's 28 is a copy of the original pawn receipt,
- 13 First Cash Pawn, , Columbia, made
- 14 out to James Gunnells, Apartment
- 15 31B, Columbia for one amplifier, Jensen and one speaker
- 16 box and then one player.
- 17 Q And is that what you gave -- he gave you upon arrival
- 18 in your office?
- 19 A Yes, ma'am.
- 20 Q Okay. That came from his pocket?
- 21 A Yes, ma'am.
- 22 Q Okay. Does this match up with the tags on the ---
- 23 A Yes, ma'am, it did.
- 24 Q On State's 15?
- 25 A Yes, ma'am.

George Darnell - Direct Examination by Ms. Morgan

1 Q Okay. All right. So he's given you the pawn slip,
2 you're in your office. What do you do next?

3 A At that point, we Mirandized him again using the SLED
4 right's form. Had him to read over his rights. We
5 followed along with him. He said he understood his
6 rights and signed them acknowledging that he understood
7 them. Then we had him to read over the waiver of
8 rights which is on the bottom and he asked if he said
9 he understood those and signed them and was willing to
10 talk with us.

11 Q All right. And I show you what's marked as State's 29.

12 A State's 29 is the SLED rights form dated June 4th,
13 2003, 7:37 p.m. signed by James Gunnells, witnessed by
14 myself and Agent Ed Carroll?

15 Q Okay. And tell me what you do to advise Mr. Gunnells
16 of his rights on June 4th, 2003?

17 A We advised him in Columbia, right after the warrant was
18 served. We advised him again verbally on the way home
19 and then once we got in my office, we had him read over
20 his rights, read over it with him again and he signed
21 off on this.

22 Q Okay. When you say read over your rights; how do you
23 do that?

24 A I take an identical form and I follow along with them.

25 Q Okay. Is that what you -- tell me -- I'm not sure I

George Darnell - Direct Examination by Ms. Morgan

1 understand?

2 A We read each one, I make sure they understand that.

3 Q All right. So what do you do? Who's reading to whom?

4 A I had -- have the person read over, Before we ask you
5 any questions, you must understand your rights. And
6 once they read over that, Do you understand that, yes.
7 You have the right to remain silent. Do you understand
8 that? Yes. And go down the line.

9 Q All right. And you went down all those rights?

10 A Yes, ma'am.

11 Q And then did do you make him do anything?

12 A He signs off on them.

13 Q All right. You sign acknowledgment of the rights ---

14 A Yes, ma'am.

15 Q --- after he's been read his rights what do you make
16 him do?

17 A Do the waiver of rights, which says I am willing to
18 make a statement and answer questions. I do not want a
19 lawyer at this time. I understand and know what I am
20 doing. No promises or threats have been made to me and
21 no pressure or coercion of any kind has been used
22 against me and he signed it, James Gunnells.

23 Q Okay. And is it witnessed by anybody?

24 A Witnessed by myself and Agent Ed Carroll and the time
25 then is 7:40 p.m.

George Darnell - Direct Examination by Ms. Morgan

1 Q Okay. So you at 7:40, he's been Mirandized and he's
2 waived his rights, what happens?

3 A We started talking with him briefly and asked him if he
4 was willing to give us a written statement and so
5 forth. He said he was, but at that point he said he
6 was about to starve and he needed something to eat. I
7 told him I would call the detention center and see if
8 they had something. He said me didn't want nothing
9 from over there and Agent Carroll and I told him we
10 were broke, we didn't have money to buy him anything.
11 So he said he had his own money and Deputy Hill, he
12 came in the building and I asked Deputy Hill to go to
13 Hardees and get him something to eat. Mr. Gunnells
14 gave him, I think, a \$20 bill and Deputy Hill went and
15 got him a \$6 burger combo, the biggest thing Hardees
16 had and brought it back to him and we let him sit there
17 and eat his food and then we talked with him again and
18 he started writing the statement.

19 Q Did you -- how about anything else? Did you allow him
20 to do anything else?

21 A Yes, ma'am. He did a little bit of chain smoking
22 really. I mean we let him smoke when he wanted to
23 smoke. That was no problem. He had his own cigarettes
24 and we let him smoke.

25 Q All right. And all this is occurring in whose office?

George Darnell - Direct Examination by Ms. Morgan

1 A In my office at the sheriff's office.

2 Q And who all is in there with him?

3 A Ed Carroll and myself.

4 Q At any time you talked to him, did you threaten him in
5 any way?

6 A No, ma'am, I didn't.

7 Q Offer him any hope or reward?

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

9 Q What did you ask him to do after you got the waiver of
10 the rights and fed him some supper?

11 A Asked him if he was willing to give us a written
12 statement and he said he would.

13 Q So how do you do that?

14 A We furnish him the form and let him write it out.
15 Explain it to him and he writes it out.

16 MR. WILSON: Your Honor, if you would just
17 renew my motion that I made earlier to this statement.

18 THE COURT: Okay. Objection overruled.

19 MR. WILSON: Thank you.

20 By Ms. Morgan:

21 Q All right. And I've handed you State's Exhibit 30,
22 which for the record I'm handing out copies for the
23 members of the juries. Agent Darnell, is this the form
24 and the statement you obtained from the defendant?

25 A Yes, ma'am, it is.

George Darnell - Direct Examination by Ms. Morgan

1 Q All right. Can you tell us about the top of it, what
2 else are you doing before you ---

3 A Voluntary statement and I wrote County of Bamberg in
4 there and then explained to him because it's sort of
5 tricky at the top which says, Personally appeared
6 before me, James Allen Gunnells, who states my name is
7 James Allen Gunnells. Then his address,
8 date of birth date and social
9 security number, phone number, completed 12th grade in
10 school. And it says, Before answering any questions or
11 making any statements, Ed Carroll and George Darnell, a
12 person who identified himself as SLED agents and there
13 again is another Miranda warning we had him read over
14 it.

15 Q Okay.

16 A Before he started reading his statement -- writing his
17 statement.

18 Q All right. And you obtained how many pages of
19 statement from the defendant that night?

20 A It's four pages.

21 Q All right. And who wrote it out?

22 A He did.

23 Q And the handwriting on the first page, the second page,
24 the third page and the fourth page is his?

25 A Yes, ma'am.

George Darnell - Direct Examination by Ms. Morgan

1 Q All right. And tell me the procedure in writing it
2 out?

3 A We gave him the forms and he started writing it.

4 Q Okay. And after it was finished, what did you ask him
5 to do?

6 A Sign it and that he had read each one of the pages and
7 that each page bears my signature and corrections. It
8 may bear my initials and I certify that the facts
9 contained here in here are true and correct. I further
10 certify that I made no request for the advice or
11 presence of a lawyer before or during any part of this
12 statement, not at any time before it was finished did I
13 request that this statement be stopped. I also declare
14 that I was not told or prompted what to say in this
15 statement. This statement was completed at 11:42 p.m.
16 on the 4th day of June, 2003, signed by James Allen
17 Gunnells.

18 Q All right. And this -- Agent Darnell, you were present
19 when he wrote this out, is that correct?

20 A Yes, ma'am.

21 Q And have you had an opportunity to look at it is so you
22 could read it out and publish it to us?

23 A I have read it several occasions. The writing on the
24 first pages is a little rough, but ---

25 Q Would you start and publish the statement, beginning on

George Darnell - Direct Examination by Ms. Morgan

1 Page 1 to the jury?

2 A Yes, ma'am. I was talking to my cousin, Chris Hutto,
3 about where he worked and who he worked for and he was
4 telling me about how much money that his boss had.

5 THE COURT: Agent Darnell, let me interrupt you
6 just a second. Can I see the attorneys up here just a
7 minute?

8 (WHEREUPON there was a bench conference out of
9 the hearing of the jury and the court reporter.)

10 THE COURT: All right. Agent Darnell, why
11 don't start back at the beginning since I interrupted you.

12 By Ms. Morgan:

13 A I was talking to my cousin, Chris Hutto, about where he
14 worked and who he worked for and he was telling me
15 about how much money that his boss had. We were just
16 joking around -- we were just joking about his boss
17 having a lot of money. But I was on the phone with
18 someone I knew from Columbia at the time Tivoe and he
19 overheard my cousin talking about a safe being in his
20 boss' house. Also about a bag of money being inside
21 the truck. When he overheard my cousin, he asked me
22 about it and I said I didn't know nothing about it.

23 So he asked or I talked to my cousin and found
24 out about it. When I talked to him, to Tivoe, he asked
25 what my cousin said and I told him. He asked me

George Darnell - Direct Examination by Ms. Morgan

1 whose -- who it was at (house) and I said I didn't
2 know. So I asked my cousin and he told me the wife was
3 there.

4 Q Where it was at?

5 A Where it was at.

6 Q Okay.

7 A I told him, I told Tivoe and he said he was going to
8 come down there to rob it. And I stayed for a week at
9 my aunt's house and would leave on the weekend. When
10 he called me in Columbia he said he would talk to me
11 when I got home. It was -- that word's tripped me
12 every time -- at my apartment -- I think. So I seen
13 him when he came to my house in Columbia and he asked
14 me what were the deal with my cousin's boss. We talked
15 about it and he asked me to show him where the house
16 was at. He said that he would pick me up the next day
17 to go with him in the house in Erhardt. Later the next
18 night at about 1:00 p.m., he came to pick me up. He
19 had another guy with him that we call Fred with him and
20 another guy that I didn't know.

21 So we started to ride down there and that's when
22 he said that all I had to do was show him the way to
23 the house and he would do the rest that I was going to
24 just sit in the car and wait on him. When we got down
25 there, I called my cousin from my cell phone and asked

George Darnell - Direct Examination by Ms. Morgan

1 him what road it was to get to the house and he told me
2 that it was where we went turkey hunting when I was
3 down there. So we went down the road and I saw his
4 truck in the driveway. We rode past and came back to
5 see it again and that's when we saw another truck and
6 car parked at the house. Tivoe asked me who they was
7 and I said I didn't know. So we left and went down the
8 street and turned around to park. We sat there for a
9 while and watched the home until the car left and was
10 waiting on the truck to leave. We sat for about
11 forty-five minutes when I know Tivoe said he was
12 getting tired of waiting. The other two guys agreed
13 and two got out of the car to go look at the house
14 while we waited.

15 They came running back and got in the car and
16 said some guys were walking around inside the house.
17 Tivoe got mad and started pointing a gun at me saying
18 that he didn't come all the way down there for nothing
19 and I told him that I didn't have nothing to do with
20 it. He got out of the car and said he was going to go
21 by hisself. He came back and said that he was going to
22 go in the house and he wanted me to go with them. He
23 said that he was going to kick the door open and run in
24 the house. When we got to the door, he told me to help
25 kick the door. He said for three people to kick the

George Darnell - Direct Examination by Ms. Morgan

1 door and one run in the house.

2 So I went on the porch with them and stood there
3 while Fred opened the screen door and lock it so it
4 would stay opened. Then Tivoe said that we would all
5 kick the door when he counted to three. He counted to
6 three and we all kicked the door, but it didn't come
7 open, so we kicked it two more times and it did break
8 open. Fred was the first one in the house and he
9 started yelling, Police, get down on the floor. We ran
10 toward the back of the house and grabbed a come and
11 threw her on the floor.

12 Tivoe and the other guy ran in behind Fred and
13 told me to come on. I hesitated and Tivoe grabbed my
14 arm and pulled me into the house. He said to go with
15 Fred in the back of the house and that's when the lady
16 was trying to use the phone and Fred took the phone
17 from her and threw it. The other two guys had grabbed
18 a guy and brought him to a bedroom in the back of the
19 house where the other two people were. Then they
20 started going through the house and asking the guy
21 where was his safe and money. The guy kept saying he
22 didn't have no money. They threw the guy and the woman
23 on the floor and told them, told him he better give up
24 the money or they was going the kill his wife. He kept
25 saying he didn't have no money, didn't know what he was

George Darnell - Direct Examination by Ms. Morgan

1 talking about and Tivoe came back from the other room
2 and told them to all get face down on the floor. He
3 grabbed the man on the bed and threw him on the floor
4 and told his wife he was going to shoot him in the head
5 and she said that they didn't have a safe and they keep
6 the money in the bank.

7 That's when they told me that my cousin was
8 lying they was going to shoot me. The man said he
9 didn't want to die. That's when Fred hit the other guy
10 in his face with his gun. He told me to get out of the
11 house and look in the truck for some money. He gave us
12 some keys and told us to go, so I got out of the house
13 and looked for the truck. I saw a red truck so I
14 opened the door and started looking in the truck for
15 something then Tivoe ran out the house and told me that
16 I was looking in the wrong truck that the other truck
17 was the one with the money in it.

18 So I got out of the truck and ran over to
19 another red truck where Tivoe was looking for the
20 money. I opened the passenger door and started to look
21 around and that's when he said he had found some money
22 in a brown bag and he said that he was going the take
23 the truck with him so he could get the car and come
24 down there. But when I was leaving to get the car,
25 Fred called Tivoe and said to hold on for a minute. So

George Darnell - Direct Examination by Ms. Morgan

1 I stood by the porch and waited until they came out and
2 the other guy ran to one truck and got in and he drove
3 off down the road.

4 Then Tivoe and Fred went back in the house and
5 came out and went to the other truck and told me to get
6 in the car and follow them. I ran and got the car and
7 followed them down the road until the stop sign where
8 they was asking which way to go. They yelled for me to
9 lead the way. So I took off and they followed me down
10 the road. I pulled over when we got out of town and
11 asked them where we was going. They said they needed
12 to go and get rid of the trucks and they wanted me to
13 show them where to go. So we drove until I saw a dirt
14 road that I knowed so we turned down there and drove
15 down it for a little while until we couldn't see no
16 lights and I stopped the car.

17 Then they got out of the trucks and said they
18 were going to check them again to see if they could
19 find anything else that they might have left in the
20 trucks. They took the money out of the one truck and
21 took the rear speakers and amplifier out of the other
22 truck then think jumped in the car and told me to get
23 in the back and asked me how to get out of there. We
24 then was on our way back to Columbia when he opened the
25 bag of money and started to count it out. He turned

George Darnell - Direct Examination by Ms. Morgan

1 toward me and said that there was only a couple of
2 hundred dollars in the bag and that he done came down
3 and did it for nothing. So everyone was mad about the
4 money and started arguing about it. We eventually got
5 back to Columbia and I told them that I was ready to go
6 back home and when we got back to my house, they said
7 that since there wasn't any money hardly to split that
8 they would give me some jewelry and the speakers and
9 amps.

10 So I took them and went into my house and I
11 stayed there for a minute and waited on them to leave.
12 And then I walked to the park so I could clear my head
13 and ask for my forgiveness. Then I went back home and
14 went to sleep.

15 All four pages are signed by James Allen
16 Gunnells.

17 (WHEREUPON there was a bench conference out of
18 the hearing of the jury and the court reporter.)

19 By Ms. Morgan:

20 Q Agent Darnell, you got the statement from him, did you
21 also obtain later, obtain additional warrants on him?

22 A Yes, ma'am, we did.

23 Q Okay. And you did not actually collect the ties and
24 the belts from the crime scene, did you?

25 A No, ma'am, I didn't.

George Darnell - Cross-Examination by Mr. Wilson

1 Q But you had them returned to you eventually?

2 A Yes, ma'am.

3 Q Okay. And the various -- you had more clothing than
4 are held in my hands, the cammy, the bandanna, the
5 shorts and the shoes, there was more?

6 A Yes, ma'am, there were some other clothing.

7 Q But these are the ones identified relative to this?

8 A Yes, ma'am.

9 Q All right. Tell me about the shoes. When you obtained
10 them what did you do with them?

11 A I turned them over to Michael Squire who was the
12 forensic agent that came down and worked the scene.

13 Q Okay. And -- for testing?

14 A Yes, ma'am.

15 Q Because you were present when they did the crime scene?

16 A Yes, ma'am.

17 Q And were you aware that there were prints or lifts that
18 they were ---

19 A Yes, I was aware of that and they were Shaq shoes and
20 everything matched up, so I turned them over to him for
21 his analysis.

22 Q Okay. Answer any questions Mr. Wilson may have for
23 you.

24 THE COURT: Cross-examination.

25 MR. WILSON: Thank you, Your Honor.

George Darnell - Cross-Examination by Mr. Wilson

CROSS-EXAMINATION

By Mr. Wilson:

Q Agent Darnell, Mr. Gunnells was arrested June 4th, 2003?

A Yes, sir.

Q Okay. And you obtained these items when Mr. Gunnells was arrested. I believe your testimony was that after Mr. Gunnells was arrested and ya'll had taken him down in Columbia, you then put him aside and got Ms. Brooks to sign a consent for you to search her apartment?

A He went in the apartment with us.

Q Okay. She signed the consent, it was her apartment?

A Yes.

Q Okay. And you went in and searched her apartment. Took him inside with you or didn't, it doesn't matter?

A Yes, right.

Q And you went inside her apartment. And you obtained a bunch of items out of her apartment. I think you said it was a case or a box or carrier or something?

A Plastic container that appeared to have already been packed up.

Q Okay. And that was done on June 4th, 2003?

A Yes.

Q And then you brought those items on back to Bamberg when you brought Mr. Gunnells back to Bamberg?

George Darnell - Cross-Examination by Mr. Wilson

1 A Yes, I did.

2 Q Okay. It wasn't until August 11th, 2003 that you
3 showed those items to Mr. Halman Sease and asked them
4 to go through them to see if he recognized anything?

5 A It was a while.

6 Q Okay. Well, I think there was some testimony that it
7 was August 11 when you showed it to him and asked them
8 to go through it. You got anything that disputes that?

9 A No, sir, not right offhand I don't.

10 Q Okay. And you had Mr. Halman Sease go through those
11 items and see if he recognized anything and we at least
12 know that he recognized the hat that's on State's 33,
13 the bandanna, which is State's's 32, the pants that are
14 State's 31; is that correct?

15 A Yes, sir.

16 Q Okay. And I think he told you that the hat was his hat
17 or at least something that looked like his hat?

18 A It looked like his hat he had been given for Christmas.

19 Q And the pants and bandanna looked like the clothes that
20 he says the person that was in the bedroom was wearing?

21 A Yes, yes, sir.

22 Q Okay. And that wasn't done until August 11, 2003,
23 somewhere thereabouts?

24 A Somewhere in there.

25 Q Okay. And at the time you went to Mr. Sease and showed

George Darnell - Cross-Examination by Mr. Wilson

1 him this bag of things and asked him to identify it,
2 you told him that that stuff had been removed from
3 James Gunnells' apartment? The apartment James
4 Gunnells was staying at or where you thought James
5 Gunnells was staying?

6 A I had Mr. Sease and Mr. Sutton come up to my office in
7 Bamberg. I showed them the plastic container with
8 clothes in it.

9 Q Right.

10 A I asked them to look through those clothes to see if
11 they recognized anything in there.

12 Q Okay.

13 A I didn't tell them where I had gotten the clothes. I
14 told them to look through there and see if they
15 recognized any clothes in there, anything that may
16 belong to them or belonged to anybody that was involved
17 in the home invasion.

18 Q Okay. And so Mr. Sease picked these items out. You
19 then had to tell him where they came from. I mean you
20 told him they came from James Gunnells at some point in
21 time?

22 A Eventually.

23 Q Okay. And that's when you took a statement from
24 Mr. Sease on that same day, August 11, 2003? You took
25 a statement from Mr. Sease wherein he stated that the

George Darnell - Cross-Examination by Mr. Wilson

- 1 person with the red shorts was the -- the red shorts
2 with the red stripes is similar to the white suspect
3 was wearing on the night of the incident. That's when
4 he gave you that information on August 11, 2003?
- 5 A After he looked.
- 6 Q Is that correct?
- 7 A When he said those pants were similar to what the
8 subject was wearing, yes, sir.
- 9 Q And that's when you took a statement from him that the
10 red shorts with the red stripes were similar to the
11 ones that the white suspect wore the night of the
12 incident, ain't that correct? I can show you the
13 statement if you need to see it?
- 14 A I'd rather look at it.
- 15 Q Okay. You'd rather look at it?
- 16 A Yes, sir.
- 17 Q Okay. I mean among other things that's what he said in
18 that statement on August 11, 2003, right?
- 19 A Right.
- 20 Q Okay.
- 21 A And he wrote the statement and then he identified the
22 camouflage hat.
- 23 Q Okay.
- 24 A I take that back, Mr. Wilson. I think his youngest
25 daughter, Christy wrote it out for him and he read it

George Darnell - Cross-Examination by Mr. Wilson

1 and signed it because he left his glasses or something.

2 Q Okay. But that's the day you got that information?

3 A Yes, sir.

4 Q Okay. Now, Agent Darnell, this incident happened on a
5 Monday, late night, early Tuesday morning, May 5th, May
6 6th?

7 A Yes, sir.

8 Q Okay. And you were called out I think you said about
9 12:12 on May 6th?

10 A Shortly after then, twenty, twenty-one after midnight.

11 Q Okay. All right. And so obviously you went to the
12 scene?

13 A Yes, sir.

14 Q You knew the incident, you knew what you were able to
15 discover there upon your initial investigation?

16 A Yes, sir.

17 Q Okay. And I think you said it was sometime the next
18 day or sometime that night that you'd gotten some
19 information from Mr. Sease that he thought the person
20 was or looked like Debra Meyers' nephew? It was that
21 same night, I think you said?

22 A Yes, sir, he did mention it.

23 Q Okay. And you had that information that night and I
24 think you indicated you made contact with Ms. Meyers
25 the next day?

George Darnell - Cross-Examination by Mr. Wilson

1 A She talked with Mr. Halman and it was after midnight so
2 I had to sort of keep the days apart, but she had
3 talked with him later on up into that morning and then
4 we talked to her the following day.

5 Q You're right. I think you said it was May 7th ---

6 A Yes.

7 Q --- before you ultimately talked to Ms. Meyers?

8 A Yes, sir.

9 Q Okay. And so you talked with Ms. Meyers on the 7th,
10 and she gave you this information about her nephew,
11 James Gunnells?

12 A Yes, sir.

13 Q All right. And it was not until a month later that you
14 obtained an arrest warrant for Mr. Gunnells for
15 burglary first?

16 A Somewhere around in there, yes, sir.

17 Q Okay. And I think you testified that ya'll were
18 involved in a trial in federal court at this time, but
19 you were, you were working this case around outside and
20 in your time outside that federal court trial?

21 A That's correct.

22 Q Okay. Agent Darnell, I want -- so the jury is familiar
23 with a process, when a person is placed under arrest --
24 let me ask you this, when ya'll had this arrest warrant
25 for Mr. Gunnells and you and Agent Carroll made contact

George Darnell - Cross-Examination by Mr. Wilson

1 with Agent McDermott in the Richland County Sheriff's
2 Office in Columbia, I assume that that many people were
3 involved that ya'll might have felt like Mr. Gunnells
4 might be dangerous? I mean you had him charged with
5 burglary first. He was alleged to have been involved
6 in a home invasion. You would expect it or been
7 prepared that he was dangerous?

8 A We tried to be prepared.

9 Q I mean the nature of the crime that he was charged
10 with, that would have led you to believe there might be
11 some reason to think when ya'll went up to find him and
12 arrest him that there might be some danger to it.

13 A That was part of the it. The other two reasons -- you
14 know, we got one of our agents out of the Midlands area
15 because he's more familiar with that area. He works
16 that area and we don't.

17 Q Okay.

18 A The other reason for getting the Richland County Deputy
19 was because we were going to be within their
20 jurisdiction and out of respect to them, notify them
21 and if they want to send a deputy along with us, we
22 appreciate it.

23 Q So you went on out and you found Mr. Gunnells and you
24 arrested him?

25 A Yes, sir.

George Darnell - Cross-Examination by Mr. Wilson

1 Q And I think the words the solicitor used were you took
2 him down? Fair enough?

3 A Fair enough.

4 Q Okay. And at one point in time you had your guns
5 pulled?

6 A We did until we got the vehicle stopped, got him out of
7 the vehicle and made sure everything was secure.

8 Q Okay. And then you arrested Mr. Gunnells, told him he
9 was placed under arrest?

10 A Yes, sir, we did.

11 Q And isn't it common practice in law enforcement when a
12 person is placed under arrest that they be searched
13 incident to that arrest? You search them to see if
14 they've got any weapons or ---

15 A We patted him down for weapons.

16 Q Okay. And then generally you go ahead and search that
17 person incident to arrest to see what else they might
18 have on them. I mean the first thing you're looking
19 for is to make sure they don't have weapons or guns to
20 make sure you're safe?

21 A All we were after right then was the weapons. He did
22 have some money and stuff on him but that we didn't
23 want to take possession of. He was handcuffed with the
24 black box, there was no way he could remove anything
25 from his pocket, remove, to do away with anything.

George Darnell - Cross-Examination by Mr. Wilson

1 Q Okay. So you searched him for weapons and you searched
2 him enough to find out he had some money in his pocket?

3 A Yes, sir.

4 Q And is your testimony to this jury that in that search,
5 you didn't discover anything about this pawn ticket?

6 You didn't find the pawn ticket on the search. You
7 searched him enough to know to find money in his pocket
8 but not this pawn ticket, is that your testimony?

9 A Patted him down for weapons and anything else we felt
10 we pulled it out if it was paper we stuffed it back.

11 Q Okay. But you searched him enough to see that he had
12 money in his pocket?

13 A I seen green money. I didn't know how much he had, but
14 yeah, I seen the money and I put it back.

15 Q Okay. And you searched him enough to see that he had
16 paper in his pocket?

17 A Yeah.

18 Q Okay. And it's your testimony that you didn't find
19 this pawn receipt upon that search. You didn't find
20 the pawn receipt until after you got back to Bamberg
21 and he made the statement to you, well I might as well
22 give you the pawn receipt. That's your testimony?

23 A He gave it back to us. He gave it to us, yes, sir.

24 Q Okay. So your testimony is you didn't find it on your
25 search incident to arrest?

George Darnell - Cross-Examination by Mr. Wilson

- 1 A That is my testimony. I didn't look for it.
- 2 Q Okay. But when you searched him you looked for what he
- 3 had in his pockets, didn't you?
- 4 A I was looking for weapons.
- 5 Q Okay. Well you looked hard enough to find out he had
- 6 money and papers didn't you?
- 7 A I was looking for weapons. He couldn't hurt me with a
- 8 \$20 bill or \$50 bill. I was looking for weapons.
- 9 Q You looked hard enough to find out he had money and
- 10 papers, didn't you?
- 11 A I didn't search through his papers at that time.
- 12 Q Okay. And your testimony ---
- 13 A It was getting close to dark. We were in one of the
- 14 apartments up there. We wanted to get through and get
- 15 on out of there.
- 16 Q That's your testimony now?
- 17 A That's my testimony.
- 18 Q Okay. And so you got back to Bamberg and that's when
- 19 you say that you took him inside your office and you
- 20 had laid out the speakers and the boxes that are showed
- 21 here in Exhibit 15 inside your office; isn't that
- 22 correct?
- 23 A They were sitting on the floor of my office.
- 24 Q You had put them in your office so that they could be
- 25 seen very easily when somebody walked in the door,

George Darnell - Cross-Examination by Mr. Wilson

1 hadn't you?

2 A Yes, I did.

3 Q Okay. And you did that because you knew Mr. Gunnells
4 was going to be coming through your door and would see
5 these items?

6 A Basically, yes, sir.

7 Q And you knew that may very well elicit a response from
8 him; isn't that true?

9 A I wanted him to know we had them.

10 Q Okay. And that's when you say he walked in and made
11 that statement of ---

12 A Exactly.

13 Q --- oh, blank, you got me?

14 A Yeah.

15 Q And then he said, I might as well give you this
16 receipt, and then just went ahead and turned the
17 original pawn receipt over to you?

18 A He did.

19 Q Okay. Now, you arrested him in Columbia sometime
20 around about 5 o'clock in that evening?

21 A It had to be after 5:00 because like I told you
22 yesterday, we went to two different magistrate's
23 offices. They had already left for the day. We got to
24 headquarters, called ahead to Judge Goldie Augustus and
25 he agreed to wait on us to get there.

George Darnell - Cross-Examination by Mr. Wilson

1 Q You don't recall that in your testimony yesterday was
2 that ya'll arrested him somewhere around about 4:00 and
3 then when I asked you about it further, you said well
4 it might have been closer to 5:00?

5 A We were guessing at it. When I sat down last night and
6 thought about it, Mr. Wilson, my -- and I told you
7 earlier, that we went to three different magistrate's
8 offices and like I told you, we were steady on the spin
9 that day.

10 Q So yesterday it was four maybe five, today it's after
11 five?

12 A We'll say around five, either before or after. But I'd
13 say more after five.

14 Q I'm just trying to get a time you'll stick too.

15 A I wasn't looking at my watch.

16 Q Okay. So it's fair enough you're going to say today
17 you arrested him about 5 o'clock; is that fair?

18 A Somewhere around five I would say, yes, sir.

19 Q Okay. And then you went ahead and took him down, got
20 him cuffed and went on and finished the search, or did
21 the search of Ms. Brooks' home and that's when you got
22 that plastic container?

23 A That's correct.

24 Q Okay. You took off and headed on back to Bamberg?

25 A Yes, sir.

George Darnell - Cross-Examination by Mr. Wilson

1 Q Takes about an hour, fifteen minutes to get back to
2 Bamberg?

3 A Probably so, yes, sir. Hour and 15, around there.

4 Q You agree with me you got back the Bamberg somewhere
5 around 7 o'clock in the evening?

6 A 7 o'clock, shortly after.

7 Q Okay. And then it's your testimony is that
8 Mr. Gunnells signed this advisement form of his rights
9 at -- well the top part says 7:37 and the bottom part
10 says 7:40?

11 A Both parts indicate the finishing of it, yes, sir.

12 Q Okay. So you started at 7:37 and went through it in
13 three minutes. He signed it at 7:40?

14 A Yes, sir.

15 Q Okay. And it's dated -- you got it scratched out. It
16 was dated May 4th and you scratched out June 4, just an
17 error and you corrected it?

18 A I was one month off. And I drew a line through it and
19 put June up here with my name beside it and he
20 acknowledged it along with Agent Carroll.

21 Q I understand that. I understand. And so he completed
22 that at 7:40?

23 A Yes, sir.

24 Q Okay. And I believe your testimony to Ms. Morgan 's
25 questions was that Mr. Gunnells said he was hungry?

George Darnell - Cross-Examination by Mr. Wilson

- 1 A Yes.
- 2 Q And that he wanted to get a bite to eat and ya'll
- 3 offered to call the jail and he said he didn't want
- 4 anything from there?
- 5 A Right.
- 6 Q And you told him you didn't have any money to buy
- 7 anything and he told you he had some money, could
- 8 somebody go to Hardees; and Deputy Hill went to
- 9 Hardees?
- 10 A Yes, sir.
- 11 Q Okay. And I think you told me yesterday, you don't
- 12 recall whether Deputy Hill went to Hardees before or
- 13 after that rights form was signed?
- 14 A I'm not positive.
- 15 Q Okay. And you -- it took Deputy Hill about ten minutes
- 16 at Hardees to get something to eat and come back? Ten
- 17 to fifteen minutes.
- 18 A Probably at the maximum.
- 19 Q You let Mr. Gunnells eat that \$6 burger and fries?
- 20 A It took him a while.
- 21 Q Fifteen, twenty minutes to eat?
- 22 A Yes, sir.
- 23 Q You wouldn't let him dilly-dally around and take all
- 24 night to eat?
- 25 A Like I told you yesterday, Mr. Wilson, we wasn't

George Darnell - Cross-Examination by Mr. Wilson

1 rushing.

2 Q Okay.

3 A We was trying to keep him relaxed and, you know, he
4 told us he was going to give us a statement, you know,
5 we wouldn't want to do anything to upset him, get him
6 teed off with us at that point.

7 Q I got you. So you went ahead and let him finish eating
8 and then he started writing?

9 A We talked with him briefly. He give us a little brief
10 synopsis. He started writing.

11 Q Briefly is five minutes?

12 A Mr. Wilson, I don't watch my watch.

13 Q Well, I just want to know what you consider to be
14 briefly. You talked with him?

15 A Five minutes, ten minutes.

16 Q Okay. I'm not holding you to the exact minute but you
17 consider brief five or ten minutes?

18 A Something like that.

19 Q Okay. And then he starts talking to you briefly for
20 five or ten minutes and then he started writing?

21 A Yes, sir.

22 Q Okay. And he wrote pretty steady through those four
23 pages?

24 A He'd write a while, he'd cry a while, he'd run his
25 mouth a while and he kept crying about ---

George Darnell - Cross-Examination by Mr. Wilson

1 Q And you said he stopped to take a smoke every once in a
2 while?

3 A He smoked cigarettes while he was writing and he
4 kept -- he broke down and would go to crying talking
5 about how he had screwed his life up and then he'd go
6 back to writing.

7 Q Okay. And that statement was completed at 11:42?

8 A 11:42.

9 Q You recall yesterday when we went over that statement,
10 you testified that he wrote pretty steady in that
11 statement, he worked his way through it?

12 A He was writing at it.

13 Q Okay.

14 A Yes, sir. He'd stop every now and then and take a
15 break, shake his hand and run his mouth and like I say
16 he kept wanting to cry.

17 Q And you'll agree with me that if you took the goods
18 over there and -- he went over and got the food before
19 he signed that advisement right that one that was
20 signed at 7:40, that's State's Exhibit No. 19, I
21 believe it is -- 29, excuse me; that if you got him fed
22 before that, then ya'll started taking his statement
23 from him somewhere around about 7:40. Fair enough?
24 That's what time he signed the statement?

25 A That's when he signed the rights form.

George Darnell - Cross-Examination by Mr. Wilson

1 Q I'm sorry. If you fed him beforehand ---

2 A But even with that, Mr. Wilson, he'd been advised of
3 his rights twice that afternoon.

4 Q That's not my question. My question is if you fed him
5 beforehand, before he signed that advisement right and
6 he started on that statement shortly after 7:40 p.m.,
7 isn't that correct?

8 A Sometime shortly after that. I'm not -- like I say I
9 wasn't watching my watch.

10 Q I understand. And if you fed him after that advisement
11 right, that advisement form was signed, then he would
12 have started writing that statement sometime shortly
13 after about 8 o'clock or so. Fair enough? Give him
14 some time to get his food, fifteen to twenty minutes to
15 let him eat?

16 A You want me to guess, Mr. Wilson? I'm not sure.

17 Q Agent Darnell, I'm just asking you as the investigating
18 officer that was obtaining the statement from the
19 defendant what the circumstances were surrounding the
20 statement and when he started writing?

21 A I told you he was laughing, talking, crying, you know.
22 And I didn't time him to see how long he was crying,
23 how long he was laughing.

24 Q So you don't have any recollection, any idea when he
25 started writing that statement?

George Darnell - Cross-Examination by Mr. Wilson

1 A Not exact time, no, sir, I don't.

2 Q Can you give me your best estimate of when he started
3 writing that statement?

4 A No, sir, if I give you my best estimate, I might tell
5 you a story and I'm not a story teller.

6 Q Okay. That's fair enough. So there's no question that
7 statement wasn't completed until 11:42 in the evening?

8 A No questioning it was completed at 11:42 p.m.

9 Q Because that's on the bottom of the statement, isn't
10 it? Somewhere on the statement?

11 A Yes, sir.

12 Q Place and time?

13 A Completion time.

14 Q Yes, sir. That's all the questions I have. Thank you
15 Agent Darnell.

16 THE COURT: Redirect?

17 MS. MORGAN: No, Your Honor.

18 THE COURT: You may step down. All right, sir.

19 Madame Forelady and ladies and gentlemen of the
20 jury, we're going to take a little break -- we're going to
21 break at this time, it's 515. Be back in the jury room at
22 9:30 in the morning. We'll get started at that time.

23 Now, before you go, please don't discuss the
24 case with anyone else. Not among yourselves, with your
25 husband, your wife, your girlfriend, boyfriend, or anyone

1 else. They haven't heard the testimony, they don't know
2 what's transpired. I want you to hear all the testimony
3 and make a decision on what you hear in the courtroom. So
4 please don't discuss the case. We'll see you in the
5 morning.

6 (WHEREUPON the jury left the courtroom at 5:14
7 p.m.)

8 THE COURT: All right. We'll just wait a few
9 minutes to let to give the jury a chance to get out of the
10 courthouse and then we'll adjourn. Is there anything
11 before we adjourn?

12 MR. WILSON: Nothing from the defense, Your
13 Honor.

14 THE COURT: How many witnesses do you think
15 you'll have?

16 MS. MORGAN: One, possibly two, Judge. I don't
17 anticipate taking too much longer.

18 THE COURT: Okay. All right.

19 MS. MORGAN: Do you need ---

20 THE COURT: How long do you think it will take
21 them to get out?

22 THE BAILIFF: I can go see and come back and
23 let you know.

24 THE COURT: Yes, please.

25 (WHEREUPON the bailiff left the courtroom to

1 see that the jury was leaving the courthouse.)

2 MS. MORGAN: Judge, do you want to talk about
3 charging on anything while we're here?

4 THE COURT: We can if you want. If ya'll got
5 any recommendations.

6 MR. WILSON: Judge, the only thing I'm going to
7 ask for and if you've got a charge that you use as an
8 eyewitness identification charge if you've got one that you
9 generally use? I'd look at it and I'm sure it would
10 probably be fine. I have the case -- I haven't written the
11 charge up, but that's the only thing I'm going the ask
12 specifically for.

13 THE COURT: What now?

14 MR. WILSON: Just the eyewitness identification
15 law.

16 THE COURT: Do you have one you want?

17 MR. WILSON: I have it, Your Honor.

18 THE COURT: Where is it?

19 MR. WILSON: I've got the language marked, it's
20 the language out of this Cheeseboro case. I will give you
21 the language and I will have it all typed up nice and neat
22 in the morning.

23 THE COURT: Okay. Solicitor, you have
24 anything?

25 MS. MORGAN: Judge, Mr. Gibbons and I were

1 talking about it, other than the hand of one is the hand of
2 all general charge, there's nothing specific. I think it's
3 going to be plenty given the charges. We can bring one in
4 the morning.

5 THE COURT: You can bring one and I can compare
6 it to what I have.

7 MR. WILSON: You want me to have that?

8 THE COURT: I've got one, but I'll be happy to
9 look at yours.

10 MR. WILSON: I will get that for you.

11 MS. MORGAN: That's fine. I was just trying to
12 think through it sometime before we get in the middle of
13 changing things.

14 THE COURT: Well, before we go to closing
15 arguments, what I will do --- we don't need this on the
16 record.

17 (WHEREUPON there was further discussion on the
18 jury charge and then court was adjourned until the
19 following morning.)

20 THE COURT: Anything from the State before we
21 bring the jury out?

22 MS. MORGAN: Yes, sir, just, we've got some
23 evidence that by consent has been agreed to two more
24 photographic ---

25 THE COURT: 37 and 38?

Michael Squire - Direct Examination by Ms. Morgan

1 MS. MORGAN: Yes, sir.

2 THE COURT: Shoes and prints?

3 MS. MORGAN: Yes, sir, shoes and print. It's
4 the shoe print in the sand and it's relative location to
5 the house and then it's the footprints on the -- kick
6 prints on the door.

7 THE COURT: All right. Mr. Wilson, do you have
8 any objection?

9 MR. WILSON: None, Your Honor.

10 THE COURT: --- to State's exhibit 37 and 38?

11 MR. WILSON: None.

12 THE COURT: All right. Anything from the
13 defendant before we bring the jury out?

14 MR. WILSON: Nothing, Your Honor.

15 THE COURT: Will you bring us the jury, please.

16 THE BAILIFF: Yes, sir.

17 (WHEREUPON the jury entered the courtroom at
18 10:24 a.m.)

19 THE COURT: Solicitor, you want to call your
20 next witness?

21 MS. MORGAN: Yes, the State would call Michael
22 Squire to the stand.

23 THEREUPON,

24 MICHAEL SQUIRE,

25 after being duly sworn, testified as follows:

Michael Squire - Direct Examination by Ms. Morgan

DIRECT EXAMINATION

By Ms. Morgan:

Q Agent Squire will you state your full name for the record, please, sir?

A Agent Michael Squire.

Q And you work with whom, sir?

A South Carolina Law Enforcement Division, commonly known as SLED.

Q And what is your job duty at SLED?

A I'm in the latent print crime scene area.

Q All right. And tell the ladies and gentlemen of the jury what does that mean?

A Latent print crime scene unit, we look at your fingerprints, we go out and do your crime scenes, document those type situations.

Q Okay. And how long have you been doing that?

A About four years now.

Q And when you say you do crime scene, you do crime scenes in a particular area?

A The whole state.

Q All right. What does that -- how do you get to do the whole state?

A Being SLED, it is a state agency, we respond on an as needed basis. Agencies such as Bamberg and whatever call us and we come out to assist them.

Michael Squire - Direct Examination by Ms. Morgan

- 1 Q And you assist them in crime scene processing?
- 2 A Yes, ma'am.
- 3 Q And evidence collection?
- 4 A Yes, ma'am.
- 5 Q All right. That's one role?
- 6 A Yes, ma'am.
- 7 Q And does that mean you get called at any hour?
- 8 A Any time the phone rings, usually you call, we haul.
- 9 Q You got to go?
- 10 A Yes, ma'am.
- 11 Q Okay. And latent prints, tell me some of your training
- 12 in latent prints and a little bit about what that
- 13 involves?
- 14 A Well, latent prints, I've attended several courses at
- 15 the South Carolina Criminal Justice Academy which would
- 16 include basic fingerprinting, photography, I've also
- 17 completed Ann in-house training program that took along
- 18 the lines of two years to complete and also in that
- 19 in-house training, we cover footwear, bloodstains and
- 20 things of that nature.
- 21 Q Okay. And have you been qualified in the courts of
- 22 this state to give your expert opinion in the area of
- 23 latent prints, footwear impressions and that category
- 24 type of forensics?
- 25 A Yes, ma'am.

Michael Squire - Direct Examination by Ms. Morgan

1 Q All right.

2 MS. MORGAN: Your Honor, we would move that he
3 be qualified as an expert.

4 MR. WILSON: No objection, Your Honor.

5 THE COURT: The Court so finds.

6 MS. MORGAN: All right. Thank you.

7 By Ms. Morgan:

8 Q All right. Agent Squire, when you're on call -- were
9 you on call back on May 5th, May 6th, 2003?

10 A Yes, ma'am.

11 Q All right. When did you get your call?

12 A About 12:05.

13 Q And 12:05, where do you ---

14 A 12:05 a.m. it had just turned 5/6/03.

15 Q Just turned into 5/6?

16 A Yes, ma'am.

17 Q That's okay. And where do you come from? Where do you
18 have to go?

19 A Me and my partner or whoever is riding with me, we
20 usually meet up at headquarters and then proceed to
21 where the call is. Headquarters would be in Columbia.

22 Q Yes, sir. So where did you get the call out to go back
23 on May 6th, after midnight?

24 A Here in Bamberg County.

25 Q Okay. And how long did it take you to get to Bamberg?

Michael Squire - Direct Examination by Ms. Morgan

1 A Roughly two hours. We arrived on the scene about 2:00
2 a.m. that morning.

3 Q Okay. Tell me what you do when you get there?

4 A When we first get on the scene, we usually like to sit
5 down with the local investigators to find out, get a
6 feel of what's going on and what they would like for us
7 to do and just take a brief run through of what's
8 taking place.

9 Q All right. And do they point out different things?

10 A Yes, they usually point out what they've seen just
11 before we've gotten there. And like I say, we'll go in
12 and we'll do a walk through and we'll show them some
13 things that we might observe during that initial walk
14 through.

15 Q Okay. And what about preserving the crime scene? You
16 find out what the status of the crime scene is?

17 A Right. Usually when we're there, crime scene tape is
18 put up to make sure that the scene is secure and we
19 don't want any passers by just to walk through the
20 crime scene or just picking up any of the evidence.

21 Q All right. So tell me on that early morning on May
22 6th, 2003, what did you find and what were areas of
23 interest for you as a crime scene investigator?

24 A The areas of interest to us was the front door of the
25 house. That was the point of entry for the suspects in

Michael Squire - Direct Examination by Ms. Morgan

1 this particular case. Also, the rooms in the house --
2 there were several rooms in the house that were
3 rummaged through, drawers pulled open, things of that
4 nature, closet doors.

5 Q Yes, sir.

6 A Also the place where there were two trucks taken, that
7 area was a sandy area and we knew that we probably
8 could obtain footwear from that location.

9 Q Okay. So what do you do when you've got these areas of
10 interest, what do you do next?

11 A You go in and you concentrate on these areas and
12 process them to hopefully find your evidence in that
13 particular case.

14 Q Okay. And are you processing for every kind of
15 evidence or just your area of expertise?

16 A Everything, because we have the task to collect any
17 type of evidence that would be useful for SLED or for
18 any agency in that particular case.

19 Q All right. So tell me what you did.

20 A In this particular case, the first area that we worked
21 on was outside where the trucks were which would have
22 been where the casting took place. We always do
23 casting and footwear outside first just in case rain
24 comes and it won't wash away the evidence.

25 Q Okay. And so tell me -- when you say casting can you

Michael Squire - Direct Examination by Ms. Morgan

1 explain to the jury what that means?

2 A Casting has gone a long way since back in the day -- I
3 think most folks would think of it as plaster of paris.
4 That's not what we use nowadays. Nowadays we use
5 dental stone.

6 Q You use what?

7 A We use dental stone.

8 Q Okay.

9 A It's the same material they use to make dentures and
10 things of that nature.

11 Q Okay. So your first area of concern was some sandy
12 area?

13 A Yes, ma'am.

14 Q And tell me what you do?

15 A You go out and you observe it, you photograph it, scale
16 it, which is to put your rulers up so you can blow the
17 pictures up later on if necessary.

18 Q You want to come down here and show them? Let's talk
19 about the castings that you did that evening. And can
20 you -- State's 17 and 37, if you'd just tell the jury
21 about these and reference these numbers.

22 A What we have in this picture here would be an overall
23 shot of the general area that we're going to
24 concentrate on. The next picture, you can see the one
25 and two there; one and two indicate the two footwear

Michael Squire - Direct Examination by Ms. Morgan

1 impressions that we located in that particular area.

2 The one that we have here on this board would be the
3 same footwear that we located on the front door of the
4 house.

5 Q All right. Could you just -- from the markings, can
6 you tell some indication of what kind of footwear it
7 is?

8 A Right. Just looking at it there, we knew right here in
9 the dirt, we can't tell exactly the wording on it, but
10 we knew that it was the same type of footwear that we
11 were dealing with on the front door of this home. This
12 was going to be the pattern type that we were looking
13 at.

14 Q Okay. Now, that's just the pictures of it with the --
15 some kind of ruler tape or something? What's that?

16 A Right. The ruler is only there so that later on we can
17 blow our pictures up so we can get a better look at
18 them. It brings it up one-to-one.

19 Q Okay. So tell me, you photographed them.

20 A Yes, ma'am. Photograph them and then cast.

21 Q All right. So tell me what it means when you cast.
22 You've got that loose dirt with the ---

23 A Dental stone. You take the dental stone and mix it
24 with water. You don't have a short time period to pour
25 it over your impression there and it hardens up. We

Michael Squire - Direct Examination by Ms. Morgan

1 let it stay there usually until we're getting ready to
2 leave to make sure that it dries out enough. We mark
3 it and then collect it.

4 Q Okay. And did you do that that night?

5 A Yes, ma'am.

6 Q And how many dental stone casts did you do that night?

7 A Two.

8 Q Okay. And those are marked in reference to State's 37
9 as 1 and 2.

10 A Yes, ma'am.

11 Q All right. So you've got two casts.

12 A Yes, ma'am.

13 Q And tell me what you're doing in regards to the door?

14 A The door, looking at the door, the process that we took
15 to do the door would be that of putting black powder,
16 which is the same powder that we would apply or would
17 apply when looking for fingerprints.

18 Q Could you tell anything before you applied the black
19 powder?

20 A Yes, ma'am. Looking at the door beforehand, you could
21 see the subjects walked across the grass and picked up
22 residue or grass or moisture on their shoes, so when
23 they kicked that door, it left that impression on the
24 door.

25 Q And -- go ahead?

Michael Squire - Direct Examination by Ms. Morgan

1 A But to further enhance that impression that we were
2 seeing, we applied the black powder, which then brought
3 it out.

4 Q Okay.

5 A Made it contrast so that we could see it.

6 Q All right. I will show you State's 25.

7 A That would be the front door.

8 Q All right. And that -- what's those lines on it?

9 A That, again is scale tape so that when these pictures
10 get blown up, we can get an accurate one-to-one.

11 Q And is there any of that powder on there yet?

12 A No, ma'am, the powder is not on there yet.

13 Q Okay. All right. But visually did you know where to
14 put the tape?

15 A Right.

16 Q Okay. All right. So you've got it taped, then what do
17 you do?

18 A Once you get it taped and get it photographed, we take
19 several different shots to make sure we have it
20 documented and then we go on with the processing.

21 Q Okay. Tell me how you processed.

22 A The processing like I said at this time would be the
23 black powder. We just take a brush and dip it in the
24 powder and then rub it lightly on the door and the
25 image starts to enhance.

Michael Squire - Direct Examination by Ms. Morgan

1 Q Okay. You want to come down and show us. We saw it
2 taped. And if you'd just note which one you're
3 testifying about.

4 A Okay. I'll start off with State's Exhibit 25, which
5 shows the door as it was when we found it. Like I
6 said, you can't see it from the picture, but there is
7 something there when you're standing there looking at
8 the door. State's Exhibit 27 and 26 that I'm going to
9 show you, that's what you get when you apply the black
10 powder to the door, footwear impression. Then what
11 we -- I guess you could say comes to life because you
12 begin to see the details in it. Same thing as 26, it's
13 just a different impression where you apply the powder
14 and you start to see the impression. State's Exhibit
15 38 is going to be a shot of three different kicks on
16 the door and also a picture showing the door.

17 And what he we have here, you're looking at the
18 door. There was a kick on the door, straightforward
19 and then you have someone standing there out the door
20 behind them kicking this way on the door. And we
21 can -- we know we can see that because we can see the
22 handle on the door. The handle on the door is coming
23 this way and this actual impression of the footwear is
24 pointed down so we know that they were standing in
25 front of the door, kicking.

Michael Squire - Direct Examination by Ms. Morgan

1 Q I would call that a back kick?

2 A Yes, ma'am.

3 Q Okay. And could you tell what foot? Left or right?

4 A Right. We could also tell which shoe, the left or
5 right shoe just based on how the shoe is shaped.

6 Q All right. Did you -- how many of those footwear
7 things came to life on that door?

8 A Three.

9 Q All right. And of those three, can you relate them to
10 the -- let me see -- I have ---

11 A This one right here would be right here on the door.

12 Q Okay.

13 A This one would be about here.

14 THE BAILIFF: They can't see over here.

15 MS. MORGAN: Okay.

16 By Ms. Morgan:

17 Q The middle?

18 A Right.

19 Q And that's there -- you're relating the ones you have
20 on State's 38 to 25?

21 A Right. And this one right here would come on this side
22 of the tape.

23 Q Okay. And you indicated one was front kick, two were
24 back kicks?

25 A Right.

Michael Squire - Direct Examination by Ms. Morgan

- 1 Q Can you tell us which one was which?
- 2 A The two on this side would be your back kick and this
- 3 one right here would be your front kick.
- 4 Q Which ones?
- 5 A Right here.
- 6 Q So the two back kicks are the ones closest to the
- 7 handles?
- 8 A Right.
- 9 Q And the front kick, the straight-on kick is the one
- 10 closest to the ---
- 11 A Hinges.
- 12 Q Hinges. And you -- are they visible on State's 24?
- 13 A Yes, ma'am, they are.
- 14 Q Okay. And what's 24 a picture of?
- 15 A 24 is a picture of the door after it's been removed
- 16 from the frame.
- 17 Q All right. You've got this appearing on the door.
- 18 What do you do to compare?
- 19 A The way that we compare it, we photograph it.
- 20 Q You got that tape stuff?
- 21 A Right. We photograph it with the tape and then we
- 22 begin to apply gel lifters.
- 23 Q All right. Tell me what a gel lifter is?
- 24 A Gel lifters are pretty much some sticky type stuff --
- 25 and it's called gelatin because when you look at it,

Michael Squire - Direct Examination by Ms. Morgan

1 you touch it and it kind of wiggles. But it's very
2 adhesive and you apply that to the door, you smooth it
3 out over the impression and then you take it off. That
4 way you're able to collect that evidence and take it
5 back with you.

6 Q All right.

7 A The evidence kind of transfers from the door to the gel
8 lifter.

9 Q Okay. So you've got some casts?

10 A Yes, ma'am.

11 Q Some gel lifts from the door?

12 A Yes, ma'am.

13 Q What other things did you take to process or try to
14 process at the actual crime scene on Ashton Road that
15 night?

16 A While we were there at the house, the investigators
17 told us that when the guys came into the house, someone
18 was on the phone. They snatched the phone from that
19 particular person. That phone server was dusted while
20 we were there. All of the dressers, the entryway into
21 the house, anything that they would have come in
22 contact with making their way into the house or along
23 the walls to the bedrooms were dusted and processed for
24 latents or for fingerprints.

25 Q For who's fingerprints?

Michael Squire - Direct Examination by Ms. Morgan

- 1 A For the subjects' fingerprints.
- 2 Q All right. And with all that dusting, you're talking
- 3 about that black stuff?
- 4 A Yes, ma'am. Black powder.
- 5 Q And did you -- what are the results of ---
- 6 A With the dusting, we didn't find any fingerprints.
- 7 Q Anybody? You didn't find any fingerprints?
- 8 A No, ma'am, we didn't find any fingerprints.
- 9 Q On drawers or walls?
- 10 A No, ma'am.
- 11 Q Not even the victims?
- 12 A Not even the victims?
- 13 Q Tell me about that in terms of a latent print expert?
- 14 A Finding fingerprints, conditions have to be conducive
- 15 for you to leave a print. Fingerprints are comprised
- 16 of moisture, sweat and it's not all the time that
- 17 you're going to leave a fingerprint. It's not
- 18 guaranteed that if you touch the table in front of you
- 19 there you're going to leave a fingerprint there.
- 20 Q All right. So nothing on the walls, the bureau, the
- 21 dressers?
- 22 A That's right.
- 23 Q Did you take any other, collect any or take any items
- 24 with you?
- 25 A Since there was some blood leading in the house, at

Michael Squire - Direct Examination by Ms. Morgan

- 1 that time, we didn't know whether it belonged to the
2 victim or whether it belonged to one of the suspects.
3 There was some ties and some bags in one of the
4 bedrooms that we decided to collect and take back.
5 There was a -- several other items -- there was a price
6 tag from Peebles. There was a red bag, some ties that
7 were taken. We did that, we processed the bag and the
8 paper tag for fingerprints. We didn't find any
9 fingerprints on those; but the ties we took, looking
10 for any blood or things of that nature that would have
11 come from the suspects.
- 12 Q Okay. And the ties and some kind of belt?
- 13 A Yes, ma'am.
- 14 Q And did you -- were you able to get anything to process
15 further on the ties or the belt?
- 16 A No, ma'am.
- 17 Q Okay. And the ties and the belt -- I better identify
18 them -- the ties and the belts?
- 19 A Yes, ma'am.
- 20 Q Identified in State's 34?
- 21 A Right.
- 22 Q Okay. So you took those with you?
- 23 A Yes, ma'am, those went back to ---
- 24 Q Red bag and the other ones you left because you didn't
25 find anything?

Michael Squire - Direct Examination by Ms. Morgan

1 A Right.

2 Q Okay. Any other crime scene stuff that you were doing
3 at the house?

4 A That pretty much concluded ---

5 Q Okay.

6 A --- the crime scene work that we did that day.

7 Q All right. So you've got the gel lifts and the cast
8 impressions. Can you do anything?

9 A Not without shoes.

10 Q Okay. Let me talk to you about that. Did you -- were
11 you able some month or so later to have some Shaq shoes
12 to compare?

13 A Yes, ma'am. On, I can get you the exact date. On
14 6/13/03, I received the white and gray Shaq shoes that
15 you have there in your hand.

16 Q Okay. And tell me when you get shoes, it's State's
17 Exhibit 35. Tell the members of the jury what you do
18 with those shoes in relationship to the dental stone
19 casts and the gel prints from the door?

20 A What we do with the shoes, depending on what type of
21 evidence we've brought back. In this case, we've
22 brought back two types of evidence. One would be the
23 gel lift, one would be the cast. In that particular
24 case, we actually make a cast of this particular shoe
25 in the same way, same process that we did on the scene

Michael Squire - Direct Examination by Ms. Morgan

1 for the impression found in the dirt. We call that a
2 test cast. The red powder that you see applied to the
3 bottom of the shoe is how we make a test impression of
4 the shoes to compare with the gel lift. You want to
5 look at the same type of material when you're looking
6 at your items of evidence.

7 So for the -- like the cast, we did a cast being
8 of the shoe and then we compared those and the gel
9 lifts. We did what we call a transparency where we
10 take these shoes with this red powder and kind of walk
11 them across a clear transparency that can be laid
12 across the photograph that we've taken of that gel
13 lift.

14 Q Okay. So you're kind of making it to see if it will
15 fit?

16 A Right, yes, ma'am.

17 Q Okay. So in regards to those shoes, what did you do?
18 And what were your results?

19 A We did that and I will give you the results.

20 Q If we go first to -- let's go the way we first talked
21 about it. You had the dental stone casts?

22 A Yes, ma'am.

23 Q All right.

24 A One of those casts did not -- was not identified with
25 this particular shoe.

Michael Squire - Direct Examination by Ms. Morgan

1 Q Did you even have to do this?

2 A No, ma'am.

3 Q Why not?

4 A Looking at this shoe and the distinct characteristics
5 in the shoe, we can clearly see that this shoe on the
6 bottom as being Shaq and one of those casts we were
7 dealing with looked like it was a boot footwear.

8 Q Okay.

9 A So there was no need to do a comparison on that
10 particular item.

11 Q Okay.

12 A The next cast that we did, like I said, we could see
13 the Shaq in that particular shoe, so we did a
14 comparison on that.

15 Q All right. And is that the one that you've previously
16 shown to the jury ---

17 A Yes, ma'am.

18 Q --- as State's 37?

19 A Yes, ma'am.

20 Q And that's Cast No. 1?

21 A Yes, ma'am, it is.

22 Q All right. And you compared that cast with these
23 shoes?

24 A Right.

25 Q And what are your results as to that?

Michael Squire - Direct Examination by Ms. Morgan

1 A The results would be what we call footwear class as is
2 the result that was given to that cast.

3 Q Okay.

4 A Footwear class -- what we're saying when we say that,
5 the cast that we collected compared to these shoes
6 would mean, size, shape and design.

7 Q Okay.

8 A That's not saying that ---

9 Q It couldn't be any other shoe?

10 A Right. It's saying that the size of this shoe, not the
11 physical size being a 9 or an 8 or whatever it may be,
12 is the same, but it's saying that this shoe compared to
13 a baby shoe are totally different.

14 Q All right, sir.

15 A This size fit in a long line with the size of the cast
16 we made. The shape of the shoe also, the curvatures in
17 it and also the design in this case it is distinct and
18 the guy holding the ball stood out in this particular
19 case.

20 Q Yes, sir. So your opinion to a reasonable degree of
21 footwear impression expertise is that that dental
22 cast ---

23 MR. WILSON: Objection to her leading, Your
24 Honor ---

25 MS. MORGAN: --- is what?

Michael Squire - Direct Examination by Ms. Morgan

1 THE COURT: Sir?

2 MR. WILSON: I object to her leading.

3 THE COURT: Overruled. Overruled. I think she
4 corrected it right in the end.

5 By Ms. Morgan:

6 Q What's your report say?

7 A The report is saying that this shoe could have made
8 that impression or a shoe similar to this could have
9 made that impression.

10 Q And in that cast, could you tell which -- was it right
11 or left?

12 A Yes. I think it was a right shoe.

13 Q Okay. All right. That's the cast. How about the
14 door?

15 A The door, we did, like I say the same manner, the clear
16 transparencies. We did the comparisons and came up
17 with the same results of footwear class, which applied
18 in the same manner as the cast.

19 Q Okay. Which is -- could you take us -- you said you've
20 got three kicks ---

21 A Yes, ma'am.

22 Q --- on that door?

23 A Right. Two of them being a back kick and one of them
24 being a forward kick.

25 Q All right. You've got forward kick, two back kicks,

Michael Squire - Cross-Examination by Mr. Wilson

1 could you tell which -- was it right or left on the
2 same combined class characteristics of those shoes?

3 A Item 8 would be a right and 9 and 10 would be left.

4 Q All right. And those are the ones you previously
5 talked about?

6 A Yes, ma'am.

7 Q All right. Same characteristics of those shoes?

8 A Yes, ma'am.

9 Q You are not saying you're excluding that pair to all
10 others?

11 A No, ma'am.

12 Q Okay. Thank you.

13 THE COURT: Cross-examination?

14 MR. WILSON: Thank you.

15 **CROSS-EXAMINATION**

16 By Mr. Wilson:

17 Q Is it agent or investigator or what title do I call you
18 by?

19 A Agent.

20 Q Okay. Agent. Okay.

21 A Yes, sir.

22 Q Okay. Agent Squire, I heard you talk about fingerprint
23 analysis. When you were qualified as an expert in
24 latent prints, that's the same thing as fingerprints?

25 A Yes, sir.

Michael Squire - Cross-Examination by Mr. Wilson

- 1 Q Okay. And I heard you talk about the fact that ya'll
2 dusted the home?
- 3 A Yes, sir.
- 4 Q I assume you dusted the front door?
- 5 A Yes, sir.
- 6 Q The telephone?
- 7 A Yes, sir.
- 8 Q The dresser drawers?
- 9 A Yes, sir.
- 10 Q Did you pretty much cover every part of the interior
11 home that you thought you could lift a print from?
- 12 A Right.
- 13 Q And you didn't discover any print there that identified
14 with any print you have for James Allen Gunnells?
- 15 A We didn't get any latents or any fingerprints out of
16 the house.
- 17 Q Okay. And I think you told the solicitor nothing about
18 any of the three people that are thought to be have
19 been in the home, Mr. Gunnells or the other two or any
20 of the people who resided there?
- 21 A Right. No fingerprints.
- 22 Q I didn't hear you say anything about the trucks. Ya'll
23 dusted the Chevrolet truck after it was recovered,
24 didn't you?
- 25 A Yes, we did.

Michael Squire - Cross-Examination by Mr. Wilson

1 Q Didn't recover any fingerprints that matched up with
2 James Gunnells off of that Chevrolet truck, did you?

3 A No, sir.

4 Q And I didn't hear you say anything about the Dodge
5 truck. Ya'll dusted that Dodge truck after it was
6 recovered, didn't you?

7 A Yes, sir.

8 Q And you didn't find any fingerprints that matched
9 anything of James Allen Gunnells on that Dodge truck,
10 did you?

11 A Not of Mr. Gunnells, no.

12 Q Okay. All right. Did you find anything on either one
13 of those trucks that matched up with any other person?

14 A Yes, we did.

15 Q Which truck or which trucks?

16 A Bear with me just a moment.

17 Q Sure take your time.

18 A Item 15, which would be a backer that was recovered
19 from the Chevrolet, S71 ---

20 Q I don't mean to cut you off, but when you say a backer,
21 that means you took a fingerprint off of the S71
22 Chevrolet truck?

23 A Right, right.

24 Q And that item matched up with what?

25 A That item matched up with, last name of Lee, I think,

Michael Squire - Cross-Examination by Mr. Wilson

1 that would be Tivoe.

2 Q Tivoe Lee?

3 A Yes, sir.

4 Q So you got a fingerprint off of the Chevrolet S71
5 pick-up truck that belonged to Tivoe Lee?

6 A Yes, sir.

7 Q Get any fingerprints off of that Chevrolet pick-up
8 truck that belonged to anybody else?

9 A No, but what was interesting that we did find were
10 several impressions that we would believe had been
11 gloves. Had compressions that were there, we can't
12 classify it. It's here in the report stating that
13 we -- there was evidence there that was not
14 fingerprints or whatever, based on my training and
15 experience, I would have you believe that that was some
16 type of fabric impression.

17 Q You can't say that for certain though, that's just your
18 opinion?

19 A It is, it was some type of fabric.

20 Q You can't say that for certain, that's just your
21 opinion?

22 A It is my opinion.

23 Q And your opinion is, it's some type of open owe it was
24 some type of -- it was some fabric and your opinion is
25 it had to be some kind of glove? You didn't test the

Michael Squire - Cross-Examination by Mr. Wilson

1 fabric to find out exactly what it was?

2 A It was -- I can't say that it was gloves, but I can say
3 that it was fabric.

4 Q Okay. You know it was fabric, but you can't say for
5 certain that it was gloves?

6 A No, sir.

7 Q You can't even give an opinion that it was a glove?

8 A No, sir.

9 Q And you didn't test the fabric to see what it was?

10 A We never did find it.

11 Q Any other prints found on that S71 pick-up truck?

12 A No, sir.

13 Q How about on the Dodge?

14 A Nothing else was found to be identifiable.

15 Q Okay. So, it's fair to say that you didn't find
16 anything on the Dodge that matched up to Mr. Gunnells
17 or anybody else?

18 A Right.

19 Q Tivoe Lee or Frederick Culler?

20 A Yes, sir.

21 Q You tested -- well, did you recover anything off of the
22 Dodge that you could use and test against those three
23 people?

24 A Keys and things of that nature were brought back and
25 those were -- they are processed.

Michael Squire - Cross-Examination by Mr. Wilson

1 Q Those were processed. You couldn't find anything on
2 that that matched up with Mr. Gunnells or Tivoe Lee or
3 Frederick Culler off the Dodge?

4 A No, sir.

5 Q Okay. I want to go back to the home just a moment.
6 You talked about fingerprints. My understanding of
7 fingerprints is they're laid down generally by sweat
8 and moisture?

9 A Yes, sir.

10 Q And in a controlled condition like a home, the
11 fingerprint may last longer that it might otherwise on
12 an uncontrolled condition like outside on top of a car
13 or something like that?

14 A I can't be that -- I can just tell you, sometimes we
15 get them and sometimes we don't.

16 Q I understand. But you would agree with me that in a
17 controlled condition like a home where you don't have
18 moisture, you don't have rain, you don't have weather,
19 you don't have sun, you don't have all the elements,
20 generally a fingerprint that's laid down will last
21 longer or be preserved longer or be preserved longer
22 than it might be on a surface on the outside that's
23 exposed to the elements, that's exposed to sun, that's
24 exposed to ---

25 A No, I wouldn't say that.

Michael Squire - Cross-Examination by Mr. Wilson

1 Q So it's laid down by moisture but you're telling me
2 that sun and heat being put on it like it would be on
3 the outside where it wouldn't be on the inside won't
4 draw that moisture out and cause that fingerprint to
5 disappear early or not be preserved as long?

6 A It would draw it out and probably would etch it in that
7 surface that it was laid upon.

8 Q It wouldn't cause it to be preserved anymore or any
9 less time in your opinion?

10 A No, sir.

11 Q Okay. Now, I want to talk about the shoes.

12 A Yes, sir.

13 Q You testified that the -- and you tell me if I'm using
14 the wrong language, but the stone casts that were
15 recovered?

16 A The dental stone, yes, sir.

17 Q Dental stone, 1 and 2, or the little cards 1 and 2 on
18 State's Exhibit 37 on this top right photo?

19 A Yes, sir.

20 Q Okay. One, your No. 1, I think you testified looked
21 like it had been laid down by a boot?

22 A Yes, sir.

23 Q And No. 2, you testified had characteristics similar to
24 the characteristics of those shoes that are State's
25 Exhibit No. 35?

Michael Squire - Cross-Examination by Mr. Wilson

- 1 A Yes, sir.
- 2 Q You can't testify for certain that these are shoes laid
3 that cast down with that print now, can you?
- 4 A No.
- 5 Q Likewise on the door, you can't testify for certain
6 that those shoes laid that print on that door?
- 7 A I cannot, but I can tell you that ---
- 8 Q They're the same characteristics?
- 9 A --- that type of shoe put those impressions in the dirt
10 and on the door.
- 11 Q Okay. And you only recovered from the door -- and when
12 I say the door, I mean the front door?
- 13 A Yes, sir.
- 14 Q What's shown as State's Exhibit 33 -- 38, excuse me.
15 You only recovered three shoe prints, is that correct?
16 Once you went through all this and dusted it -- you
17 looked and you thought you saw something?
- 18 A Yes, sir.
- 19 Q And you put the dust on there to bring it out. You
20 recovered three shoe prints?
- 21 A Yes, sir.
- 22 Q Okay. And those are the only three -- I mean is it
23 your opinion that those are the only three shoe prints
24 on that door? I mean if there had been something else,
25 it would have come out when you covered it up with the

Michael Squire - Redirect Examination by Ms. Morgan

1 dust, wouldn't it?

2 A Not necessarily. You don't always -- you don't always
3 leave a print. It could have been ten people kicking
4 the door and maybe that one hit the door at the right
5 angle and had the right conditions going with it.

6 Q You didn't see anything that indicated to you that
7 there were other prints on the door?

8 A No, sir.

9 Q Okay. And it's your opinion that all three of these
10 prints were laid down on the door by shoes that have
11 characteristics of those shoes that are State's Exhibit
12 25 or whatever they are?

13 A Yes, sir.

14 Q 35?

15 A Yes, sir.

16 Q Okay. Agent Squire that's all the questions I have.
17 Thank you.

18 THE COURT: Redirect?

19 **REDIRECT EXAMINATION**

20 By Ms. Morgan:

21 Q Just a couple of quick ones Agent Squire?

22 A Yes, ma'am.

23 Q Mr. Wilson asked you about was there any other
24 footprints that could have been on the door. Was there
25 any indication of even of any partial prints on the

Michael Squire - Redirect Examination by Ms. Morgan

1 door? Footprints?

2 A There were -- in those actual impressions, partial
3 impressions were of no value. We could see that there
4 was something there, but nothing came up in that
5 particular tape.

6 MR. WILSON: Just very briefly, Your Honor.

7 So Agent Squire?

8 Oh, I'm sorry, I thought you were finished, I'm
9 sorry.

10 By Ms. Morgan:

11 Q Okay. And -- but it's clear, shoes like that, three
12 times on that door?

13 A Yes, ma'am.

14 Q And it was the one that made the best contact?

15 A Yes, ma'am.

16 Q All right. And you indicated you did process the
17 trucks?

18 A Yes, we did.

19 Q They were somebody's trucks, driving it every day. And
20 you didn't find any print that you could pull?

21 A The one.

22 Q I mean on the whole shooting match if you would?

23 A Yes, ma'am.

24 Q Both pick-up trucks?

25 A Yes, ma'am.

Michael Squire - Redirect Examination by Ms. Morgan

1 Q I mean nothing?

2 A We recovered backers from those trucks. Like I said,
3 the ones we recovered. Out of the ones we recovered,
4 only one was identifiable.

5 Q Okay.

6 A And that particular one came back to Mr. Lee.

7 Q All right. So you're looking to find anything that
8 might be a fingerprint?

9 A Yes, ma'am.

10 Q Or other part that you could ---

11 A Yes, ma'am. And in that particular case, we ran across
12 this fabric.

13 Q That's what I wanted to ask you. Explain to me,
14 because you've been qualified as an expert in latent
15 prints tell me what ---

16 A Some things we look for in this particular case ---

17 MR. WILSON: Your Honor, I'm not sure if his
18 expertise in prints goes beyond prints. If he's starting
19 to talk about fabrics and things along that line -- he's
20 been qualified as footwear and latent prints.

21 THE COURT: Solicitor?

22 MS. MORGAN: Judge, I think he -- I can further
23 qualify him.

24 THE COURT: I overrule the objection. Go
25 ahead.

Michael Squire - Recross-Examination by Mr. Wilson

1 By Ms. Morgan:

2 Q Okay. Tell me what you came across?

3 A In this particular case when we're dealing with
4 burglaries and things of that nature, things that we
5 often look for that's one way or the other, if we don't
6 find fingerprints, we oftentimes look for fabrics or --
7 latex gloves in a particular case have a very distinct
8 pattern type on them. You can see those that --
9 someone touched that particular place.

10 Q Right.

11 A Didn't leave anything, but we can tell you that someone
12 was there and did touch it but didn't leave any prints.

13 Q Okay. But tell us what you found in this case?

14 A In this particular case, we found fabric impressions
15 and those fabric impressions were lifted -- and they
16 were lifted and kept so that if gloves or whatever
17 comes in, we can compare it to that.

18 Q Okay. And you had no gloves that were submitted or ---

19 A No, ma'am.

20 Q Okay. Answer any questions Mr. Wilson might have.

21 THE COURT: Recross-examination?

22 MR. WILSON: Just briefly.

23 ///

24 ///

25 ///

RECROSS EXAMINATION

25 Q You can step down here.

Michael Squire - Recross-Examination by Mr. Wilson

1 A You can clearly see on the picture, State's Exhibit 27
2 what we're talking about, this area right here is not
3 footwear, but it is where this particular shoe or
4 something else hit this door and tore it and turned in
5 such a way that it didn't leave anything, but here's
6 your footwear here and something touched here.

7 Q Okay. Is it your testimony that -- what I'm asking you
8 Agent Squire, did you find anything else on the door
9 that was indicative of the door being struck by or
10 kicked by a shoe?

11 A No, sir.

12 Q Okay. All right. That's all the questions I have,
13 thank you.

14 THE COURT: Any further redirect?

15 MS. MORGAN: No, sir.

16 THE COURT: You may step down, thank you very
17 much.

18 You may call your next witness.

19 MS. MORGAN: The State rests, Your Honor.

20 THE COURT: All right. Madame Forelady and
21 ladies and gentlemen of the jury, I'm going to have to ask
22 you to go to the jury room at this time. I need to take up
23 a couple of matters with the attorneys and if you'll sit in
24 the jury room, we'll take about a 15 minute break and
25 please don't discuss the case amongst yourselves. If

Michael Squire - Recross-Examination by Mr. Wilson

1 you'll follow the bailiff to the jury room.

2 (WHEREUPON the jury left the courtroom at 11:05
3 a.m.)

4 **MIDTRIAL MOTIONS**

5 THE COURT: Any motions from the State?

6 MS. MORGAN: No, sir.

7 THE COURT: Any motions from the defendant?

8 MR. WILSON: Thank you, Your Honor. If you
9 would just note my motion for a directed verdict on each
10 and everyone of those charges, I won't argue. The Court's
11 heard the testimony yesterday and then again this morning.

12 THE COURT: All right. The motion is denied.

13 MR. WILSON: Thank you, Your Honor.

14 THE COURT: All right. Mr. Wilson, is your
15 client going to testify or have you discussed the situation
16 with him? What is the situation with him regarding his
17 testimony?

18 MR. WILSON: Your Honor, we had discussed it
19 all the way up through today in preparation for trial and
20 then again this morning. I need to check with him, but
21 it's my understanding he's not going to testify.

22 THE COURT: All right. Before you do that,
23 Mr. Gunnells, if you'll stand up and raise your right hand.

24 ///

25 ///

1 THEREUPON,

2 JAMES ALLEN GUNNELLS,

3 after being duly sworn, testified as follows:

4 THE COURT: All right. You may have a seat.

5 First of all, I wanted to tell you that no one can make you
6 testify against yourself in this case, you understand?

7 MR. GUNNELLS: Yes, sir.

8 THE COURT: You have the right to testify if
9 you so choose, but no one can make you testify. That's a
10 personal right that you have and no one but you and you
11 alone can make that decision of whether you want to
12 testify. You understand?

13 MR. GUNNELLS: Yes, sir.

14 THE COURT: If you decide to testify, you
15 cannot take the Fifth Amendment to one question and then
16 answer another question. You're to take the Fifth
17 Amendment and don't testify or you get on the witness stand
18 and answer all the questions. You understand?

19 MR. GUNNELLS: Yes, sir.

20 THE COURT: You can't do it piecemeal, you
21 understand?

22 MR. GUNNELLS: Yes, sir.

23 THE COURT: Have you had ample opportunity to
24 talk to your attorney about your right to testify?

25 MR. GUNNELLS: Yes, sir.

1 THE COURT: Have you understood the
2 conversations that you have had with your attorney about
3 the right to testify?

4 MR. GUNNELLS: Yes, sir.

5 THE COURT: Now you understand if you do
6 testify, the same rules of evidence will apply to you as it
7 does to any other witness taking the witness stand. You
8 understand?

9 MR. GUNNELLS: Yes, sir.

10 THE COURT: Has anybody forced you, threatened
11 you or intimidated you to make you testify or not make you
12 testify.

13 MR. GUNNELLS: No, sir.

14 THE COURT: Now, you understand if you do not
15 testify that I will instruct the jury that they are not to
16 consider that in their deliberations as to your innocence
17 or guilt. You understand?

18 MR. GUNNELLS: Yes, sir.

19 THE COURT: Now, you may talk to your attorney,
20 your family, your friends or whoever you would like to talk
21 to concerning your right to testify. You understand what
22 I've explained to you?

23 MR. GUNNELLS: Yes, sir.

24 THE COURT: Do you have any questions for the
25 Court on what I've explained to you?

1 MR. GUNNELLS: No, sir.

2 THE COURT: All right, sir. Do you -- your
3 attorney said he would like to discuss your right to
4 testify with you for -- I'm going to give him an
5 opportunity to talk with you about your right to testify
6 and after you do that, I want to know your decision of
7 whether you want to testify or not testify. Can you do
8 that?

9 MR. GUNNELLS: Yes, sir.

10 THE COURT: All right. Mr. Wilson?

11 MR. WILSON: Thank you, Your Honor. And,
12 Judge, just for the record, Mr. Gunnells and I had
13 discussed his prior record also and the potential for that
14 being admitted into evidence against him so that is also a
15 factor we need to discuss.

16 THE COURT: All right. What is his prior
17 record, Solicitor? As far as impeachment. I don't want to
18 hear the entire -- just what you can present ---

19 MS. MORGAN: Receiving stolen goods two counts.

20 THE COURT: Pardon.

21 MS. MORGAN: Receiving stolen goods.

22 THE COURT: Two counts.

23 MS. MORGAN: And then two counts of strong
24 armed-robbery.

25 THE COURT: Two strong armed-robberies. So

1 those are the four, his prior record that would qualify?

2 MR. WILSON: This's one receiving stolen goods.

3 MS. MORGAN: Right. One receiving stolen goods
4 and two strong armed-robberies.

5 THE COURT: Two strong armed-robberies.

6 MR. WILSON: Yes, sir.

7 THE COURT: Mr. Gunnells, you understand that?
8 If you do testify, the State plans on asking you about the
9 two robberies and the receiving stolen goods, you
10 understand that?

11 MR. GUNNELLS: Yes, sir.

12 THE COURT: Okay. Take however much time you
13 need Mr. Wilson.

14 MR. WILSON: It shouldn't take very long. If
15 we could take just a minute. We've discussed it a long
16 time.

17 (WHEREUPON there was a discussion between
18 Mr. Gunnells and his attorney, Mr. Wilson.)

19 MR. WILSON: Your Honor, he's decided not to
20 testify and I will allow you to question him any further
21 you wish.

22 THE COURT: He's decided what?

23 MR. WILSON: I said he's decided not to testify
24 and you can question him however further you'd like to.

25 THE COURT: Okay. Do you have any questions

1 you'd like to ask your client concerning his right to
2 testify and put it on the record?

3 MR. WILSON: Your Honor, I'd just like to ask
4 him and have him answer on the record that he -- that it is
5 his decision and he has decided not to testify.

6 THE COURT: All right. Mr. Gunnells, is that
7 correct.

8 MR. GUNNELLS: Yes, sir.

9 THE COURT: And you desire not to testify?

10 MR. GUNNELLS: Yes, sir.

11 THE COURT: Do you have any questions of the
12 Court or your attorney about that issue?

13 MR. GUNNELLS: No, sir.

14 THE COURT: And I believe earlier it was
15 brought out that you have a prior criminal history of
16 armed-robbery and strong armed-robbery and receiving stolen
17 goods. Just because the solicitor is going to ask that
18 question, that does not mean that it's admissible. Your
19 attorney could still object to that and certain
20 requirements have to be met before it would be admissible.
21 You understand?

22 MR. GUNNELLS: Yes, sir.

23 THE COURT: And I'm not taking the position
24 right here today or right this minute whether it's
25 admissible or not admissible. You understand?

1 MR. GUNNELLS: Yes, sir.

2 THE COURT: Okay. Anything else Mr. Wilson?

3 MR. WILSON: We discussed that, Your Honor,
4 that we -- we discussed that.

5 THE COURT: Okay.

6 MR. WILSON: Nothing further.

7 THE COURT: All right. Anything else before we
8 take a short break? And are you going to offer any other
9 witnesses?

10 MR. WILSON: No, sir, Your Honor.

11 THE COURT: Okay. How much time ya'll need
12 before you'll be ready for closing arguments.

13 MS. MORGAN: Ten minutes.

14 THE COURT: Pardon?

15 MS. MORGAN: Ten minutes.

16 THE COURT: Ten minutes. That's good.

17 MS. MORGAN: Are you going to bring them out
18 and tell them, Judge?

19 THE COURT: Pardon?

20 MS. MORGAN: Did you want to bring them out and
21 tell them?

22 THE COURT: I will just tell them when we bring
23 them back that the State's rested, he's not going to offer
24 any testimony.

25 MS. MORGAN: Okay.

1 THE COURT: When we bring them out, we'll do
2 that right before you do closing arguments.

3 MR. WILSON: Judge, just for purposes of the
4 record since they've rested and I've made a motion for
5 directed verdict and we've rested, I would just renew those
6 motions.

7 THE COURT: Pardon me?

8 MR. WILSON: The State rested and I've made my
9 directed verdict motions and we've rested, I just renew
10 those motions.

11 THE COURT: Motions denied.

12 MR. WILSON: I understand.

13 THE COURT: Okay. Thank you very much.

14 MR. WILSON: Thank you, Your Honor.

15 (WHEREUPON a short recess was observed.)

16 THE COURT: Is there anything from the
17 defendant or the State before we bring the jury? We'll
18 bring the jury out and I will let the defendant rest in
19 front of the jury.

20 MS. MORGAN: Yes, sir.

21 THE COURT: Anything else before we bring the
22 jury?

23 MR. WILSON: Nothing, Your Honor.

24 THE COURT: All right. Bring the jury, please.

25 (WHEREUPON the jury entered the courtroom at

1 11:48 a.m.)

2 THE COURT: Mr. Wilson, do you have any
3 witnesses?

4 MR. WILSON: Your Honor, the defense would rest
5 at this time.

6 THE COURT: So you're not going to call any
7 witnesses.

8 MR. WILSON: I'm not going to call any
9 witnesses, Your Honor. My client has decided not to
10 testify and we'd renew the motions we made earlier.

11 THE COURT: Okay. Madame Forelady and ladies
12 and gentlemen of the jury, I want to tell you that the fact
13 that the defendant elects not to testify in his own behalf
14 cannot and must not be considered against him under any
15 circumstance, in any manner whatsoever. The decision of
16 any defendant not to take the witness stand and testify in
17 his own behalf does not create any inference against him
18 and I tell you now that you must not permit that fact to
19 weigh in even the slightest degree against the defendant.
20 You should not permit the fact to enter into the
21 discussions or deliberations or issues in this case in any
22 manner whatsoever.

23 Solicitor?

24 CLOSING ARGUMENTS

25 MS. MORGAN: Please the Court, Mr. Wilson,

1 ladies and gentlemen of the jury, this is the last time I
2 will be able to talk to you again. We're in what we call
3 the closing arguments. It's my opportunity on behalf of
4 the State because it's my burden to prove to ya'll that the
5 defendant is guilty of all ten charges that you all will be
6 looking at, to talk to you, to tell you what I believe the
7 evidence has shown in this case.

8 First and last, as I did at the first of this
9 case and I want to do now, I want to thank ya'll. It's not
10 too easy to be taken away from your regular everyday things
11 that you would much rather be doing to come here, but it's
12 important for all the people of this community and for all
13 the people in this State to pass and to look and to make
14 sure that a community of jurors decides what is right,
15 wrong, who's guilty in their community. So I thank you --
16 or innocent in their community -- and it is my duty, as I
17 told you all before to prove to you each and all the
18 elements of this case. I thank you for your attention
19 because I know there's been a lot put up in front of you.
20 I know that you all have been very attentive.

21 To help me and to help ya'll, I wrote down the
22 ten charges that you're going to be looking at today. Now,
23 it's interesting, you all are the judges of the facts.
24 Your job is to determine what happened on May 5th, 2003.
25 That's yours. The judge's job is not about the facts. His

1 is about the law. He gets to tell you, look ladies and
2 gentlemen, this is what you have to look at, this is what
3 the law says you have to do if you find these things and
4 that's important. And the beauty of our system is right
5 now, until you hear from me, from Mr. Wilson and
6 importantly the judge, he's still presumed innocent. He's
7 got to be until you go back and start deliberations. You
8 all use your collective common sense wisdom, day-to-day
9 experience that goes back and says, did, back on May 5th,
10 did this defendant do what he's charged with and why or why
11 not do I think he did it.

12 That's what it's about and that's the beauty of
13 the process. The judge is going to tell you some of the
14 law and I'm going to put up some of the offenses so that
15 you can kind of go through it together because that's a
16 lot, ten charges. And he's going to tell you what elements
17 are -- each charge involves, what they have to prove. So I
18 want to kind of go through it with you, if you don't mind.
19 I wrote it out and I hope I spelled it right.

20 He's charged with ten indictments. The first
21 one, conspiracy, two or more get together, going to plan to
22 go. I suggest to you, you already got that. Why? Why do
23 you know there were two or more? Because James Gunnells
24 was even telling you I was talking to my cousin. He was
25 telling me about how much money his boss has and Tivoe just

1 called me and he said, let's -- he's got it, he's got a
2 safe being at his boss' house and a bag of money inside the
3 truck. And Tivoe asked me about it and I had to talk to my
4 cousin and found out about it. I talked to him and I told
5 him and I asked my cousin about where it was and I stayed a
6 week at my aunt's. Then I went turkey hunting. And when
7 I'm even calling my cousin -- because you know what I know,
8 but for that defendant, ain't nobody coming down from
9 Columbia finding where this Halman Sease resided. City
10 folk ain't going to find it. Erhardt is not on the main
11 road and Ashton Road isn't on the main road. It took
12 somebody who had been turkey hunting, who had been with his
13 aunt a week, who had polled his cousin about it, because he
14 heard his cousin talking about Halman Sease, that he has
15 money and he took it home in this bag in his truck.

16 But for the fact we talked to some other
17 fellows, we wouldn't be here. They might have been doing
18 this stuff up in Columbia, but they wouldn't be doing it in
19 Bamberg County. Conspiracy, getting together and agreeing
20 to do something, agreeing to do something bad. Getting
21 together and -- oh, by the way, getting weapons, getting
22 masks, getting dark, driving cars. Not coming up to the
23 door checking it out. By his own words, somebody checked
24 it out because -- you know what? There was one truck
25 there. That's what they thought. They had something else

1 going on. There's two trucks there and there's another
2 car. Let' wait. Because we're all in this together.
3 Let's wait. We're in it together. Let's wait and there's
4 another guy walking in the house.

5 They didn't know about Steve. Ain't that a
6 shame. Did that stop them? No. What did they do. They
7 got him, waited in the dark and came up and we get to the
8 next, burglary first. I wish we had a charge called home
9 invasion because to me, this isn't about lifting a window,
10 picking a lock. This is about violence, kicking the door
11 jam off, together. It takes concerted effort to kick a
12 door in. To kick a door in. Burglary first is entering
13 the home of another in the nighttime and/or armed with a
14 deadly weapon. It was before midnight, May 5, 2003. Ain't
15 no question, Shaq shoes belonging to this defendant did
16 one, did two and if that ain't good enough, did three.
17 Those shoes, his shoes on that door. Burglary first, house
18 in the nighttime and armed.

19 Kidnapping and armed-robbery all occurring at
20 the same time, aren't they. U.S. Marshalls, get down. You
21 know what Ms. Sease said? What are you doing here? What
22 did we do wrong? Because you know what she thought, my
23 goodness, what are you doing here, what did we do wrong.
24 Get on the ground. And I crawled and they confined. And
25 what did they do? They seized. It ain't like the movies

1 you don't have to take them away. The law doesn't require
2 that. That's why I wrote it down. The law doesn't -- some
3 people say kidnapping means you've got to take them, get in
4 the car, go somewhere, take them to another place, that's
5 what you got to do.

6 That isn't the law. That's why I wrote it
7 down. It is to confine and seize without authority. Ain't
8 no legitimate U.S. Marshalls coming in. They didn't have
9 any authority. They didn't have any authority to kick in
10 the door and they sure didn't have any authority to take
11 them -- make them crawl belly down and tied them with their
12 hands behind their backs, tied them with belts and ties and
13 twisted them about. I almost asked Mr. Sease, that was
14 almost like -- what they made him do.

15 Armed-robbery. You take a firearm and you say
16 give me your money. Where's your safe. Don't make me --
17 I'm going to kill your wife. I'm going to kill your wife,
18 tell me where the safe is. Tell me where the safe is.
19 You've got three businesses. Think the guys from Columbia
20 knew that? Who knew that? He knew that. He knew that.
21 Where's your safe. He knew that. Where's your safe? And
22 you've got people -- I hope that you could sense from how
23 they testified, the emotion in them that when they relive
24 it, they are seeing it again. They are putting their face
25 down, they are praying because there are guns over them.

1 But they're peeking up and they are praying.

2 And Halman Sease, as startled as he is, Honey,
3 am I dreaming? No, Honey, you're not dreaming, just do
4 what they say. And what does he say? He stood up like
5 something, I can't remember, and he said -- and then I sat
6 at the bed and I sat down with my belly down. And he
7 remembers he said I knew the white guy, the one guy what he
8 did first and then there was the other guy. And I thought
9 I knew him because when he bended down, he had some braids
10 that you could see from the bandanna. And I told the
11 officers the one that put the pistol where he could feel
12 the pistol to his head, that's what Halman Sease told you,
13 was the guy in the red shorts that he thought he knew who
14 he was. Didn't have a name, but he was pretty sure who he
15 was. That guy is the one. Tell me and you know what he
16 realizes? They ain't got no safe. We thought we were
17 going to die. What are they doing?

18 Are they just standing there? No. You got
19 people pulling out drawers. You've got people throwing out
20 bags, looking for stuff. You got people who tear up, go
21 through the other bedroom, open stuff. Don't leave no
22 fingerprints. Might have been prepared on another level
23 too, mighten they? They go through and they open up the
24 drawers. They start gathering things in the little teal
25 bag around Steve, put the costume jewelry and then they --

1 it was clear that Mr. Sease said it was that guy that took
2 my wedding ring, my other ring, my necklace and my Clemson
3 watch. That guy took it off of me, took it off of me.

4 It's him. It wasn't the black guys who took it off. That
5 guy who got on white tennis shoes, who might have kicked in
6 the front door.

7 I didn't see it, I don't know that. But it's
8 that guy with the shorts and the red bandanna and the
9 braids in his hair and I think I know who he is. And if he
10 ain't your nephew, Debra, it's his twin. If he ain't your
11 nephew, he's his twin. How do I know? Because I picked
12 him up. I'd seen him about. He's got braids in his hair.
13 Got -- I know his build. And even when I'm thinking my
14 wife, who I'm hearing praying, hiding behind the door with
15 her head in the pillow half the time and when I know that
16 somebody in the reflection has pistol whipped Steve where I
17 see blood and it's coming on my leg because it's pulsing
18 out of his head, it's pulsing out of his head.

19 They assaulted him and I submit to you with
20 intent, they didn't care if he was dead. Assault and
21 battery with intent to kill. When you take a pistol and
22 you hit somebody on the top of the head and give him 13
23 staples, that's assault and battery with intent to kill.
24 And if that ain't good enough, if they've already said,
25 tell me, force me, here's the moneybag -- Mr. Sease tells

1 them, he goes, I do have a bag in the truck. It's got
2 money. Take it, take whatever you want, but please do not
3 harm my familiar by. Please do not harm my family. Do
4 anything to anything I have. Keys are in it, take it and
5 they do it. They took it. They took both cars, both
6 trucks and they're both worth for than \$5,000. That's all
7 they take and they ain't interested in giving it back.

8 And the use of a firearm during the commission
9 of a violent crime. It is clear from all those people that
10 that man is the one with the gun also. Everyone of them
11 has a gun, everyone of them. They got every person, every
12 gun. Three of them. In their house demanding, telling.
13 And the one that's clear that's jumping in and going
14 through the bedroom is the fellow in the red shorts. There
15 ain't no question, red shorts, shoes, inside the house.
16 Inside the house.

17 Now I know he gave a statement. I don't think
18 there's any question that the statement was his to give.
19 They fed him. They ain't no bad law enforcement in this
20 one. Here it is, sit down, here's your paper, tell me what
21 you did. Tell me what you did. They didn't put words in
22 his mouth. They didn't tell him what to write. It took a
23 while to figure out what he wrote because the handwriting
24 ain't so good, reading it. But he put it -- you know they
25 always said, does he say he wasn't there? Does he say

1 oops, you got the wrong guy, I wasn't there? No. He might
2 say, well, okay. I was in there and I talked to my cousin
3 and I had to call him when we were down there that night to
4 find out where is that -- where is it again because I can't
5 find it. It's in Erhardt, but I can't find Ashton Road.
6 It was where you went turkey hunts to show you where the
7 house was.

8 I'm showing it. We're going to go. He came
9 to pick me up. Fred and Tivoe. We went and I called my
10 cousin from my cell phone when we got down there and asked
11 him where was it. You know, he said if he had said I just
12 can't find it, we wouldn't be here, would we? Don't know.
13 Can't find it, can't find the country. You know I'm not
14 from the country. I don't know where it is. It's dark.
15 There ain't no lights in the road out there. Just don't
16 know. No. He calls his cousin. He's with him, he knows
17 what they're doing and he calls his cousin and says where
18 we went turkey hunting while you were down here. And
19 that's when they saw two trucks. You know what we're
20 thinking, we're planning. We're doing, we're conspiring,
21 we're planning this deal and he goes in.

22 Now, he wants to say, I think, well I might-
23 have kicked in the door, but really it was three of us
24 three times. It looks like it was his real good three that
25 did the duty, didn't it. Did you hear Mr. Squires? He

1 said those were the ones that had the most -- (clap) two
2 times back, one time forward, bust the door right out of
3 its frame. And whatever it takes, they knew it -- it had
4 to be more than a couple. Why? Because they got to go get
5 Michael and they've got to get Ms. Sease. And they make
6 her crawl on her belly down the hallway. They pistol
7 whipped Michael and they proceeded to do their reign of
8 terror.

9 And right in the middle of it, he wants to say,
10 no, I just -- they pushed me inside the house. They pulled
11 me in, I didn't mean to. He can talk about, he knew they
12 were going to kill him. He said they're all going to kill
13 you if you don't tell us where the safe is. You got three
14 businesses. And I'm going to take the jewelry. I'm going
15 to take Mr. Halman and take the jewelry off of him. I'm
16 going to threaten him, I'm going to do all this. He says
17 it wasn't me, it was just them. I was just there. And you
18 know, I didn't have a gun. I didn't do any of it. That's
19 what I did, that's me. Don't, huh-huh -- I didn't do it.
20 But let me tell you something. The beauty of the law in
21 this State, it doesn't matter. I don't believe that's what
22 happened. I believe the witnesses that were there that
23 night told you what he did that night and it's
24 uncontradicted as to what he did that night. They tell
25 you, the kid in the red shorts. But the beauty of it, in

1 this State, you don't get allie allie in come free, even if
2 he didn't have a gun because the fundamental law is you
3 can't go in and just say oops, I might have kicked the door
4 in, I might have been there, I might have helped them to
5 figure out where to go, I might have done the intelligence
6 on the conspiracy.

7 The hand of one is a hand of all. You can't go
8 in it together and just say oops, I didn't mean to. I
9 didn't mean to. I think that's what he was hoping. Oh
10 yeah, I think that's what he was trying to say. Oops,
11 well, well, they were just walking around inside and I just
12 was standing there. Yep, the hand of one is the hand of
13 all. But the hands and the feet of the defendant, James
14 Gunnells, back on May 5th, May 6th, that night were active
15 in the county of Barnwell (sic). His hands, his feet, his
16 fingers, telephone, knew he shared conversations, he
17 conspired to go to the man who had money. The man that
18 could mark -- that they could mark, that they could come in
19 together, come down to the country and do some serious
20 stuff.

21 We could tie them up, we could point guns at
22 them, we can kick in doors. And that man's hands and feet
23 are all over this. And he's the one with the firearm. It
24 is uncontradicted, these shorts were his, these shoes were
25 his, this bandanna is his and Mr. Halman's hat in his

1 stuff. The speakers from Steve's car with that. The
2 speakers and amplifier. He had. He got the stuff.
3 Jewelry is even better than the money. A good part of it,
4 isn't it. Good part of it. It's him. With the -- with
5 his footprint in the -- it's him with the feet on the door.
6 Three times. It's him, found with Mr. Halman's gold
7 jewelry. Dumped the costume jewelry, didn't they? Dumped
8 it in the turquoise pillow case right by Steve's head.
9 It's this fellow who had the knowledge. This man who
10 showed the spoils in the city of what he had done. He
11 wasn't afraid about it at all.

12 I'm the one that took the jewelry. I'm the
13 one Mr. Halman gave up with the gun at him, bending down,
14 he saw the braids, bending where he knows that they were
15 going to show. Knowing it's the white guy, knowing it's
16 the white guy that he thought he recognized from a couple
17 of times before and he said, I know and when I go see
18 Debra, I know. If it ain't your nephew, it's his twin.

19 And ladies and gentlemen, people of this State,
20 people of Bamberg County ask and demand, the facts in this
21 case demand that you find this defendant, James Gunnells
22 guilty of conspiring to do all of this in Bamberg County,
23 on Ashton Road, May 5th, 2003; of busting in the door of
24 the Sease's before midnight by his own footprints --
25 busting it in; of the armed-robbery where he by force and

1 intimidation with a firearm in his hand along with others
2 demanding jewelry, took guns, took -- with guns, took
3 monies and goods; kidnapping that he along with his buddy,
4 they tied them up, seized them and confined them without
5 authority.

6 Ain't no legitimate U.S. Marshalls or police
7 going in that day until after this was over. That there
8 was an assault and battery with intent to kill -- and you
9 know what? He don't have to do it we don't think he did.
10 That doesn't mean you can't find him guilty. No. That's
11 not what that means. We know his hand didn't hit Steve in
12 the head. We know that. That's true. But the hand of one
13 is the hand of all. When two or more go in together and go
14 about evil doings in a peaceful community, the hand of one
15 is the hand of all makes the hand of Tivoe or Freddy or
16 whomever it is, when it's in the presence of that man when
17 he's with a gun, robbing those people, just as guilty as if
18 he had done it himself.

19 And the grand larceny, same thing. He can only
20 steal one truck, right? His footprint out by that truck.
21 Does that mean he only gets to be found guilty of one
22 thing? Nope. Nope, that's not what the law says. It
23 says, ya'll were together. You could steal six of them,
24 could be eight of ya'll, you all could do it. That's what
25 the law says. And he's got a weapon during the commission

1 of a violent crime. I told you from the beginning that
2 this was kind of the unmentionable, the unconscionable case
3 and that we have to stand and say no to the action in this
4 community.

5 So I ask you because it is clear that this
6 defendant was involved directly, positively on all ten
7 counts, that you find him guilty of all ten counts. Thank
8 you.

9 THE COURT: Mr. Wilson?

10 MR. WILSON: Thank you. Ladies and gentlemen,
11 the solicitor has gone to painstaking efforts to prove to
12 you that James Gunnells gave a statement in this case. I
13 mean, the State in its proof has gone to painstaking
14 efforts to show you that statement, to prove that statement
15 to you. They handed that statement out, thirteen copies of
16 it for you to be able to review while Officer Darnell went
17 through the statement; prove to you in great detail the
18 circumstances surrounding that statement.

19 You'll recall, Agent Darnell testified, they
20 got Mr. Gunnells back down here. This Mr. Gunnells that
21 she has had so much disgust for today, so much, just so
22 much for today, this same James Gunnells that she can
23 hardly even fathom today. Officer Darnell got him in his
24 office and was as nice as he could be to him. He got him
25 some supper, let him smoke, go to the bathroom when he

1 wanted to. Didn't rush him through, didn't -- didn't know
2 that he had somebody that was charged and being charged
3 with this most heinous crime -- knew that he had that kind
4 of person in his office, this person that is not even
5 worthy of what -- knew that he had that kind of person in
6 his office but was nice enough to be nice to him, to get
7 him some supper, let him smoke, let him take a break where
8 he was.

9 She's gone to painstaking proof to you to show
10 you that statement and show you those circumstances, handed
11 it out. Went through it word-for-word, told you how Agent
12 Darnell took it. That same statement that took four hours
13 or more to take, a four page, handwritten statement; told
14 you today, there's no bad law enforcement here, but that
15 same statement that took four hours to take. She went to
16 painstaking proof in the State's case to go through that
17 statement with you and show you that statement. Went
18 through the proof with Agent Squires about the door and
19 about the three footprints on the door and how those three
20 footprints on the door match up or are consistent with the
21 characteristics of this shoe or these shoes that were
22 recovered from Mr. Gunnells' apartment.

23 And the reason she did that, ladies and
24 gentlemen, is because in the statement, Mr. Gunnells says
25 that they kicked the door, three times. And the reason she

1 wanted to show you that through Agent Squires is to show
2 you that Mr. Gunnells' statement is accurate. He says he
3 kicked the door three times and the footprints show that he
4 kicked the door three times. And she went through
5 painstaking effort and painstaking proof and great detail
6 to show you these things about Mr. Gunnells' statement
7 because she wants you to believe Mr. Gunnells' statement.
8 But it doesn't stop there. She wants you to believe parts
9 of Mr. Gunnells' statements that she needs and then go on
10 and believe something else when she needs that. And then
11 go on and believe something else when she needs that and
12 then go on and believe something else when she needs that.
13 That's because she has the burden of proof to prove each
14 and every element of each and every one of these crimes to
15 you, ladies and gentlemen.

16 And she wants you to take that statement and
17 believe it and believe something else and then believe
18 something else and then believe something else. And I
19 looked at the ten charges, ladies and gentlemen, and the
20 places in which they rely on Mr. Gunnells' statement for
21 their proof. And she went through those with you in her
22 argument.

23 Conspiracy. She wants you to believe
24 Mr. Gunnells' statement that he found out about Mr. Sease,
25 about the money, called his friends. She wants you to use

1 the statement. She wants you to use the statement to
2 believe in burglary first, that he kicked the door and went
3 in in the nighttime. She wants you to believe the
4 statement on these parts, ladies and gentlemen, and then
5 she wants you to believe something else on down, on the
6 other charges. Believe whatever it takes to be able to
7 convict on those charges, ladies and gentlemen. Well, I
8 submit to you that she went through great proof for you to
9 believe Mr. Gunnells' statement.

10 And I submit to you the reason that she did
11 that is because she believes Mr. Gunnells' statement too.
12 So let's look at that statement. The same statement that
13 was handed out to you that was read, that you'll have to be
14 able to take back in the jury room with you as a piece of
15 evidence. Mr. Gunnells says he was talking to his cousin,
16 Chris Hutto about where he worked and who he worked for and
17 how much money did his boss have. And he was on the phone
18 with his friend Tivoe Lee. And Tivoe overheard it. And he
19 had been staying down here. Ann then he went back and he
20 talked to Tivoe and he said he and Tivoe talked about it
21 and Tivoe wanted him to show him where the house was.

22 He said he would pick him up the next day to go
23 with him to the house in Erhardt. And so they picked him
24 up and he said he had another guy with him that we call
25 Fred, Fred Culler. And another guy that I didn't know. So

1 there's James Gunnells and three other people. So we
2 started to ride and he couldn't find his way and he called
3 and he said they looked and they checked the place out and
4 some guys were walking about and he got out the car and
5 they went to the door and they kicked the door in. And he
6 was standing on the porch and they pulled him aside and
7 they went inside.

8 And he said the other guys ran behind Fred and
9 told him to come on and then they grabbed these people and
10 he went on to tell in his statement about what Fred and
11 what Tivoe and what the other guy did to these people. And
12 then he went onto say that they left the house and they
13 told him to get out and they told him to take the car and
14 to follow them in the trucks, the trucks that they took and
15 when they got back and they found out there wasn't money,
16 they split everything up and they gave him these items.

17 And he said, he stood out on the porch and he
18 waited on them to come back out. And in his statement,
19 ladies and gentlemen, he told law enforcement what he did
20 and he's told you what he did. And you have the statement
21 to take back with you in the jury room to read and
22 consider, to determine what James Allen Gunnells is guilty
23 of. The solicitor has the burden of proof to prove him
24 guilty on every single element on every single charge that
25 he's charged with, ladies and gentlemen. And in the

1 beginning, you know, she said he's right there -- he's
2 right in the middle -- he's right in the middle. And a guy
3 with very distinct characteristics took charge.

4 What proof of distinct characteristics have you
5 heard, ladies and gentlemen? Where are those photo's of
6 James Allen Gunnells? These photos that were taken the day
7 he was arrested, look at James Allen Gunnells as he sits
8 there today. What's the most distinguishing characteristic
9 about James Allen Gunnells in that photo? Those long
10 tattoos up and down his arm. Up and down both arms. This
11 happened in May. The person that came in the room was
12 described as having red shorts on in May. Safe to assume
13 that person had on a short sleeve shirt and the victims all
14 testifying they saw a gun. If they saw a gun, they were
15 looking at the hand. Look at what you see, ladies and
16 gentlemen. Look at what you see on James Allen Gunnells.
17 What distinguishing characteristics are on the person that
18 took charge? What's the most distinguishing characteristic
19 you see here?

20 Ms. Sease testified that she thought she saw a
21 tattoo on his leg. Look at the photo. You can't see his
22 entire leg. I don't see a tattoo on his leg. And I
23 promise you if he had a tattoo on his leg and that was part
24 of the proof that they were going to use in this case, they
25 would have taken a picture of that tattoo on his leg and

1 would have put that in evidence too. So what
2 distinguishing characteristics, what put the person in
3 charge, right in the middle? The reason they want to do
4 that, ladies and gentlemen, is to avoid that burden of
5 proof, to not be able to prove to you the things that need
6 to be proven to you in a court of law. They watered down
7 that burden of proof that we're entitled to as citizens of
8 the State of South Carolina.

9 And look at his statement, ladies and
10 gentlemen. Look at his statement, ladies and gentlemen,
11 when you go back. Look at Page 3. He says, that's when
12 they told me that if my cousin was lying they were going to
13 shoot me. They was going to shoot me. The judge is going
14 to tell you that when you consider an eyewitness
15 identification, when a person says I know that's the person
16 that did something to me, I know that's the person I saw do
17 something, two things that you have to take into account or
18 several factors that you have to take into account; and the
19 judge is going the tell you about all of those factors.
20 The two factors that I'd like to point out to you are the
21 attention and opportunity that that person had to pay
22 attention to the person. You know, did they get a direct
23 look at the person? How long did they get to see the
24 person? Were they distracted by other things? And the
25 judge is going to tell you about that.

1 The second factor that I want to talk to you
2 about is the previous description that had been given,
3 prior to getting into a courtroom to testify. Ladies and
4 gentlemen, what happened to the Sease's is a nightmare.
5 And there's no question that it happened. The question is,
6 who did what and who ease guilty of what. Who had an
7 attempt to commit what crime. And there's no question that
8 what happened to them is a nightmare and no one should have
9 to go through that. But the question is who's guilty of
10 what. Who had what intent to commit what crime?

11 And what they were going through, ladies and
12 gentlemen, Mr. Halman had been woken up out of his bed. He
13 was awakened and immediately put on the floor; held at
14 gunpoint and put on the floor. His wife was behind the
15 door with her head in the pillow, looking up as best she
16 could -- they were both looking up as best they could,
17 trying to stay alive. But I would submit to you, ladies
18 and gentlemen, that that does not give great opportunity
19 for a person to be able to make an eyewitness
20 identification.

21 And look at the second statement, the previous
22 descriptions that had been made. The only description that
23 had been able to be given was red shorts, shoes, and I
24 believe Mr. Halman Sease said curly hair or braids.
25 Nothing giving law enforcement about white or white legs.

1 Not until some three months later, August 11th. And then
2 testified to on the stand. The judge is going to tell you
3 that in these cases, you take those factors into
4 consideration. I'd also like you to just take into
5 consideration one other thing and I want you to review
6 Mr. Gunnells' statement in connection with that. He says
7 there were four people in the house, him and three others.

8 He says there are four people, him and three
9 others. And if you listen to the testimony and the victims
10 all say there were three people in the home, there were
11 three people in the home. Mr. Sutton said there were two
12 behind him going down the hallway, had him on the ground,
13 crawling in front of him -- I mean he was crawling in front
14 of them, two of them behind him with guns. And Mr. Halman
15 says that there were two in his room at that time, a black
16 man standing in the door and the red shorted man in the
17 room.

18 Now, the victims say there were three people.
19 There can't be three people, ladies and gentlemen. There
20 can't be three people. No question, no questions on any
21 proof that was placed before this jury that the red shorted
22 person that they claim was James Allen Gunnells is not the
23 man that hit Steve Sutton in the back of the head with the
24 gun, no question about that. Mr. Halman told you he
25 couldn't tell you that for sure, but when that happened,

1 the red shorted man that they claim was James Allen
2 Gunnells was in that bedroom. So there's no question, the
3 man they claim with the red shorts that hit Mr. -- that hit
4 Mr. Sutton in the back of the head cannot be James Allen
5 Gunnells.

6 Ladies and gentlemen, ten indictments: Three
7 kidnappings, two grand larcenies of a vehicle, an assault
8 and battery with intent to kill that involved Mr. Sutton
9 being struck in the back of the head with a gun, the intent
10 to kill; a burglary first; a conspiracy; and the use of a
11 weapon. You, under your oath are only able to find
12 Mr. Gunnells guilty of things that the State has proven
13 guilt to you beyond a reasonable doubt.

14 Now, ladies and gentlemen, the thing I'd like
15 to say to you in closing is this: The State wants to
16 believe James Allen Gunnells did all these things. They
17 want to believe that. They want you to believe that so
18 that you will convict him of all of these things. The
19 Sease's want to believe that James Allen Gunnells did all
20 these things. They do believe these things. They want to
21 believe them and they do believe them because he is the
22 only person on trial today. He is the only person that can
23 be convicted today and they want to believe that he's the
24 person that did these things. They want to see some
25 closure and some justice in this case. And they want to

1 believe that he is the person who did all these things,
2 ladies and gentlemen.

3 Think about the descriptions that were made to
4 you, think about the evidence that was presented to you,
5 think about the things that have been proven to you, if
6 anything, that James Allen Gunnells did. The Sease's went
7 through a nightmare and they told you what they saw and
8 they told you what they heard. And they told you what they
9 want to believe and they told you what they do believe,
10 ladies and gentlemen, but you, the jurors, can only believe
11 and only convict based on what the State proves to you
12 beyond a reasonable doubt. And if you uphold that oath
13 when you go back in the jury room and you reach a unanimous
14 verdict that all twelve of you agree on, then as I told
15 you, my client and I will accept the verdict.

16 I want to thank you for your service. This has
17 not been an easy thing. The solicitor said we didn't want
18 to be here, none of us want to be here, ladies and
19 gentlemen, none of us do. My client is the only one here
20 today that's on trial and I ask you to take that into
21 consideration. I want to thank you for your time.

22 **JURY CHARGE**

23 Ladies and gentlemen of the jury, the State of
24 South Carolina charges the defendant, James Allen Gunnells
25 of armed-robbery; possession of a weapon during the

1 commission of a violent crime; assault and battery with
2 intent to kill; criminal conspiracy and burglary in the
3 first-degree. The State of South Carolina also charges the
4 defendant with three counts of kidnapping and two counts of
5 grand larceny.

6 Now as to these indictments, the defendant has
7 entered a plea of not guilty, which places upon the State
8 the burden of proving the defendant guilty. A person
9 charged with committing a crime in South Carolina is never
10 required to prove himself innocent. I charge you that it
11 is a vital rule of the law that a defendant in a criminal
12 trial, no matter how serious the charge may be, is always
13 to be presumed innocent. This presumption of innocence
14 remains with the defendant at all times, from the moment of
15 his appearance in this court, throughout the trial. It's a
16 substantial right to which every defendant is entitled,
17 until you, the jury, decide from the evidence that the
18 defendant is guilty beyond all reasonable doubt for the
19 crimes as charged.

20 Now what is a reasonable doubt? A reasonable
21 doubt is the kind of doubt that would cause a reasonable
22 person to hesitate to act. If you have such a doubt as to
23 the guilt of the defendant, then he would be entitled to a
24 verdict of not guilty. A reasonable doubt can arise from
25 evidence which is in the case or the absence or the lack of

1 evidence in the case; and you alone must make the
2 determination as to whether or not a reasonable doubt
3 exists as to the guilt of the defendant. The term
4 reasonable doubt should be given its every day, plain and
5 ordinary meaning.

6 Proof beyond a reasonable doubt is proof that
7 leaves you firmly convinced of the defendant's guilt.
8 There are very few things in this world that we know with
9 absolute certainty and in criminal cases the law does not
10 require proof that over comes every possible doubt. If
11 based on your consideration of the evidence you are firmly
12 convinced that the defendant is guilty of the crimes
13 charged, you must find him guilty. On the other hand, if
14 you think there's a real possibility that he's not guilty,
15 you must give him the benefit of the doubt and find him not
16 guilty.

17 As I stated earlier, I charge you that the fact
18 that the defendant has elected not to testify in his own
19 behalf cannot and must not be considered against him under
20 any circumstances or in any manner whatsoever. The
21 decision of any defendant not to take the witness stand and
22 testify in his own behalf does not create any inference
23 against him. I tell you now that you must not permit that
24 fact to weigh in even the slightest degree against this
25 defendant. You should not permit the fact to enter into

1 discussions and deliberations in the issues in the case.

2 There are two types of evidence which are
3 generally presented in a trial, direct evidence and
4 circumstantial evidence. Direct evidence is the testimony
5 of a person that claims to have actual knowledge of a fact.
6 Direct evidence is based upon a personal knowledge or
7 observation like Ann eyewitness. Circumstantial evidence
8 is proof of a chain of facts and circumstances that
9 indicate the existence of a fact and it's based upon Ann
10 inference not on personal knowledge or observation.

11 The law makes absolutely no distinction between
12 the weight and value to be given to direct or
13 circumstantial evidence, nor is a greater degree of
14 certainty required of circumstantial evidence than of
15 direct evidence. The State may prove its case by using
16 only direct evidence or only circumstantial evidence or a
17 combination of both. Regardless of the type of evidence
18 upon which the State relies to prove its case, it must
19 prove to be such to prove the guilt of the defendant beyond
20 a reasonable doubt.

21 You should weigh all the evidence in the case.
22 After weighing all the evidence if you are not convinced of
23 the guilt of the guilt of the defendant beyond a reasonable
24 doubt, you must find the defendant not guilty. Conversely,
25 if you are convinced of the guilt of the defendant beyond a

1 reasonable doubt, then you must find him guilty.

2 Under the constitution and laws of the State of
3 South Carolina, only you, the jury, can make the findings
4 of fact in the case. I am not permitted to indicate to you
5 how I may feel about the testimony or the evidence which
6 has been presented. Throughout this trial it's been my
7 intention to be fair and impartial to each of the parties
8 involved. To determine the facts of the case, you'll have
9 to evaluate the credibility, which means the believability
10 of each witness.

11 Some of the things you may consider as you
12 decide whether to believe a witnesses testimony about a
13 particular matter include: First, what was the manner and
14 appearance of the witness who testified? Was he or she
15 straightforward or hesitant. Second, was the testimony of
16 the witness consistent or inconsistent. Third, how did the
17 witness come to know the facts that he or she testified to?
18 Was the person present during the incident or did he or she
19 happen on the scene after it occurred? Is there some
20 reason the witness would want to help or hurt the
21 testimony, one side or the other? In other words, was the
22 witness biased or prejudiced? Was the testimony of the
23 witness strengthened or weakened by other testimony?

24 You can believe as much or as little of each
25 witness' testimony as you deem proper. You may believe the

1 testimony of a single witness against that of many or just
2 the opposite. Of course, you do not determine the truth by
3 merely counting the number of witnesses presented by each
4 side. Throughout this process, you have one objective, to
5 seek the truth, regardless of the source.

6 The rules of evidence ordinarily would not
7 permit witnesses to testify as to their opinions or
8 conclusions. An exception, however, to this rule does
9 exist as to those who we call expert witnesses. Expert
10 witnesses are witnesses who by education and experience
11 have become expert in some art, science, profession or
12 calling. These witnesses may state their opinions as to
13 relevant and material matter in which they profess to be
14 an expert. They may also state their reasons for their
15 opinion.

16 You should consider expert opinion received
17 into evidence in this case and give it such weight that
18 you think it deserves. If you should decide that the
19 opinion of an expert witness is not based upon sufficient
20 education and experience, if you should conclude that the
21 reasons given in support of the opinion are not sound or if
22 you feel that it's outweighed by other evidence, you may
23 disregard the opinion entirely.

24 The same constitution and laws which makes you
25 the finder of the facts as I just explained, also makes me

1 the sole instructor of the law. You should accept the
2 statements of the law as I give them to you. And the
3 attorneys are not instructors on the law and please base
4 the decision you make on what the law is and not what you
5 think the law should be.

6 Now, ladies and gentlemen of the jury, I
7 further charge you that the law concerning a crime
8 committed by two or more persons who are acting together in
9 the commission of a crime then the act of one is the act of
10 all. This is true if there are two people or more than two
11 people involved in the act. If the two or more people are
12 together, or acting together, assisted each other in the
13 commission of Ann offense, the law says that under these
14 circumstances, the act of one is the act of all. It is
15 sometimes said, the hand of one is the hand of all.

16 One who joins with another to accomplish Ann
17 illegal purpose is liable criminally for everything done by
18 his confederate incident to the execution and common design
19 and purpose. In addition, presence at the scene of the
20 crime, to aid, encourage or abet in the preparation of the
21 crime constitutes the guilt as the principal.

22 First-degree, burglary -- South Carolina Code
23 Section 16-11-311 -- the defendant is charged with
24 first-degree burglary. The State must first prove beyond a
25 reasonable doubt that the defendant entered into a dwelling

1 without consent with intent to commit a crime therein.

2 Additionally, the State must prove that the defendant
3 entered the dwelling while armed with a deadly weapon.

4 Finally, the State must prove that the defendant entered or
5 remained in the dwelling in the nighttime. Those words are
6 to be given their everyday ordinary meaning.

7 However, a dwelling is any building or portion
8 of a building in which a person ordinarily sleeps. In
9 order to prove a defendant entered the dwelling, the State
10 does not have to show that the defendant's entire body
11 entered the dwelling, the smallest entry is sufficient. It
12 may be any part of the body, such as a hand or foot or even
13 Ann instrument such as a hook or other instance. In
14 addition the State must not have to prove that force was
15 used to gain entry.

16 Next, the State must prove the defendant
17 intended to commit a crime at the time of the entry. The
18 mere entry into a dwelling without consent is not relevant,
19 if Ann intent to commit a crime is formed after the entry,
20 it is not relevant. On the other hand, if the burglary --
21 excuse me, if the defendant intended to commit a crime at
22 the time of the time of entry, it is burglary, even if the
23 intent was abandoned after the entry. It does not matter
24 if the intent of the crime is not completed. Ann intent
25 must be shown by acts and conduct of the defendant and

1 other circumstances from which you may naturally and
2 reasonably infer intent.

3 A deadly weapon is any article, instrument or
4 substance which is ripe to cause death or great bodily
5 harm. The following examples are instruments that may be
6 deadly weapons: A pistol, a shotgun, a rifle, a dirk, a
7 dagger, a knife, a slingshot, metal knuckles, a razor,
8 gasoline, fire bomb, lighter fluid. The nighttime is the
9 period between sunset and sunrise in which there is not
10 enough daylight to recognize a person's face, except by
11 article light or moonlight.

12 The defendant is charged with assault and
13 battery with intent to kill. In order to prove assault and
14 battery with intent to kill, the State must prove beyond a
15 reasonable doubt that the defendant, with malice
16 aforethought, unlawfully attempted or offered to commit a
17 violent injury upon another person and had the present
18 ability to complete the attempt at injury.

19 An assault is an intentional creation of a
20 reasonable fear of immediate bodily harm. It is not
21 necessary for the attempted entry or harm to actually take
22 place. For example, if I walk up to you and you're within
23 arm's reach and I draw back to hit you, that is an
24 assault. A battery is the unlawful touching of another
25 person by a person that's committing the assault. An

1 unlawful touching can be caused by a part of the accused's
2 body or by any object that the accused puts in motion. A
3 battery is the completion of the assault by using or
4 applying force on another person however slight, in a rude,
5 angry or resentful manner, without legal justification for
6 doing so. Using my earlier example, if I carry through the
7 assault by hitting you, then that is a battery.

8 Malice is hatred, ill will or hostility towards
9 another person. It is the intentional doing of a wrongful
10 act without just cause or excuse and with the intent to
11 inflict Ann injury and under the circumstances the law will
12 infer Ann evil intent. Malice aforethought does not
13 require that malice exist any particular time before the
14 act is committed, but malice must exist in the minds of the
15 defendant just before and at the time the act is committed.
16 Therefore, there must be a combination of previous evil
17 intent and the act.

18 Malice aforethought may be expressed or
19 inferred. These terms expressed and inferred do not mean
20 different kinds of malice, but merely a manner in which
21 malice may be shown to exist; that is either by direct
22 evidence or if facts and circumstances are present.
23 Express malice is shown when a person speaks words which
24 express hatred or ill will to another and the person
25 prepares beforehand to do the act which is therefore

1 accomplished. For example, lying in wait for a person or
2 other acts of preparation or anything shown to be in the
3 defendant's mind can be express malice.

4 Malice may be inferred from conduct showing a
5 cold disregard for human life. Inferred malice may also
6 arise when the deeds are done with a deadly weapon. I've
7 already charged you as to the meaning of deadly weapon.

8 If facts are proved beyond a reasonable doubt
9 sufficient to raise Ann inference of malice to your
10 satisfaction, the inference would simply be Ann evidentiary
11 fact to be considered by you, the jury, along with all the
12 other evidence in the case. You may give it weight you
13 decide it should receive.

14 A specific intent to kill is not Ann element of
15 assault and battery with intent to kill, but there must be
16 a general intent to commit serious bodily harm. Intent
17 means intending the results which actually occurred on
18 accident or involuntarily. Intent may be shown by acts and
19 conduct of the defendant and other circumstances in which
20 you may naturally and reasonably infer intent. Absence of
21 the character of the assault, character of the incident,
22 the manner in which it was accomplished and the results of
23 wounds or injury may be considered in determining intent
24 with which the assault was committed. Intent may be
25 inferred when it is demonstrated and the defendant

1 voluntarily and willfully commits Ann act with natural
2 tendencies of which destroy another's life.

3 What is armed-robbery? A crime of
4 armed-robbery includes all the elements of a larceny and
5 robbery. First, I would like to explain what is meant by
6 larceny and then what is meant by robbery. What is
7 larceny? I charge you there are four elements which must
8 be present and established beyond a reasonable doubt to
9 make out the crime of larceny. Those elements are: If
10 there was a taking; that the taking was of personal
11 property; that after being taken, the property was carried
12 away and the taking and carrying away was done with the
13 intent to steal.

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

23 Therefore, the crime of armed-robbery includes
24 all the elements of larceny and robbery. In order to make
25 out the crime of armed-robbery, however, Ann additional

1 element must be proved. The robbery must have been
2 committed while armed with a deadly weapon. The person
3 committing the robbery must have had and used a deadly
4 weapon to obtain the property and placed the one possessing
5 the property in fear in order to obtain the property.

6 Code section of South Carolina 16-11-338
7 provides, a person convicted of the crime of robbery while
8 armed with a pistol, dirk, slingshot or other deadly weapon
9 commits armed-robbery.

10 As to grand larceny, what is meant by grand
11 larceny? The elements of the offense of grand larceny are
12 that the accused did take the goods or obtain personal
13 property of another and it is intended to permanently
14 deprive the owner of the property, without the owner's
15 consent and that the value of the thing taken was \$5,000 or
16 more. I charge you, Mr. Foreman and ladies and gentlemen
17 of the jury, that grand larceny is the taking and carrying
18 away by any person of goods or things which are the
19 personal property of another and valued at \$5,000 or more
20 with the intent to permanently deprive the owner of the
21 property and convert it to the taker's own use.

22 A central element of the crime of larceny is
23 the taking of possessions and goods and things of another
24 there must be also a carrying away in order to constitute
25 Ann offence. I charge you again that the burden of proof

1 relies beyond a reasonable doubt to each and everyone of
2 these elements.

3 Kidnapping -- the defendant is charged with
4 kidnapping. The State must prove beyond a reasonable doubt
5 that the defendant knowingly and unlawfully seized,
6 confined, decoyed, kidnapped, abducted or carried away
7 another person without authority of law. Knowingly means
8 with the knowledge of consciously doing the acts in
9 evidence. Seize means to take control, suddenly or
10 forcibly. Confine means to limit, restrict or enclose
11 within bounds. Imprison means to shut or keep in. Decoy
12 means to lure or by decoy something or decoy a person to a
13 trap.

14 Kidnap is to remove a person against his will
15 with unlawful force or by fraud. Abduct means to carry
16 away by force of another person. Carrying away means to
17 remove. The State does not have to prove that the
18 defendant did all of these things. Instead if you find
19 beyond a reasonable doubt that the defendant did any of
20 these things, you may find the defendant guilty of
21 kidnapping. The kidnapping does not have to be for
22 monetary gain. An illegal purpose may be from any abuse
23 whatsoever.

24 Possession of a weapon during the commission of
25 An offense -- the defendant is charged with possession of

1 a weapon during the commission of or attempt to commit a
2 violent crime. The State must prove beyond a reasonable
3 doubt that the defendant was in possession of a firearm or
4 visibly displayed what appeared to be a firearm during the
5 commission of a violent crime. A firearm means any machine
6 gun, automatic rifle, revolver or pistol. In order to find
7 a defendant guilty of possession of a deadly weapon during
8 the commission of a violent crime, you must first find the
9 defendant guilty of either committing a violent crime or
10 attempting to commit a violent crime. Assault and battery
11 with intent to kill, kidnapping, armed-robbery,
12 first-degree burglary are all crimes of violent crimes in
13 the State of South Carolina.

14 Conspiracy -- a definition of conspiracy found
15 in Section 16-17-310 of our Code of Laws is a combination
16 between two or more persons for the purpose of
17 accomplishing Ann unlawful object and the unlawfully object
18 by unlawful means. Simply put, conspiracy is Ann agreement
19 between two or more persons to do Ann unlawful act or a
20 lawful act by unlawful means. To establish the existence
21 of the conspiracy proof of Ann express agreement is not
22 necessary and direct evidence is not essential. Conspiracy
23 may be sufficiently shown by circumstantial evidence in the
24 conduct of the parties.

25 In order the establish criminal liability,

1 criminal intent is required. For example, the mental state
2 required to be proven by the State for a particular crime
3 might be purpose, intent, knowledge. Criminal intent must
4 be proved by the State beyond a reasonable doubt. Criminal
5 intent is always a matter that must be determined by the
6 jury from the circumstances surrounding the situation.

7 There is no way to prove intent to a mathematical
8 certainty. There is no way medical science can dissect a
9 person's brain and determine what the person had in mind so
10 the law says that criminal intent may be inferred from the
11 circumstances shown to have existed.

12 This is how you make a determination of whether
13 or not the element requiring intent was present. It is not
14 necessary to establish intent by direct and positive
15 evidence, but intent may be established by inference in the
16 same way as any other fact by taking into consideration the
17 acts of the parties and all the facts and circumstances of
18 the case.

19 Ann issue in this case is identification of the
20 defendant, James Gunnells, as the perpetrator of the crimes
21 charged. The State of South Carolina has the burden of
22 proving the defendant guilty beyond a reasonable doubt.
23 Identification testimony is Ann expression, belief or
24 impression by a witness. You may consider the opportunity
25 the witness had to observe the alleged defendant at the

1 time of the offense to therefore make Ann identification.
2 You may also consider the witness' credibility. A
3 condition you may consider is the accuracy of the witness
4 of the crime to provide a description of the defendant.

5 Finally, you may also consider the level of
6 certainty demonstrated by the witness at the confrontation.
7 It is for you, the jury, to determine the accuracy of the
8 identification of the defendant. You must consider the
9 credibility of each identification witness in the same way
10 as any other witness. You may consider his or her demeanor
11 as well as the opportunities they had to observe the
12 matters that he or she testifies to.

13 It has been admitted into the record in this
14 case a statement alleged to have been made by the
15 defendant. Before you may consider the statement as
16 evidence for any purpose, you must determine four
17 questions: First, did the defendant make the statement;
18 second, was the defendant warned of his constitutional
19 rights; third, that the defendant knowingly and
20 intelligently waived his constitutional rights; and fourth
21 was the statement given voluntarily. The fact that the
22 Court had admitted the statement into evidence might be
23 considered by you as any evidence whatsoever that the
24 defendant made such a statement or that required were in
25 fact proved to have been waived and that the statement was

1 voluntarily given. These issues are for you, the jury, to
2 determine. The State must prove beyond a reasonable doubt
3 that each of the four requirements that I have just stated
4 to you before you may consider the statements in any way
5 whatsoever.

6 Now, as to the first requirement, did the
7 defendant make the statement? If you conclude that the
8 defendant did not make the statement, you must then
9 completely and totally disregard the statement.
10 Conversely, if you find that the defendant did make the
11 statement, you must then consider the next requirement, was
12 the defendant warned of his constitutional rights. When
13 Ann individual is taken into custody or otherwise deprived
14 of his freedom by the actions in any significant way that
15 includes a law enforcement officer, he must be warned of
16 his constitutional rights prior to and before any custodial
17 interrogation or custodial questioning can take place.

18 These rights are, that you have the right to
19 remain silent, any statement that you give -- excuse me,
20 any statement he makes can and will be used against him in
21 a court of law. He has the right to select a lawyer of his
22 choice, but if he does not have the money or the resources
23 to employ a lawyer, the Court will appoint and provide a
24 lawyer to represent him without cost. He has the right to
25 consult a lawyer before answering any questions or making

1 any statements. He has the right to have his lawyer
2 present with him at all times during all interviews and
3 during all interrogations. He can stop questioning --
4 answering questions at any time during the interrogation.

5 If you determine that these constitutional
6 warnings were not given to the defendant prior to the
7 interrogation and taking the statement, the defendant was
8 not afforded the opportunity to exercise these rights, you
9 must completely disregard the statement. If you find the
10 defendant did make the statement, if you conclude that his
11 constitutional warnings were in fact given to the
12 defendant, the defendant's afforded Ann opportunity to
13 exercise his constitutional rights, you must consider the
14 third requirement; the defendant knowingly and
15 intelligently waived his constitutional rights. Before you
16 can consider the statement as evidence of the case, the
17 State must prove beyond a reasonable doubt that the
18 defendant, after being given his constitutional warnings,
19 knowingly and intelligently waived his constitutional
20 rights and agreed to answer questions and make the
21 statement.

22 Therefore, if you find that the defendant did
23 not knowingly and intelligently waive his constitutional
24 rights, you must completely disregard the statement.
25 However, if you find that the defendant was given his

1 constitutional rights and knowingly and intelligently
2 waived his constitutional rights and agreed to answer the
3 questions and made the statement, you must next consider
4 the fourth requirement. What was the statement given --
5 was the statement given voluntarily. The word voluntarily
6 means that the statement was the statement of the
7 defendant's own free will and was not induced by pressure,
8 force or fear or influence or hope of promise of some
9 benefit or reward or extracted by threats, coercion,
10 intimidation.

11 If the statement is not voluntary, it may not
12 be used against the defendant unless you find that it was
13 the free and unconstrained choice by its maker. If the
14 statement's voluntary, the defendant has willed to make the
15 statement, it may be used against him. If the statement is
16 not voluntary, it cannot be used and the test to be
17 applied is whether the statement was freely, voluntarily
18 and intelligently made without compulsion and without
19 inducement.

20 In determining whether or not the alleged
21 statement of the defendant was voluntary, you may consider
22 all of the facts and circumstances surrounding the taking
23 and the making of the statement.

24 You may consider all the evidence in the case
25 in reaching the ultimate conclusion as to the voluntary and

1 voluntary character of such statement. With regard to the
2 alleged statement of the defendant, the State must prove by
3 evidence each and every requirement as explained earlier
4 beyond a reasonable doubt before you may consider the
5 alleged statement as evidence or the alleged statements in
6 which you conclude you are entitled.

7 You've been selected as fair and impartial
8 jurors, sworn to impartiality to try and determine the
9 facts in this case. When you comply with your oath, no one
10 will have the right to criticize your verdict and you will
11 have fully discharged your duties as jurors. You're to
12 decide this case upon the testimony that you've heard from
13 the sworn witnesses along with the other evidence which has
14 been introduced. I charge you that jurors must decide the
15 issues in this proceeding without bias and without
16 prejudice to anyone. You cannot allow yourself to be
17 governed by sympathy, prejudice, by passion, by public
18 opinion or any other arbitrary fact.

19 Both the State and the defendant have the right
20 to expect that each of you will carefully and impartially
21 consider all the evidence in the case and that you will
22 follow the law as I explained it to you. I will give you a
23 copy of these instructions in written form. During your
24 deliberations you may refer to the instructions to guide
25 your decision making. You must consider the instructions

1 as a whole and not follow some and not others.

2 When you reach a decision, Madame Forelady,
3 please return the charges back to the Court.

4 Now, Madame Forelady and members of the jury,
5 there are numerous charges in this case for which you must
6 return a verdict. I have prepared a verdict form for each
7 charge. And on each verdict form there's a caption of the
8 case and the name. And the first one says, We the jury,
9 find the defendant, James Allen Gunnells, guilty of
10 criminal conspiracy. We the jury find the defendant, James
11 Allen Gunnells not guilty of criminal conspiracy.

12 Each of the verdict forms basically say the
13 same thing. You either find him guilty or not guilty of
14 the possession of a firearm. The third one is guilty or
15 not guilty of kidnapping Steve Sutton; the fourth one,
16 guilty of kidnapping, not guilty of kidnapping of hall
17 Sease; the next one is guilty of kidnapping of Eunice Ann
18 Sease and not guilty of kidnapping Eunice Ann Sease.

19 The next one is guilty of grand larceny of a
20 2000 Dodge truck or not guilty of grand larceny; the next
21 one is guilty of grand larceny of a 1994 Chevrolet truck or
22 not guilty of grand larceny. The next one guilty of
23 armed-robbery or not guilty of armed-robbery. The next one
24 is guilty of assault and battery with intent to kill or not
25 guilty of assault and battery with intent to kill. The

1 next one is guilty of burglary in the first-degree or not
2 guilty of burglary in the first-degree.

3 Now, ladies and gentlemen, your verdict has to
4 be unanimous. All 12 of you have to agree. I will tell
5 you it would be a collective decision making process on
6 your part. I'm going to ask you to respect each other's
7 opinions. Listen to each other's opinions. As far as the
8 different verdict forms, you may find the defendant guilty
9 of one of these, two of these, all of these or none of
10 these. That's up to you on how you apply the facts as you
11 find as to each indictment or each verdict form and the
12 facts as you apply them to the law as I have given to you
13 for each respective crime. Just because if you find him
14 innocent of one doesn't mean that you cannot find him
15 guilty of another or vice versa.

16 I would ask you very shortly, Madame Forelady,
17 to go to the jury room, but before you begin your
18 deliberations, I'm going to have to take the charge up with
19 the attorneys. I may have to bring you back out to add
20 something to it or take something away. So please don't
21 begin your deliberations until you have -- the bailiff has
22 brought the exhibits to you and the charge and the verdict
23 forms and tells you to begin your deliberations. At that
24 time you may begin your deliberations. So if you would,
25 please, follow the bailiff to the jury room.

1 (WHEREUPON the jury left the courtroom at 12:59
2 p.m.)

3 THE COURT: Mr. Glover, if you would just keep
4 your seat in the jury box, please, sir.

5 Any exceptions from the State?

6 MS. MORGAN: Judge, I didn't have any, but I
7 think you might have said on the burglary first conditions
8 and I think it's or -- firearm or nighttime. I didn't know
9 how you read it versus how it was written because I think
10 burglary first is dwelling in the nighttime or dwelling --
11 it doesn't have to -- I just -- I don't think it's going to
12 be that sufficient, but I didn't want to ---

13 THE COURT: All right. You're saying what now?

14 MS. MORGAN: It's my understanding that
15 burglary first-degree, the elements, we alleged two, but it
16 could be either one of those, either the nighttime and/or
17 the use -- with a firearm. I think you said and we had to
18 prove both, the way it was charged and I was asking Grant.
19 But I didn't know how you had it written and whether it was
20 just kind of ---

21 THE COURT: I didn't have it written either
22 way.

23 MS. MORGAN: Well that -- if it's not written,
24 I was just concerned -- I don't think in the scheme of
25 things it's worth coming back and enhancing it, but it

1 did ---

2 THE COURT: I don't have it written either way.
3 If you want to come look at it.

4 MR. WILSON: Judge, I assume you read it off
5 correctly.

6 THE COURT: Okay. Anything else from the
7 State?

8 MS. MORGAN: No, sir.

9 MR. WILSON: No exceptions, Your Honor.

10 THE COURT: Any exceptions from the defendant?

11 MR. WILSON: No, sir.

12 THE COURT: All right. If you would look at
13 the exhibits, make sure they're all present and put on the
14 record that they are present and we'll take the exhibits
15 back along with the verdict forms and the charge and they
16 can begin.

17 (WHEREUPON the attorneys were examining the
18 exhibits with the Court Reporter.)

19 (WHEREUPON the verdict forms and the jury
20 charge were ready to take back to the jury room from the
21 Court.)

22 (WHEREUPON there was discussion about lunch for
23 the jurors before deliberations begin.)

24 (WHEREUPON the Court discharged the alternate
25 juror.)

1 THE COURT: Let me get everybody's attention.
2 It's 1:15. This jury prefers to go out individually to
3 eat, so I'm going to bring them back and send them to eat
4 because they haven't started deliberating yet and I will
5 caution them not to talk to anybody and don't discuss it
6 with anyone and I'll send them out individually and bring
7 them back about 2:30 to begin their deliberations. Anybody
8 have any objection to that?

9 MR. WILSON: The only thing I have about that
10 is I have to leave by 3 o'clock today and if I have a jury
11 out, I don't know what we're going to do.

12 (WHEREUPON there was discussion between the
13 Court and the attorneys about lunch.)

14 (WHEREUPON the jury entered the courtroom at
15 1:13 p.m.)

16 THE COURT: Madame Forelady, since you have not
17 begun your deliberations yet and the clerk talked to you
18 about lunch, I think he gave you three options, I would let
19 you go individually or we can bring lunch in or we could
20 take you as a group. I understand ya'll had chosen to do
21 it individually. Is that correct, Madame Forelady?

22 MS. GRANT: Yes, sir.

23 THE COURT: All right. I'm going to let you go
24 individually. However, don't discuss the case with anyone,
25 girlfriend, boyfriend, daughter, son, daughter, anyone.

1 Okay. You haven't begun your deliberations so I'll let you
2 go individually as I have this entire week when we took
3 breaks and when we took lunch. Is there anyone that cannot
4 be back in the jury room by 2:15?

5 (WHEREUPON there was no response from the
6 jury.)

7 THE COURT: Everybody can be back, that's Ann
8 hour from now. Go have your lunch and be back in the jury
9 room at 2:15 and you can begin your deliberations at that
10 time.

11 (WHEREUPON the jury left the courtroom at 1:14
12 p.m.)

13 (WHEREUPON a break was observed for lunch.)

14 (WHEREUPON the jury began deliberations at 2:27
15 p.m.)

16 (WHEREUPON a verdict was reached at 4:35 p.m.)

17 THE COURT: Will you bring us the jury, please.

18 (WHEREUPON the jury entered the courtroom at
19 4:37 p.m.)

20 THE COURT: Madame Forelady, I understand
21 you've reached a verdict, is that correct?

22 THE FOREPERSON: Yes, sir.

23 THE COURT: Would you hand the verdict form to
24 the bailiff, please ma'am. Thank you very much. Thank
25 you.

1 Would you publish the verdict, please, sir.

2 VERDICT

3 THE CLERK: State of South Carolina vs. James
4 Allen Gunnells, Case No. GS-2004-023, State vs. -- guilty
5 of armed-robbery. Taquesta Grant, foreperson.

6 State of South Carolina vs. James Allen
7 Gunnells, Case No. 2004-GS-05-029, we the jury find the
8 defendant, James Allen Gunnells guilty of criminal
9 conspiracy, Taquesta Grant forelady.

10 State of South Carolina vs. James Allen
11 Gunnells, 2004-GS-05-021, we the jury find the defendant
12 James Allen Gunnells guilty of possession of a firearm
13 during the commission of a violent crime, Taquesta Grant,
14 foreperson.

15 State of South Carolina vs. Gunnells,
16 2004-GS-05-026, we the jury find the defendant James Allen
17 Gunnells, guilty of kidnapping Halman Sease, Taquesta
18 Grant, foreperson.

19 State of South Carolina vs. James Allen
20 Gunnells, 2004-GS-05-028, we the jury find the defendant,
21 James Allen Gunnells, guilty of kidnapping Eunice Ann
22 Sease, Taquesta Grant, foreperson.

23 State of South Carolina vs. James Allen
24 Gunnells, 2004-GS-05-029, we the jury find the defendant,
25 James Allen Gunnells, guilty of burglary in the

1 first-degree, Taquesta Grant, foreperson.

2 State of South Carolina vs. James Allen

3 Gunnells, 2004-GS-05-024, we the jury, find the defendant
4 James Allen Gunnells, not guilty for grand larceny of
5 property, a 1994 Chevrolet truck, valued at more than
6 \$5,000, Taquesta Grant, foreperson.

7 State of South Carolina vs. James Allen

8 Gunnells, Case No. 2004-GS-05-020, we the jury find the
9 defendant James Allen Gunnells, not guilty of assault and
10 battery with intent to kill, Taquesta Grant.

11 State of South Carolina vs. James Allen

12 Gunnells, 2004-GS-05-025, we the jury find the defendant,
13 James Allen Gunnells, not guilty of grand larceny of
14 property, a 2000 Dodge truck valued at more than \$5,000,
15 Taquesta Grant, foreperson.

16 State of South Carolina vs. James Allen

17 Gunnells, 2004-GS-05-027, we the jury find the defendant,
18 James Allen Gunnells, not guilty of kidnapping Steve
19 Sutton, Taquesta Grant.

20 Madame Forelady, is this your verdict and is it
21 still your verdict?

22 THE FOREPERSON: Yes, it is.

23 THE CLERK: Members of the jury, the verdict I
24 just published, is it still your verdict.

25 (WHEREUPON all jurors answered affirmatively.)

1 THE COURT: All right. Does either party want
2 the jury polled?

3 MS. MORGAN: State has no request to poll the
4 jury.

5 MR. WILSON: We wouldn't request that, Your
6 Honor.

7 THE COURT: All right. If you want to bring
8 the defendant, around, please.

9 Mr. Gunnells, what I'm going to do is I'm going
10 to postpone sentencing until in the morning. Your
11 attorney, Chris Wilson, I allowed him to leave Bamberg to
12 go to Beaufort this afternoon to a deposition that had been
13 scheduled for a case that's coming up for trial in November
14 and his law partner, Mr. Chandler has been kind enough to
15 sit with you. Since Mr. Wilson has been your attorney in
16 the trial from the beginning, I'm not going to go through
17 the sentencing process until he's available here for you,
18 nor am I going to hear any motions concerning your case
19 until he's available.

20 So I'm going to postpone hearing any post trial
21 motions and sentencing until in the morning at 9:30. You
22 understand?

23 MR. GUNNELLS: Yes, sir.

24 THE COURT: Mr. Chandler, I understand there
25 was another possible conflict that you may have, that Mr.

1 Gunnells has waived the right to, is that correct?

2 MR. CHANDLER: Your Honor, that is correct. I
3 was employed with the solicitor's office, June of '03 when
4 Mr. Gunnells was arrested. I was employed there for about
5 three months after that and then I went back in to private
6 practice. I had very limited involvement in this case.
7 However, we wanted to go on record that he'd been advised
8 of this, by not only myself but also Mr. Wilson and he
9 agrees to waive any possible potential conflict, however
10 tenuous that might be.

11 THE COURT: And I think your only involvement
12 has been to sit with him this afternoon waiting for the
13 jury verdict and stand with him this afternoon?

14 MR. CHANDLER: That's correct, very limited
15 involvement.

16 THE COURT: Mr. Gunnells, is that correct?

17 MR. GUNNELLS: Yes, sir.

18 THE COURT: Thank you very much and I will see
19 you in the morning at 9:30.

20 MR. CHANDLER: Thank you, Your Honor.

21 THE COURT: I want to thank you each and every
22 member of the jury panel for your work. I enjoyed working
23 with you this week and I hope it wasn't too bad for you.
24 But I want to thank you. Without your participation,
25 without your involvement, we wouldn't be able to function

1 in this system in civil court and in criminal court. And
2 I'm going to ask you one more time if you'll go to the jury
3 room.

4 And Ms. Grant, if you'll stay, we need to get
5 you to sign these indictments on the back with your
6 signature. To your jury room. Would please go to the jury
7 room one more time.

8 (WHEREUPON the jury left the courtroom at 4:47
9 p.m.)

10 THE COURT: You got the checks?

11 THE CLERK: Yes, sir.

12 THE COURT: All right. That's why I sent them
13 to the jury room so you could give them their checks.

14 All right. Anything else, Solicitor for this
15 afternoon?

16 MS. MORGAN: No, sir.

17 THE COURT: We'll stand at ease until 9:30 in
18 the morning.

19 (WHEREUPON court was in recess until the
20 following day.)

21 THE COURT: Mr. Wilson, you want to bring your
22 client around, please, sir?

23 Before we get to sentencing, I want to put on
24 the record, I had released you to go to a deposition in
25 Beaufort and I also left any post-trial motions you want to

1 make open until this morning. So before we go to
2 sentencing, let's go to post-trial motions, if that's okay.

3 **POST-TRIAL MOTIONS**

4 MR. WILSON: Yes, sir, thank you, Your Honor.
5 Judge, the only post-trial motion I would make is just a
6 post-trial motion for a new trial and I would argue to the
7 Court in support of that motion. I would argue to the
8 Court in support of that motion, the grounds that have been
9 previously argued before the Court. As you recall, we had
10 moved for a directed verdict and I submitted to the Court a
11 motion for directed verdict that the evidence didn't rise
12 to the level to support the case going to jury. I would
13 renew those grounds, that motion in support of the motion
14 for a new trial and would also, in support of the motion
15 for a new trial renew the previous objections to evidence,
16 you know, the statements -- Mr. Gunnells' statement that
17 was entered into evidence over our objection; the
18 photographs of the speakers and the boxes that were entered
19 into evidence over our objections and the photograph of
20 the -- or the pawn receipt that was entered evidence over
21 our objection; the identification of Mr. Gunnells by
22 Mr. Sease, which was over our objection and all the other
23 evidentiary matters that we had raised, but those were
24 specifically -- those were the bigger items, Your Honor,
25 specifically those. We'd move for a new trial on those

1 grounds.

2 THE COURT: I assume you're not moving on the
3 not guilty on the two larcenies and not guilty on the
4 kidnapping of Mr. Sutton and the not guilty of the assault
5 and battery with intent to kill?

6 MR. WILSON: No, sir. I make my motion for a
7 new trial just on the ones that were guilty.

8 THE COURT: That were guilty?

9 MR. WILSON: Yes, sir.

10 THE COURT: I'm going to deny that motion.

11 MR. WILSON: Yes, sir. All right. Let me hear
12 you as far as sentence is concerned.

13 **SENTENCE**

14 MR. WILSON: Thank you, Your Honor. Your
15 Honor, James Gunnells stands before you today, 26 years
16 old. Your Honor, what I would ask the Court to take into
17 consideration, you obviously saw the entire trial and heard
18 the evidence. I won't -- let me grab my paper. I won't
19 belabor the facts, I won't belabor the facts of the trial.
20 The solicitor is going to bring out his prior record, which
21 the court was already informed of yesterday. He had a 2001
22 conviction for receiving stolen goods that was in Bamberg
23 County. He was convicted and sentenced to thirty days. He
24 has a -- two counts conviction for strong armed-robbery in
25 2000 -- in May of 2001. The conviction was in December of

1 2002. He was sentenced to five years, provided upon the
2 service of this 417 days and two years probation. Your
3 Honor, he has a pending contributing to the delinquency of
4 a minor charge in Barnwell. I think there was some mention
5 of that -- he and his girlfriend -- there was some mention
6 of that in the pretrial motions in the case, so that is the
7 extent of his prior criminal record.

8 He is 26 years old. What he stands convicted
9 before you today is obviously some very, very serious
10 offenses and I don't want to try to minimize or take away
11 from the jury's role in finding him guilty or the
12 seriousness of the case or the seriousness of what the
13 victims went through and underwent. The only thing I would
14 ask the Court to take into consideration, if you look at
15 the evidence and if you look at how things transpired and
16 if you look at the statement that he gave and you consider
17 the factors of his co-defendants and what their status is,
18 both of his co-defendants, Tivoe Lee and Frederick Culler
19 are on charges and being held in Richland County on charges
20 of murder.

21 I think this thing got beyond where Mr.
22 Gunnells thought it would get. And I'm not trying to say
23 that that in any way, shape or form really takes away from
24 or minimizes it, but I'd like the Court to take into
25 consideration -- I think this thing got beyond what he

1 thought it would get or ever expected it would get and this
2 has been something that he wishes never would have
3 happened.

4 Your Honor, what I would ask the Court to
5 consider doing would be to somehow structure a sentence --
6 I understand the Court has at its disposal some very
7 serious sentences, I'd ask the Court to consider
8 structuring some kind of sentence that would allow him to
9 get out of prison at some point in time later in his life
10 that he could enjoy the last years of his life, maybe. I
11 understand and he understands, we had discussed very much
12 before coming to trial on this case that on a conviction
13 that he would probably receive -- there was a possibility
14 that he would receive a life sentence and may never get out
15 or if he got out he would be well on up in age. We would
16 ask the Court to consider something that would allow him to
17 serve his time, pay his debt to society, try to pay his
18 debt to what he's caused the victims and to get out and
19 maybe enjoy the last years of his life.

20 THE COURT: How old is he?

21 MR. WILSON: 26, Your Honor.

22 THE COURT: 26. Okay. Anything else?

23 MR. WILSON: Nothing further unless he wants
24 to ---

25 THE COURT: Mr. Gunnells, anything you would

1 like to say?

2 MR. GUNNELLS: Yes, sir. I'm going to say this
3 is going to be hard for me to say on my behalf because it's
4 already done and over with. I'm speaking on whatever
5 sentence you can come back with for my benefit. I just
6 want to say to the victims in this case even though you
7 know I'm found guilty of these charges, I apologize to the
8 victims and the things that they're still going through for
9 the rest of their lives. I know it ain't going to be easy
10 for them. It ain't easy for me. So I'd like to ---

11 THE COURT: Okay. Solicitor, I will be glad to
12 hear from you or any of the victims if anyone would like to
13 address the Court.

14 MR. GIBBONS: Thank you, Your Honor. Solicitor
15 Morgan had some obligations elsewhere today and she asked
16 me to come in and stand in for her. Judge, you've heard
17 the facts. This is a very serious case, pretty substantial
18 charges and you've also heard Mr. Gunnells' record. And
19 you know he was arrested for armed-robbery, two counts and
20 pled guilty to common-law robbery. One thing that's kind
21 of disturbing about his convictions for that charge, the
22 Court date on that charge when he was actually given that
23 sentence was December 10th, 2002, which puts it a couple of
24 months before he was already out getting in this situation.

25 He had some fairly substantial charges the

1 first time and he was given an opportunity to take care of
2 his situation in a pretty light manner actually. He served
3 a probationary sentence on those two charges and within
4 four or five months he was tied up in this mess. I think
5 that's disturbing from our perspective. Mr. Gunnells is
6 the one that knew these folks and by the time you get to
7 the point in life where the Sease's are, you shouldn't have
8 to worry about this kind of stuff happening. And they're
9 still going to have to live out there in the country, out
10 there away from town, isolated. I'm sure they still will
11 worry about this kind of stuff for the rest of their lives
12 and their children will worry.

13 Mr. Gunnells did exercise his right for trial.
14 He put his aunt in a very difficult situation. She still
15 lives out there. She obviously felt really bad having to
16 come in here and testify against him. Your Honor, burglary
17 first, in and of itself, the legislature has deemed that
18 it's a 15 year to life sentence for that crime and you
19 would think that they had envisioned an aggravated burglary
20 first charge would carry a life without parole sentence.
21 And this is just about as aggravated as it could get. I'm
22 just glad it wasn't a murder involved in it or it would
23 have been a death penalty case. It has all of the
24 elements.

25 We feel that this is a very serious crime, the

1 victims are very traumatized over this matter. The
2 community is traumatized over this matter and we would ask
3 for a life sentence in this case on behalf of the State. I
4 do know that the victims would like to speak at the
5 appropriate time.

6 THE COURT: I will be glad to hear from whoever
7 wants to speak.

8 MR. GIBBONS: Say your name for the lady and
9 tell the judge what you want to.

10 MS. SEASE: Eunice Sease. Judge, for the last
11 year and-a-half no one knows what our family has gone
12 through. Thanks to God, we're still here. Every day of my
13 life, I pray that no one will ever have to go through this.
14 You don't feel safe in your home. You don't feel safe in
15 your yard. I have always been outgoing, working in the
16 yard. I have to have someone at my house with me to even
17 do my garden work anymore. These children have supported
18 me. My husband has -- and thank God we're still a family
19 that he didn't take our lives.

20 But it is horrible sitting there with a gun
21 pointed at your head and your husband's and begging for
22 your life. This county does not need this. This town does
23 not need this. We're out there alone tending to our own
24 business and people doing this. We try to do good things
25 for our community and I hope God will give each and every

1 one in this court strength to pray for my family.

2 THE COURT: I'm sorry that you went through
3 this. I think -- I agree with that, I think you're very
4 fortunate that you are still alive and I guess it's God's
5 will for you to not go that way.

6 MS. SEASE: Yes, sir.

7 THE COURT: But it's very fortunate you're
8 still alive. I'm awful sorry for your experience. The
9 only thing I can tell you is you don't have to worry about
10 this person. You'll be safe from him.

11 MS. SEASE: Thank you so much. And I'd like
12 the thank Barbara Morgan and her group, the Sheriff's
13 Department, the SLED agent, the forensic guys. They have
14 been wonderful standing with my family and all this court
15 has today. Thank you very much.

16 THE COURT: Thank you.

17 MS. GOGGANS: I'd like to say something.

18 MR. GIBBONS: Say your name first.

19 MS. GOGGANS: Ginger Goggans, I'm her daughter.

20 THE COURT: Yes, ma'am.

21 MS. GOGGANS: I never would have thought that
22 I'd have to worry about my parents at home because I've
23 always thought they were safe. But for the first ten days
24 after that, Steve's father came and stayed with them at
25 night. They all slept in the den. They never went to the

1 bedrooms. They were scared. And they got an alarm system
2 and that's not something they wanted. They never had any
3 intentions of ever having an alarm system. When you live
4 in the country, you feel like, there's nobody out there. I
5 mean, this is a rural area, we're a farming area. This
6 isn't going to happen in our little community. But they
7 have an alarm system.

8 The only rest they have gotten is when they
9 have left their home at night and come and stayed with us,
10 the children. That is the only good nights' sleep they
11 have had since this has happened, since May.

12 THE COURT: Well, I don't know if it would be
13 beneficial, but you might ought to consider getting your
14 parents some counseling to help them work through this.

15 MS. GOGGANS: I appreciate that.

16 THE COURT: I think it would be very beneficial
17 to them. It's a very real fear and I can -- I had an
18 experience myself so I hope I can identify with them.

19 MS. GOGGANS: Thank you.

20 THE COURT: Thank you very much.

21 MR. GIBBONS: Thank you, Your Honor.

22 THE COURT: Mr. Wilson, let me say this. I
23 understand your position that the other people are in jail
24 for murder and they may be the ones that maybe pushed him
25 into it. The problem I have with that argument is this, if

1 it hadn't been for this individual, those two individuals
2 would never have known where the victims lived. It would
3 never have started except for this individual. This
4 individual is the instigator for what occurred. Even
5 though he might have tried to back out as his statement
6 said, he's the one that started this event and I just don't
7 accept that argument that he was forced into doing this.
8 Except for him this would never have happened.

9 MR. WILSON: I understand. Your Honor, if I
10 could just very briefly -- and I understand with all due
11 respect to the Court and I've known the Sease family, and
12 with all due respect to the Sease family and what they've
13 been through, the only thing I would ask the Court to take
14 into consideration is in the jury verdict. Obviously the
15 jury recognized what I'm talking to you about to a certain
16 extent and that's with all due respect to what everybody in
17 this courtroom has been through.

18 But to a certain extent, I think the jury's
19 verdict reflects a little bit of recognition in that regard
20 and I would just ask the Court to respect that and take
21 that into consideration and the only other thing I
22 neglected to tell you, but Mr. Gunnells has been in jail
23 498 days counting today.

24 THE COURT: Okay. Anything else?

25 MR. WILSON: Nothing further.