

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Horry County

Thomas A. Russo, Circuit Court Judge

RECEIVED

JAN 16 2013

S.C. Supreme Court

TRAVIS D. BELLAMY,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2012-213038

APPENDIX

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STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY) 07-GS-26-3930, 3931, 3932

The State,	)	
	)	
Plaintiff,	)	Transcript of Record
	)	
vs.	)	
	)	
Travis Detron Bellamy,	)	August 3-6, 2009
	)	
Defendant.	)	

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

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

Brad Richardson, Esquire
Attorney for Plaintiff

Ronald Hazzard, Esquire
Attorney for Defendant

Grace L. Hurley, CVR-CM
Circuit Court Reporter

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Horry County Courthouse RANDOM STRIKE SHEET

JUDGE NAME :

Sorted by: Randi

TRIAL TYPE : Criminal

PANEL ID : CULBERTSON 21

DESCRIPTION : CULBERTSON 21

Trial

COURTROOM JAR

1	Millsaps, Barbra E	261	W	F	(✓)	(✓)	()	•
2	Richter, Marie A	307	W	F	(✓)	(X)	()	
3	Floyd, Gwen S	106	W	F	(✓)	(X)	()	
4	Canady, Meredith B	48	W	F	(✓)	(✓)	()	•
5	Milleman, Marian G	258	W	F	(✓)	(✓)	()	•
6	Tisdale, Lydia A	352	W	F	(✓)	(X)	()	
7	Radu, John I	297	W	M	(✓)	(✓)	()	•
8	Mccue, William N	244	W	M	(✓)	(X)	()	
9	riddei, Jenifer N	308	W	F	(✓)	(✓)	()	•
10	Gause, Mark D	118	W	M	(✓)	(X)	()	
11	Hancock, Angela C	147	B	F	(X)	()	()	
12	Hill, Kieantay C	163	B	F	(✓)	(X)	()	
13	Hoffnagle, Jon J	167 <i>mt</i>	W	M	()	()	()	<i>exc - in reid</i>
14	Gartner, Kirsten L	116	W	F	(✓)	(✓)	()	•
15	Van-Alstyne Helen	361	W	F	(✓)	(X)	()	
16	Hirschman, Elizabeth S	166	W	F	(✓)	(✓)	()	•
17	Young, Shante N	392	B	F	(✓)	(✓)	()	(16) •
18	Kimber, Tanya D	210	W	F	(✓)	(✓)	()	•
19	Mathis, Harriett R	243	W	F	(✓)	(X)	()	
20	Shah, Nirupa J	320	N	F	(✓)	(✓)	()	•
21	Singleton, Brandon D	324	W	M	(✓)	(✓)	()	•
22	Malec, Gary J	234	W	M	(✓)	(X)	()	
23	Todd, Sommer G	353	W	F	(✓)	(✓)	()	•

Horry County Courthouse RANDOM STRIKE SHEET

JUDGE NAME :

TRIAL TYPE : Criminal

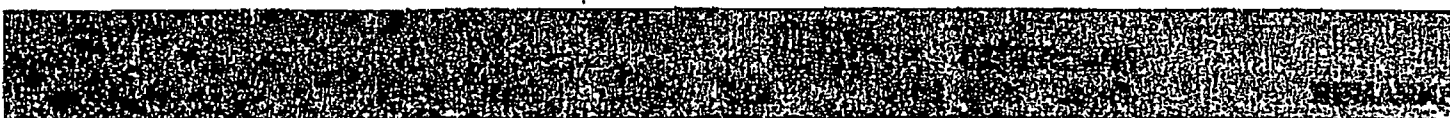
PANEL ID : CULBERTSON 21

COURTROOM JAR

Sorted by: Random

Trial

DESCRIPTION : CULBERTSON 21



24	Gilbertson, William E	121	W	M	()	()	()	(BC)
25	Patterson, Michael D	284	W	M	(✓)	(✓)	()	• Alt 1
26	Bussa, Tina M	159	W	F	(✓)	(✓)	()	• "2
27	Hedding, Regina K	155	W	F	()	()	()	
28	Czurak, Michael J	76	W	M	()	()	()	
29	Tuberville, Mary H	359	W	F	()	()	()	
30	Seekins, Kathryn L	318	W	F	()	()	()	
31	Johnson, Wendy W	198	W	F	()	()	()	
32	Fields, Elizabeth A	100	W	F	()	()	()	
33	Albiniak, Helen V	5	W	F	()	()	()	
34	Gryniewski, Nancy W	140	W	F	()	()	()	
35	Grainger, Susan C	134	W	F	()	()	()	
36	Poole, Laura N	292	W	F	()	()	()	
37	Johnson, Dana Q	195	B	F	()	()	()	
38	Bragg, Susan H	31	W	F	()	()	()	
39	Betush, Lawrence W	21	W	M	()	()	()	
40	Dorman, Priscilla A	87	W	F	()	()	()	
41	Westmoreland, Catherine L	373	W	F	()	()	()	
42	Snipes, Carol J	333	W	F	()	()	()	
43	Howard, Shirley A	175	B	F	()	()	()	
44	Turbeville, Judy C	360	W	F	()	()	()	
45	Williams, Chester A	378	W	M	()	()	()	

Total Number of Jurors:

45

** END OF REPORT **

Voir Dire

1

1 (On the record, August 3, 2009.)

2 THE COURT: All right, ladies and gentlemen, you have
3 all been qualified to serve as jurors for this term of court.
4 However, I have some questions I'll need to go over with you
5 at this point in time. These questions are called voir dire
6 questioning and the purpose of these questions are to
7 determine if you are qualified to serve as jurors on this
8 particular case. Likewise, it gives the attorneys some
9 additional information about you to assist them in the
10 selection of the jury for this particular case. So, at this
11 point in time - have we got the indictment for this case?

12 THE CLERK: Yes, sir.

13 MR. HAZZARD: Your Honor, the Defense has some
14 additional voir dire questions.

15 THE COURT: All right.

16 MR. HAZZARD: ~~If you would receive them at this time.~~
17 I've already provided a copy to the Prosecution.

18 THE COURT: All right.

19 MR. HAZZARD: And I believe Mr. Richardson is going to
20 want to be heard on a couple of them.

21 (Whereupon, a bench conference was held in the presence
22 but out of the hearing of the jury venire.)

23 MR. HAZZARD: Thank you, Your Honor.

24 (Clerk and Court confer.)

25 THE COURT: All right, excuse me.

Voir Dire

2

1 (Clerk and Court confer.)

2 THE COURT: All right, ladies and gentlemen, as I told
3 you earlier when we were doing the qualifications downstairs,
4 as jurors you're constantly taking oaths, and before I begin
5 my voir dire questioning you're going to need to stand and
6 raise your right hand so you can take another oath. This is
7 to respond to these voir dire questions honestly. All right.

8 (Whereupon, the jury was sworn by the clerk.)

9 THE COURT: All right, first off, was there any
10 member of the jury panel who did not respond to the oath by
11 saying, "I do?" If so, please stand.

12 (No response.)

13 THE COURT: All right, ladies and gentlemen, we are
14 getting ready to start the case of the State of South Carolina
15 versus Travis Detron Bellamy. Mr. Bellamy has been charged
16 with armed robbery and according to the indictment says that
17 on or about March the 21st, 2007, while armed with a deadly
18 weapon that he committed armed robbery. It just says Horry
19 County. Where in Horry County?

20 MR. RICHARDSON: Your honor, actually the burglary,
21 the burglary indictment actually has the address of the
22 property. However, one word is omitted. It should say North
23 Myrtle Beach. I believe it says Myrtle Beach.

24 THE COURT: Right.

25 MR. RICHARDSON: Move to amend to conform with the

Voir Dire

3

1 discovery that has been provided.

2 THE COURT: All right, all right, so, the indictments
3 state that the Defendant, Mr. Bellamy, he's charged with armed
4 robbery, kidnapping and burglary in the first degree as a
5 result of an incident that occurred on or about March the
6 21st, 2007, at in North Myrtle Beach,
7 South Carolina. Now, is there any member of the jury panel
8 who has heard anything, read anything, discussed anything or
9 knows anything about this case; if so, please stand?

10 (No response.)

11 THE COURT: All right, as I stated the Defendant in
12 this case is Mr. Travis Detron Bellamy. Is there any member
13 of the jury panel related by blood or marriage, have a
14 business relationship, social relationship, friendly
15 relationship or any other type of relationship with the
16 Defendant Mr. Bellamy? If so, please stand.

17 (No response.)

18 THE COURT: All right, the alleged victims in this
19 case are Robert and Linda Whitlock. Is there any member of
20 the jury panel related by blood or marriage, have a business
21 relationship, social relationship, personal relationship or
22 any other type of relationship with Mr. and Mrs. Whitlock? If
23 so, please stand.

24 (No response.)

25 THE COURT: All right, the potential witnesses in thi

Voir Dire

4

1 case and there are a number of them, so if you will please
2 listen up Ms. Linda Whitlock; Mr. Robert Whitlock; Paul
3 Sheets; Don Repec, R-E-P-E-C; Caroline Pelland, P-E-L-L-A-N-D;
4 Owen Lynam; Carl Farmer; David King; Ken Kovarsky; Rick
5 Bonner; Riccardo Corley; Chris Lingham; Michelle Ward; Brian
6 Huggins; Wanda Singleton; Carmen Mureddu, M-U-R-E-D-D-U; Perry
7 Dalton; or Satish Magawti, M-A-G-A-W-T-I.

8 MR. RICHARDSON: And Your Honor, that should have
9 read Mark Bonner instead of Rick Bonner.

10 THE COURT: Okay, Mark Bonner. Is there any member
11 of the jury panel related by blood or marriage, have a
12 personal relationship, a social relationship, a business
13 relationship or any other type of relationship with any of
14 these potential witnesses? If so, please stand.

15 All right, ma'am, your name and number?

16 MS. HEDDINGER: Regina Heddinger, Number 155.

17 THE COURT: All right, Ms. Heddinger, who is it that
18 you know?

19 MS. HEDDINGER: Okay, Paul Sheets.

20 THE COURT: Sergeant Paul Sheets of the North Myrtle
21 Beach Police Department?

22 MS. HEDDINGER: Yes.

23 THE COURT: All right, you know Mr. Sheets?

24 MS. HEDDINGER: Yes.

25 THE COURT: All right, now, how do you know Sergeant

Voir Dire

5

1 Sheets?

2 MS. HEDDINGER: Through school.

3 THE COURT: Okay.

4 MS. HEDDINGER: His children attend the same school as m
5 children.

6 THE COURT: All right, is it just a casual
7 relationship or would you or ---

8 MS. HEDDINGER: Yes.

9 THE COURT: All right, would your relationship with
10 Sergeant Sheets prohibit you from giving both the State and
11 the Defendant in this case a fair and impartial trial?

12 MS. HEDDINGER: No, it would not.

13 THE COURT: Would you be able to set that
14 relationship aside and base your decision in this case
15 exclusively on the testimony and evidence presented at trial?

16 MS. HEDDINGER: Yes.

17 THE COURT: Would you give any benefit to Sergeant
18 Sheets or his credibility simply because you know him?

19 MS. HEDDINGER: No.

20 THE COURT: All right, thank you very much for
21 bringing that to our attention. All right, sir, your name ar
22 number?

23 MR. MALEC: Gary Malec, 234, I know Sergeant Sheets a
24 well.

25 THE COURT: All right, and how do you know Sergeant

Voir Dire

6

1 Sheets?

2 MR. MALEC: Under similar circumstances and dealing
3 with him at the school and the church, at St. Andrews.

4 THE COURT: Do you all go to the same church?

5 MR. MALEC: Yes, sir.

6 THE COURT: All right, how often do you see him?

7 MR. MALEC: Quite a bit during basketball season.

8 THE COURT: I got you.

9 MR. MALEC: But the other time infrequently.

10 THE COURT: Would that relationship or would your
11 relationship with Sergeant Sheets prohibit you from giving the
12 Defendant and the State a fair and impartial trial?

13 MR. MALEC: None whatsoever.

14 THE COURT: All right, would you be able to base your
15 decision exclusively on the testimony and evidence presented
16 at trial?

17 MR. MALEC: Absolutely.

18 THE COURT: Would you give any preferential treatment
19 or be inclined to give Sergeant Sheets, view him as being more
20 credible simply because of your relationship with Sergeant
21 Sheets?

22 MR. MALEC: No, Your Honor.

23 THE COURT: All right, thank you for bringing that to
24 our attention.

25 All right, does anyone else know any of these potential

Voir Dire

7

1 witnesses? If so, please stand.

2 (No response.)

3 THE COURT: All right, the attorney for the State of
4 South Carolina in this case is Attorney Brad Richardson. The
5 attorney for the Defendant is Attorney Ron Hazzard. Is there
6 any member of the jury panel related by blood or marriage,
7 have a personal relationship, business relationship or social
8 relationship with either of these attorneys? If so, please
9 stand.

10 (No response.)

11 THE COURT: Is there any member of the jury panel who
12 has ever been represented by either of these attorneys? If
13 so, please stand.

14 (No response.)

15 THE COURT: Is there any member of the jury panel wh
16 has ever been involved in any legal action in which these
17 attorneys represented another party to that action? If so,
18 please stand.

19 (No response.)

20 THE COURT: Is there any member of the jury panel wh
21 either personally or has a family member that is employed by
22 the Solicitor's Office for the 15th Circuit Solicitor or the
23 Office of Indigent Defense for the 15th Judicial Circuit? If
24 so, please stand.

25 (No response.)

Voir Dire

8

1 THE COURT: Is there any member of the jury panel who
2 has formed or expressed an opinion about any issue or matter
3 involved in this case? If so, please stand.

4 (No response.)

5 THE COURT: Is there any member of the jury panel
6 aware of any bias or prejudice towards either the State of
7 South Carolina or the Defendant in this case? If so, please
8 stand.

9 (No response.)

10 THE COURT: Is there any member of the jury panel
11 that was a member of the grand jury that handed down any of
12 the indictments in this case? If so, please stand.

13 (No response.)

14 THE COURT: Is there any member of the jury panel who
15 is a member of or a contributor to any group which has as its
16 primary concern the promotion of law enforcement or victims'
17 rights? Some of these organizations include MADD, which is
18 Mothers Against Drunk Driving, SADD, Students Against Drunk
19 Driving, CAVE, which is Citizens Against Violent Crimes or
20 CASA, which is Citizens Against Spousal Abuse, or any other
21 organization that has as its primary function the promotion of
22 law enforcement or victims' rights? If you are a member of or
23 a contributor to any such organization please stand.

24 (No response.)

25 THE COURT: Is there any member of the jury panel who

1 is unable to give or who is unable to presume the Defendant
2 innocent of these charges? If so, please stand.

3 (No response.)

4 THE COURT: Is there any member of the jury panel who
5 is inclined to believe that the Defendant is guilty simply by
6 virtue of his having been charged and indicted and/or
7 arrested? If so, please stand?

8 (No response.)

9 THE COURT: Is there any member of the jury panel who
10 either personally, has an immediate family member or a close
11 relative or acquaintance who has been the victim of a crime?
12 If so, please stand.

13 Yes, ma'am, your name and number?

14 MS. TURBEVILLE: Judy Turbeville, 360.

15 THE COURT: All right, Ms, Turbeville, was this you
16 or a family member or an acquaintance?

17 MS. TURBEVILLE: My father-in-law.

18 THE COURT: Your father-in-law, and where does he
19 live?

20 MS. TURBEVILLE: He's deceased.

21 THE COURT: Okay.

22 MS. TURBEVILLE: He was murdered in 1995.

23 THE COURT: In '95. Would that incident prohibit you
24 from giving both the State and the Defendant in this case a
25 fair and impartial trial?

Voir Dire

10

1 MS. TURBEVILLE: No, sir.

2 THE COURT: Would you be able to put that event aside
3 and base your decision in this case exclusively on the
4 testimony and evidence presented at trial?

5 MS. TURBEVILLE: Yes, sir.

6 THE COURT: Okay, thank you for bringing that to our
7 attention.

8 Yes, ma'am, your name and number?

9 MS. TISDALE: Lydia Tisdale, Number 352.

10 THE COURT: All right, Ms. Tisdale, was this you, a
11 family member, an acquaintance or whom?

12 MS. TISDALE: Me.

13 THE COURT: You, okay, and when was it and what kind
14 of crime?

15 MS. TISDALE: It's been I guess about 10 years. It was
16 an armed robbery.

17 THE COURT: You were the victim of an armed robbery?

18 MS. TISDALE: Yes.

19 THE COURT: Would that incident influence you or your
20 decision-making in this case?

21 MS. TISDALE: No.

22 THE COURT: Would you be able to put that incident
23 aside and base your decision in this case exclusively on the
24 testimony and evidence presented in this case?

25 MS. TISDALE: Yes.

Voir Dire

11

1 THE COURT: Would that incident affect your ability to
2 presume the Defendant in this case innocent or to force the
3 State to prove the Defendant's guilt beyond a reasonable
4 doubt?

5 MS. TISDALE: No.

6 THE COURT: All right, thank you for bringing that to
7 our attention.

8 Anyone else?

9 Yes, ma'am, your name and number?

10 MS. GRYNIEWSKI: Nancy Gryniewski, 140.

11 THE COURT: All right, how do you pronounce that
12 name?

13 MS. GRYNIEWSKI: Gryniewski.

14 THE COURT: All right, Ms. Gryniewski, was this you
15 or a family member or ---

16 MS. GRYNIEWSKI: No, a friend.

17 THE COURT: A friend?

18 MS. GRYNIEWSKI: And they have a child that was killed
19 by a drunk driver.

20 THE COURT: All right, would that incident prohibit
21 you from giving both the State and the Defendant a fair and
22 impartial trial in this case?

23 MS. GRYNIEWSKI: No, sir.

24 THE COURT: Would you be able to put that incident
25 aside and base your decision exclusively on the testimony and

Voir Dire

12

1 evidence in this case?

2 MS. GRYNIEWSKI: Yes, Your Honor.

3 THE COURT: Okay, thank you for bringing that to our
4 attention.

5 Anyone else?

6 Yes, ma'am, your name and number?

7 MS. WESTMORELAND: Catherine Westmoreland, the number is
8 373.

9 THE COURT: All right, Ms. Westmoreland, was this
10 you, a family member or ---

11 MS. WESTMORELAND: One of my dearest friend's children,
12 adult children, last week or the week before were - their home
13 was broken into and someone was shot.

14 THE COURT: All right, now, that, this is an
15 acquaintance? How close of an acquaintance?

16 MS. WESTMORELAND: Well, the mother of the person is one
17 of my oldest friends.

18 THE COURT: Okay, now, would that incident prohibit
19 you from giving both the State and the Defendant in this case
20 a fair and impartial trial?

21 MS. WESTMORELAND: No, sir, I don't suppose it would,
22 no.

23 THE COURT: Okay, well, now, the law requires that you
24 give both the State and the Defendant a fair and impartial
25 trial, that you presume the Defendant innocent unless and

1 until the State proves the Defendant's guilt beyond a
2 reasonable doubt. Your decision has to be based exclusively
3 on the testimony and evidence presented in the trial of this
4 case and you cannot be influenced by any occurrence, event or
5 information that occurs outside of this courtroom. Do you
6 understand that?

7 MS. WESTMORELAND: Yes, sir.

8 THE COURT: And would you be able to - with those
9 guidelines follow that law?

10 MS. WESTMORELAND: Yes, sir.

11 THE COURT: All right, thank you very much for
12 bringing that our attention. Yes, ma'am, your name and
13 number?

14 MS. YOUNG: Shante Young, 392. My sister, she was
15 murdered.

16 THE COURT: What's your jury number, oh, 392.

17 MS. YOUNG: Yes.

18 THE COURT: All right, Ms. Young, your sister was
19 murdered?

20 MS. YOUNG: Yes.

21 THE COURT: When was this?

22 MS. YOUNG: Probably, probably like 12 years ago maybe.

23 THE COURT: All right, would that occurrence affect
24 your ability to give both the State and the Defendant in this
25 case a fair and impartial trial?

Voir Dire

14

1 MS. YOUNG: No.

2 THE COURT: Would you be able to put that incident
3 aside and base your decision in this case exclusively on the
4 testimony and evidence presented in this case?

5 MS. YOUNG: Yes.

6 THE COURT: All right, thank you for bringing that to
7 our attention.

8 Anyone else?

9 (No response.)

10 THE COURT: Is there any member of the jury panel who
11 either personally, has a family member or a close personal
12 acquaintance who is presently or has previously been employed
13 by any federal, state or local law enforcement agency, any
14 state, federal or local prosecution agency, whether it be the
15 United States Attorney's Office, the Solicitor's Office or a
16 District Attorney's Office, or any law enforcement
17 organization? Is so, please stand?

18 All right, let's start here on the front, your name and
19 number again, please?

20 MS. HEDDINGER: Regina Heddinger, Number 155.

21 THE COURT: All right, Ms. Heddinger, who, this ---

22 MS. HEDDINGER: Is this for any state?

23 THE COURT: Yes, for any, any state or any - this -
24 who is it employed, a relative or a ---

25 MS. HEDDINGER: Relative.

1 THE COURT: All right, and who - what is the
2 relationship?

3 MS. HEDDINGER: My brother-in-law is a Prince
4 George's County, Maryland, police officer.

5 THE COURT: All right.

6 MS. HEDDINGER: And my sister works for probation and
7 parole in Maryland, for the State of Maryland.

8 THE COURT: All right, would those associations
9 influence your ability to give the State and the Defendant in
10 this case a fair and impartial trial?

11 MS. HEDDINGER: No.

12 THE COURT: All right, thank you very much. Yes,
13 ma'am, your name and number?

14 MS. BRAGG: My name is Susan Bragg. I'm number 31 an
15 ---

16 THE COURT: All right, let me find you right quick.
17 All right, Ms. Bragg, who is it that's employed by whom now?

18 MS. BRAGG: I have a son-in-law that's employed with
19 the Jersey City Police Department.

20 THE COURT: All right, would that association or his
21 employment affect your ability to give both the State and the
22 Defendant in this case a fair and impartial trial?

23 MS. BRAGG: No, it would not.

24 THE COURT: All right, thank you for bringing that t
25 our attention. Yes, sir, your name and number?

Voir Dire

16

1 MR. HOFFNAGLE: Jon Hoffnagle, 167. My mother is
2 employed by the North Myrtle Beach Police Department. She is
3 Director William Bailey's personal assistant.

4 THE COURT: All right, and this involves North Myrtle
5 Beach Police; doesn't it?

6 MR. RICHARDSON: It does, Your Honor.

7 THE COURT: Okay, and that's your mother?

8 MR. HOFFNAGLE: Yes, sir.

9 THE COURT: All right, all right, Mr. Hoffnagle, I'm
10 going to excuse you from presiding over this particular case

11 MR. HOFFNAGLE: Thank you, sir.

12 THE COURT: All right, sir, your name and number?

13 MR. MCCUE: William McCue, 244, I have a brother-in-
14 law who is a New Jersey State Policeman.

15 THE COURT: All right, would that employment or
16 relationship affect your ability to give both the State and
17 the Defendant in this case a fair and impartial trial?

18 MR. MCCUE: No, sir.

19 THE COURT: All right, thank you for bringing that to
20 our attention.

21 All right, ma'am, your name and number?

22 MS. VAN ALSTYNE: Helen Van Alstyne, number 361.

23 THE COURT: All right, Ms. Van Alstyne.

24 MS. VAN ALSTYNE: I'm retired from the New York City
25 Police Department.

1 THE COURT: All right, would your previous employment
2 affect your ability to give both the State and the Defendant
3 in this case a fair and impartial trial?

4 MS. VAN ALSTYNE: No.

5 THE COURT: Would you be able to put your prior
6 employment aside and base your decision in this case
7 exclusively on the testimony and evidence presented at trial?

8 MS. VAN ALSTYNE: Yes.

9 THE COURT: Does your prior employment cause you to
10 give more credibility to those employed in law-enforcement
11 simply because they are employed in law-enforcement?

12 MS. VAN ALSTYNE: No.

13 THE COURT: Thank you for bringing that to our
14 attention.

15 Yes, ma'am, your name and number?

16 MS. HILL: Kieantay Hill, 163. I have a cousin-in-
17 law that's employed by Horry County Police Department.

18 THE COURT: A cousin, a cousin-in-law.

19 MS. HILL: Yeah.

20 THE COURT: All right, how often do you see this
21 cousin-in-law?

22 MS. HILL: Hardly, not often.

23 THE COURT: Okay, would that employment affect your
24 ability to give both the State and the Defendant in this case
25 a fair and impartial trial?

Voir Dire

18

1 MS. HILL: No, sir.

2 THE COURT: All right, thank you very much for
3 bringing that to our attention.

4 MS. HILL: You're welcome.

5 THE COURT: All right, yes, ma'am, your name and
6 number again?

7 MS. TISDALE: Lydia Tisdale, 352.

8 THE COURT: All right, Ms. Tisdale.

9 MS. TISDALE: My nephew is a South Carolina State
10 trooper.

11 THE COURT: All right, now, and where does he live?

12 MS. TISDALE: Horry County.

13 THE COURT: He lives in Horry County, and how often
14 do you see him?

15 MS. TISDALE: Every couple of weeks.

16 THE COURT: Would that relationship affect your
17 ability to give both the State and the Defendant in this case
18 a fair and impartial trial?

19 MS. TISDALE: No, sir.

20 THE COURT: All right, thank you for bringing that to
21 our attention.

22 All right, the lady in green blouse.

23 MS. ALBINIAK: Helen Albiniaak, number five. My brother
24 is a city policeman in Statesboro, Georgia. His wife is a
25 probation officer. My brother-in-law is military police and I

1 have a cousin who retired from the Georgia Bureau of
2 Investigation.

3 THE COURT: Would any of those relationships prohibi-
4 you from giving both the State and the Defendant in this case
5 a fair and impartial trial?

6 MS. ALBINIAK: No.

7 THE COURT: All right, thank you very much for
8 bringing that to our attention. Yes, ma'am, the lady beside
9 her.

10 MS. GLOYD: I'm Gwen Floyd, 106.

11 THE COURT: All right, Ms. Floyd.

12 MS. FLOYD: I have two nephews that are Horry County
13 policemen, one cousin that's an Horry County policeman, one
14 cousin that's a Tabor City policeman and my cousin is the
15 coroner.

16 THE COURT: All right, how often do you see these
17 relatives?

18 MS. FLOYD: Often.

19 THE COURT: Would those relationships prohibit you
20 from being fair and impartial to both the State and the
21 Defendant in this case?

22 MS. FLOYD: No, sir.

23 THE COURT: All right, thank you for bringing that to
24 our attention.

25 All right, in the back on my left.

Voir Dire

20

1 MS. BUSSA: Tina Bussa, 159.
2 THE COURT: All right.
3 MS. BUSSA: My ex-husband is a corporal at J. Reuben.
4 THE COURT: All right, this is your ex-husband?
5 MS. BUSSA: Uh-huh.
6 THE COURT: How long has it - have you all been ex?
7 MS. BUSSA: Five years.
8 THE COURT: All right.
9 MR. HAZZARD: I apologize, Your Honor, what was that
10 jury number again?
11 THE COURT: Juror Number 159.
12 MS. BUSSA: 159.
13 THE COURT: Tina M. Bussa.
14 MS. BUSSA: He started working there after we
15 separated. He hasn't been there long.
16 THE COURT: Okay, so, would that relationship or that
17 association effect your ability to give both the State and the
18 Defendant in this case a fair and impartial trial?
19 MS. BUSSA: No, we don't really see each other except
20 to exchange kids. We don't.
21 THE COURT: All right, thank you for bringing that our
22 attention.
23 All right, yes, ma'am, your name and number?
24 MS. MATHIS: Harriett Rosanne Mathis, 243. My son is a
25 police officer in Henderson County in North Carolina and my

1 nephew is a state trooper in North Carolina.

2 THE COURT: All right, Ms. Mathis, would those
3 relationships or associations effect your ability to give both
4 the State and the Defendant a fair and impartial trial?

5 MS. MATHIS: No, sir.

6 THE COURT: All right, thank you very much. Yes,
7 ma'am, your name and number?

8 MS. JOHNSON: Wendy Johnson, 198.

9 THE COURT: All right, Ms. Johnson, who's ---

10 MS. JOHNSON: I have a cousin that's a state trooper in
11 Conway.

12 THE COURT: In Conway?

13 MS. JOHNSON: Uh-huh.

14 THE COURT: Would that affect your ability to give
15 both the State and the Defendant in this case a fair and
16 impartial trial?

17 MS. JOHNSON: No, sir.

18 THE COURT: All right, thank you for bringing that to
19 our attention, and yes, ma'am, your name and number again?

20 MS. YOUNG: Shante Young, 392. My cousin was a Hor
21 County Police Officer, but he retired.

22 THE COURT: Okay, would that relationship affect your
23 ability to give both the State and the Defendant in this case
24 a fair and impartial trial?

25 MS. YOUNG: No.

Voir Dire

22

1 THE COURT: Thank you for bringing that to our
2 attention.

3 Is there any member of the jury panel who is presently or
4 at any time in the past acted as a paid or unpaid informant
5 for any state, federal or local law-enforcement agency? If
6 so, please stand?

7 (No response.)

8 THE COURT: All right, any additional questioning by
9 the State?

10 MR. RICHARDSON: None from the State, Your Honor.

11 THE COURT: All right, any from the Defense?

12 MR. HAZZARD: None on behalf of Defendant, Travis
13 Bellamy.

14 THE COURT: All right.

15 All right, ladies and gentlemen what will transpire now
16 is that your names have been generated on a list and they will
17 be called out at random. When your name is called if you
18 would please come forward, stand here in front of the podium
19 and face the attorneys. The State gets five strikes in this
20 case and the Defense gets 10 strikes in this case, and when
21 you come forward you'll stand in front of the attorneys and
22 you'll face them and the State's attorney, Mr. Richardson, is
23 going to look at his notes a little bit and he's going to look
24 at you a little while. Then he's going to look back at his
25 notes a little bit and then he's going to look at you a little

1 while and then he's going to decide whether he wants to strike
2 you or keep you, and if he keeps you then Mr. Hazzard is going
3 to look at his notes a little while and then he's going to
4 look back at you a little while, and then he's going to look
5 at his notes a little while and he's going to decide if he
6 wants you as a juror, and we'll go through this process until
7 we have selected 12 jurors and two alternates. Now, when your
8 name is called if you would please come forward, bring with
9 you any coats, umbrellas, pocketbooks, anything that you might
10 have with you. Stand in front of the podium and face the
11 attorneys. Now, if you are struck by either the State or the
12 Defendant in this case don't take it personally. It just
13 means that they have taken a bunch of information. They've
14 gone through a bunch of research and for whatever reason they
15 do not feel that you would best serve their needs as a juror
16 in this particular case. I've seen attorneys strike jurors on
17 one case and take them on the very next case. I've seen them
18 take them on a case and strike them on the next case. Each
19 case is different and each attorney has a different perceptio
20 as to what kind of juror fits his or her criteria for a
21 particular case. So, please don't take it personally and
22 don't hold it against any of the attorneys, but if you'd
23 please listen up and as your name is called if you would
24 please come forward, stand in front of the podium and face th
25 attorneys.

Jury Selection

24

1 THE CLERK: Juror Number 261, Barbara Millsaps. What
2 say the State?

3 MR. RICHARDSON: Please present Mrs. Millsaps.

4 THE CLERK: Defense?

5 MR. HAZZARD: The Court's indulgence, Your Honor.

6 THE COURT: All right.

7 MR. HAZZARD: Please swear Ms. Millsaps.

8 MS. MILLSAPS: I'm sorry?

9 THE COURT: Yes, ma'am.

10 MR. HAZZARD: Please have a seat in the jury box.

11 THE CLERK: Please be seated in the jury box. Juror
12 Number 307, Marie Richter. What say the State?

13 THE COURT: All right, if you would just stand right
14 there that'll be fine.

15 THE CLERK: What say the State?

16 MR. RICHARDSON: Please present Ms. Richter.

17 THE CLERK: Defense?

18 MR. HAZZARD: Please excuse Ms. Richter from the trial
19 of this particular case.

20 THE CLERK: You're excused from this particular case.
21 You may be seated.

22 Gwen Floyd. What say the State?

23 MR. RICHARDSON: Please present Mrs. Floyd.

24 THE CLERK: Defense?

25 MR. HAZZARD: Please excuse Ms. Floyd from the trial of

Jury Selection

25

1 this case..

2 THE CLERK: You're excused from this particular case
3 48, Meredith Canady. What say the State?

4 MR. RICHARDSON: Please present Ms. Canady.

5 THE CLERK: Defense?

6 MR. HAZZARD: The Court's indulgence, Your Honor.

7 THE COURT: All right.

8 MR. HAZZARD: Please swear Ms. Canady.

9 THE CLERK: Please be seated in the jury box.
10 258, Marian Milleman. What say the State?

11 MR. RICHARDSON: Please present Mrs. Milleman.

12 THE CLERK: Defense?

13 MR. HAZZARD: Please swear Ms. Milleman.

14 THE CLERK: Please be seated in the jury box.

15 352, Lydia Tisdale. What say the State?

16 MR. RICHARDSON: Please present Mrs. Tisdale.

17 THE CLERK: Defense?

18 MR. HAZZARD: The Court's indulgence, Your Honor.

19 THE COURT: All right.

20 MR. HAZZARD: Please excuse Ms. Tisdale from this case

21 THE CLERK: You're excused from this particular case
22 297, John Radu. What says the State?

23 MR. RICHARDSON: Please present Mr. Radu.

24 THE CLERK: Defense?

25 MR. HAZZARD: Please swear the juror.

Jury Selection

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1 THE CLERK: Please be seated in the jury box. 244,
2 William McCue. What say the State?
3 MR. RICHARDSON: Please present Mr. McCue.
4 THE CLERK: Defense?
5 MR. HAZZARD: Please excuse the juror from the trial of
6 this particular case.
7 THE CLERK: You're excused from this particular case.
8 308, Jennifer Riddei. What say the State?
9 MR. RICHARDSON: Please present Mrs. Riddei.
10 THE CLERK: Defense?
11 MR. HAZZARD: The Court's indulgence, Your Honor.
12 Please swear the juror.
13 THE CLERK: Please be seated in the jury box.
14 118, Mark Gause. What say the State?
15 MR. RICHARDSON: Please present and I'm sorry I don't
16 know your retired rank. So, I'll just say Mr. Gause.
17 MR. GAUSE: Corporal.
18 MR. RICHARDSON: Yes, sir.
19 THE CLERK: Defense?
20 MR. HAZZARD: Please excuse the juror from the trial of
21 this particular case.
22 THE CLERK: You're excused from this particular case.
23 147, Angela Hancock. What say the State?
24 MR. RICHARDSON: May I inquire one more time, I took
25 a, jotted a note down, as to Ms. Hancock's employment?

Jury Selection

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1 MS. HANCOCK: Child protective services for Horry County
2 DSS.
3 MR. RICHARDSON: Okay.
4 THE COURT: I'm sorry, Ms. Hancock, I didn't hear
5 what you say that it was.
6 MS. HANCOCK: Horry County DSS in child protective
7 services.
8 THE COURT: All right, thank you.
9 MR. RICHARDSON: Please excuse Ms. Hancock from the
10 trial of this case.
11 THE CLERK: You're excused from this particular case.
12 163, Kieantay Hill.
13 What say the State?
14 MR. RICHARDSON: Please present Ms. Hill.
15 THE CLERK: Defense?
16 MR. HAZZARD: - Please excuse Ms. Hill from the trial of
17 this case.
18 THE CLERK: You're excused from this particular case.
19 Juror Number 167 was excused.
20 Juror Number 116, Kirsten Gartner. What say the State?
21 MR. RICHARDSON: Please present Ms. Gartner for the
22 trial of this case.
23 THE CLERK: Defense?
24 MR. HAZZARD: The Court's indulgence, Your Honor.
25 Please swear Ms. Gartner.

Jury Selection

28

1 THE CLERK: Please be seated in the jury box.
2 361, Helen Van Alstyne.
3 What say the State?
4 MR. RICHARDSON: Please present Ms. Van Alstyne.
5 THE CLERK: Defense?
6 MR. HAZZARD: Please excuse the retired New York City
7 Police Department officer, Your Honor.
8 THE CLERK: 166, Elizabeth Hirschman. What say the
9 State?
10 MR. RICHARDSON: Please present Mrs. Hirschman.
11 THE CLERK: Defense?
12 MR. HAZZARD: The Court's indulgence, Your Honor.
13 THE COURT: All right.
14 MR. HAZZARD: Please swear the juror.
15 THE CLERK: Please be seated in the jury box.
16 392, Shante Young.
17 What say the State?
18 MR. RICHARDSON: Please present Ms. Young.
19 THE CLERK: Defense?
20 MR. HAZZARD: Your Honor, may we approach?
21 THE COURT: All right.
22 (Whereupon, a bench conference was held in the presence
23 but out of the hearing of the jury venire.)
24 MR. HAZZARD: The Court's indulgence, Your Honor.
25 THE COURT: All right.

Jury Selection

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1 MR. HAZZARD: Please swear the juror.

2 THE CLERK: Please be seated in the jury box.

3 210, Tanya Kimber.

4 What say the State?

5 MR. RICHARDSON: Please present Mrs. Kimber.

6 THE CLERK: Defense?

7 MR. HAZZARD: Please swear Ms. Kimber.

8 THE CLERK: Please be seated in the jury box.

9 243, Harriett Mathis.

10 What say the State?

11 MR. RICHARDSON: Please present Mrs. Mathis.

12 THE CLERK: Defense?

13 MR. HAZZARD: The Court's indulgence, Your Honor.

14 THE COURT: All right.

15 MR. HAZZARD: Please excuse the juror from the trial o
16 this particular case.

17 THE CLERK: You're excused from this particular case
18 320, Nirupa Shah.

19 What say the State?

20 MR. RICHARDSON: Please present Ms. Shah.

21 THE CLERK: Defense?

22 MR. HAZZARD: Please swear the juror.

23 THE CLERK: Please be seated in the jury box.

24 324, Brandon Singleton.

25 What say the State?

Jury Selection

30

1 MR. RICHARDSON: Please present Mr. Singleton.
2 THE CLERK: Defense?
3 MR. HAZZARD: The Court's indulgence, Your Honor.
4 THE COURT: All right.
5 MR. HAZZARD: Please swear the juror.
6 THE CLERK: Please be seated in the jury box.
7 234, Gary Malec.
8 What says the State?
9 MR. RICHARDSON: Please present Mr. Malec.
10 THE CLERK: Defense?
11 MR. HAZZARD: Excuse the juror from the trial of this
12 particular case.
13 THE CLERK: You're excused from this particular case.
14 353, Sommer Todd.
15 What say the State?
16 MR. RICHARDSON: Please present Mrs. Todd.
17 THE CLERK: Defense?
18 MR. HAZZARD: Please swear the juror.
19 THE CLERK: Please be seated in the jury box.
20 THE COURT: All right, we'll select two alternates,
21 be one and two, yeah, one strike for the State and two for the
22 Defense.
23 Let me see the attorneys up here for a minute.
24 (Whereupon, a bench conference was held in the presence
25 but out of the hearing of the attorneys.)

Jury Selection

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1 THE CLERK: Juror Number 284, Michael Patterson.

2 What say the State?

3 MR. RICHARDSON: Please present Mr. Patterson.

4 THE CLERK: Defense?

5 MR. HAZZARD: Please swear the juror.

6 THE CLERK: Please be seated in the jury box.

7 159, Tina Bussa.

8 MR. HAZZARD: I'm sorry, Madam Clerk, that was 159?

9 THE CLERK: Yes, sir.

10 MR. RICHARDSON: She's on the front page.

11 MR. HAZZARD: Okay, thank you, sir.

12 THE CLERK: What say the State?

13 MR. RICHARDSON: I hope I'm pronouncing this right,
14 please present Ms. Bussa.

15 MR. HAZZARD: Swear the juror.

16 THE CLERK: Please be seated in the jury box.

17 THE COURT: All right, ladies and gentlemen, you will
18 comprise the jury in this case. I'm going to excuse you back
19 to the jury room for just a moment and I'll bring you out very
20 shortly to give you some additional instructions and how we'll
21 proceed in this case at this time but this'll give you an
22 opportunity to stretch your legs, maybe get a little something
23 to drink and to do whatever needs to be done. While you're
24 back at the jury room if I could get you to do one thing for
25 me and that is to select a foreperson. Now, if you can't

Jury Selection

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1 select a foreperson, don't worry about it. I can choose
2 someone and many judges choose their own foreperson. I like
3 to give the jury the opportunity to select their own
4 foreperson on their own if they're able to do so.

5 Now, the foreperson has absolutely no more influence or
6 no more importance than any other jury [sic]. The foreperson
7 is simply the liaison between the Court. If the jury has a
8 need, the foreperson lets the bailiff know. If the jury has a
9 question the foreperson lets the Court know. When it's time
10 to deliberate on your verdict the foreperson will preside over
11 the deliberations, and when the jury reaches a verdict the
12 foreperson will bring the verdict to the Court's attention,
13 but other than that there's no more importance or no more
14 influence or no more authority than a foreperson has over any
15 other juror. So, I'm going to excuse you back to the jury
16 room. If you'd select a foreperson. When you select the
17 foreperson's name just simply write his or her name on a sheet
18 of paper with the jury number, give it to the bailiff and the
19 bailiff will bring it back into court. Now, the only
20 requirement is that, Mr. Patterson and Ms. Bussa, you cannot
21 serve as forepersons on this jury since you are alternates at
22 this point in time.

23 Now, when you come back into the courtroom, Mr.
24 Patterson, Ms. Bussa, if you will always occupy the seats
25 where you now sit. The foreperson will always sit in this

Jury Selection

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1 first seat, and the rest of you are at liberty to sit in
2 whichever seat you like. If you want to sit in the same seat
3 throughout the trial of the case you can. If you want to
4 alternate seats throughout the trial of the case you can or
5 whatever makes you feel more comfortable. The only
6 requirements is that the foreperson occupy the first seat on
7 the front and that the alternates sit in their designated
8 alternate juror spots, but at this point in time I'm going to
9 excuse you back to the jury room. We'll bring you out in just
10 a minute. Once you select a foreperson write his or her name
11 on a sheet of paper and give it to the bailiff and we'll bring
12 you back in at that time. Thank you very much. Everybody
13 else please remain seated while the jury is excused.

14 (The following takes place outside the presence of the jury.)
15 THE COURT: All right, any challenges to the selection
16 or composition of the jury by the State?

17 MR. RICHARDSON: None from the State, Your Honor.

18 THE COURT: Any from the Defense?

19 MR. HAZZARD: The Court's indulgence, Your Honor, while
20 I concur with my client.

21 THE COURT: All right.

22 MR. HAZZARD: No objection to the composition of the
23 panel, Your Honor, or the selection of the panel, although
24 there will be a matter that we would wish to take up outside
25 the presence of the jury panel after they're excused.

Jury Selection

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1 THE COURT: All right, do we need to keep them awhile
2 or go ahead and excuse them?

3 MR. HAZZARD: No, sir; no, sir.

4 (Remaining Jury Venire excused.)

5 THE COURT: All right, for the record I understand
6 that both the State and the Defense consent to my excusing Mr.
7 Gilbertson who's a potential - from this jury panel; is that
8 correct?

9 MR. RICHARDSON: That's correct, Your Honor.

10 THE COURT: Is that correct, Mr. Hazzard?

11 MR. HAZZARD: Yes, sir, Your Honor, that's correct.

12 THE COURT: All right, all right, Mr. Gilbertson, if
13 you'd come forward please. All right, sir, you can just stand
14 right there. I understand that there was a qualification
15 question or an exemption question where you could be exempted
16 from service but you did not respond during the selection
17 process; is that correct?

18 MR. GILBERTSON: Yes.

19 THE COURT: All right, what is your situation?

20 MR. GILBERTSON: Well, the problem is my son is 15.
21 He was diagnosed paranoid schizophrenic.

22 THE COURT: All right.

23 MR. GILBERTSON: And all I know is the thing on the
24 paper state that he seven years and older. Right now he's
25 home alone. He's taking medication. My parents are away,

Jury Selection

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1 well, my mother is away, and there's no one there right now.

2 THE COURT: I mean, does he need you to be there to
3 take care of him?

4 Mr. GILBERTSON: Yeah, he, yeah, he needs me, you
5 know, till my mother, my mother, like I said, she's away. She
6 usually helps me out, but I ---

7 THE COURT: Okay, all right, all right, Mr.
8 Gilbertson, I'll go ahead and excuse you from jury service for
9 this week then; okay?

10 MR. GILBERTSON: Thank you.

11 THE COURT: Thank you very much. You're free to go.

12 All right, Mr. Hazzard, anything you
13 wanted to place on the record I think pertaining to the jury.

14 MR. HAZZARD: Yes, sir, Your Honor, the Prosecution
15 struck, their one and only strike was a black female employed
16 by the South Carolina Department of Social Services. I
17 believe that was Juror Number 147 if I'm not mistaken

18 THE COURT: All right, Ms. Hancock, Angela Hancock.

19 MR. HAZZARD: Yes, sir, I conferred with my client,
20 informed him that he specifically had the right to question
21 that strike as having - as - question the motivation behind
22 that strike and he indicates that he did not wish to question
23 that motivation and I wanted to place that on the record.

24 THE COURT: All right.

25 MR. HAZZARD: That he was informed that he had the

Jury Selection

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1 right to question it and then chose not to.

2 THE COURT: All right, Mr. Bellamy, has your attorney
3 explained your right to question the reasons for the State
4 striking Ms. Hancock? Was it Hancock?

5 MR. RICHARDSON: I believe it was.

6 THE COURT: Yeah, Ms. Hancock, you've had ample
7 opportunity to discuss this matter with your attorney?

8 MR. BELLAMY: Yes, sir.

9 THE COURT: All right, and you do not wish to question
10 the State on their reasons for striking Ms. Hancock?

11 MR. BELLAMY: No, sir.

12 THE COURT: All right, thank you very much.

13 All right, anything else we need to put on the record?

14 MR. HAZZARD: There are several things on behalf of the
15 Defense if the Court wishes to go into motions at this time.

16 THE COURT: All right, do we want to go ahead and do
17 that at this time? It's 1:30 or do we want to come back?

18 MR. RICHARDSON: I was hoping we might be able to cut
19 the jury loose and let everybody get a bite to eat or ---

20 THE COURT: Yeah, that's what I'm thinking. Let's
21 check and see if they've selected a foreperson yet, and if
22 they've got a foreperson we'll go ahead and we'll put that on
23 the record and then we'll cut them loose. We'll swear the
24 jury. We'll wait - do we want to go ahead swear them now or
25 swear them tomorrow morning?

Jury Selection

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1 MR. RICHARDSON: Tomorrow morning.

2 MR. HAZZARD: You can swear them tomorrow morning, Your
3 Honor.

4 THE COURT: All right.

5 MR. RICHARDSON: Resume at 9:30 tomorrow morning,
6 Your Honor, with the jury?

7 THE COURT: What time - whatever time you all want to
8 get going. Do you all want to go at 9:15, 9:30?

9 MR. RICHARDSON: 9:00, 9:30, either one.

10 THE COURT: If we start at 9:30 you'll still have
11 plenty of time?

12 MR. RICHARDSON: Should, Your Honor, yes, sir.

13 THE COURT: All right.

14 MR. RICHARDSON: 30 minutes here or there isn't going
15 to make that much of a difference.

16 THE COURT: Yeah, all right, well, let's go ahead and
17 we'll get started at 9:30 but let's try to be ready to get
18 started at 9:30.

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 THE COURT: So, we can get going. All right, let's
21 see if they've got a foreperson yet.

22 All right, well, let's go ahead and just tell them -
23 let's bring them back. I'm going to cut them loose and they
24 can do that tomorrow morning; okay? All right, let's go ahead
25 and bring them back in to the court. Oh, they selected a

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1 foreperson, oh, good.

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

3 THE COURT: Mr. Brandon Singleton, Juror Number 324
4 has been selected as the foreperson. All right, you're Mr.
5 Singleton?

6 MR. SINGLETON: Yes, sir.

7 THE COURT: All right, you must have run a good
8 campaign, very good. You can go ahead and always occupy that
9 seat when we come back into the courtroom. As I said, our
10 alternates will stay there. The rest of you are at liberty to
11 sit wherever you like. Now, I'm getting ready to let you go
12 for the remainder of the day. We're not going to start this
13 trial until tomorrow morning and I'll ask that you please be
14 back in your jury room, let's say, so we can get started at
15 9:30, let's say by about 9:20 tomorrow morning. If you would
16 please be back in your jury room so we can get started on this
17 case.

18 I remind you during the trial of this case you're to have
19 absolutely no influence from any outside source. So, please
20 do not discuss this case with anyone. Do not try to conduct
21 any independent investigations. Don't go on the Internet.
22 Don't go looking through newspapers. Don't listen to any news
23 accounts. Don't talk to anyone about the case. Don't ask
24 anyone about the case. Don't even discuss it among yourselves
25 at this point in time. It is too early to even begin

Jury Selection

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1 deliberations. You're not to discuss this case in any way,
2 shape or form except with your fellow jurors after all of the
3 testimony and evidence has been presented. So, for that
4 reason, we caution you against discussing this case with
5 anyone even among your fellow jurors at this point in time.
6 As I said, you are to base your decision in this case
7 exclusively on the testimony and evidence presented at trial
8 without any influence from any other source but I hope
9 everyone has a good evening. I'll excuse you for the
10 remainder of the day, and if you please be back and in the
11 jury room at 9:20 tomorrow morning. Thank you very much.

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

13 THE COURT: All right, I'm going to go ahead and mark
14 this sheet where they wrote Brandon Singleton, Number 324, I'
15 going to mark that as Court's Exhibit One.

16 (Court's Exhibit Number One [Foreperson Selection]-----
17 appropriately marked.)

18 Anything before we break for lunch?

19 MR. RICHARDSON: Nothing from the State, Your Honor.

20 THE COURT: Anything from the Defense?

21 MR. HAZZARD: Nothing from the Defense, Your Honor.

22 THE COURT: All right, it's already 20 till two.
23 Let's go ahead and break.

24 OFF THE RECORD

25 (On the record.)

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1 THE COURT: All right, we're back on the record in the
2 case of the State of South Carolina versus Travis Detron
3 Bellamy.

4 MR. HAZZARD: Okay, Your Honor on behalf of the
5 Defendant there are several motions the Defense wishes to
6 address. The first document I'm going to hand up - all
7 documents have been provided to the Prosecution. The first
8 document I'm going to hand up and ask that it be made a
9 Court's exhibit is an undated letter from Assistant Solicitor
10 Brad Richardson to James Galmore of the Public Defender's
11 office.

12 For the record, Your Honor, Mr. Galmore initially
13 represented Mr. Bellamy and there was an order of substitution
14 of counsel naming me as Mr. Bellamy's attorney in March of
15 this year. This undated letter was received by our office,
16 stamp date March 9th of this year. Would ask that that be
17 made a court's exhibit. Specifically that document sets forth
18 the offer that the State made to the Defendant for disposition
19 of this case by way of guilty plea. It is my understanding
20 after speaking several times with Mr. Bellamy that he has
21 repeatedly rejected that offer. Based upon the serious nature
22 of the charges that Mr. Bellamy is facing, specifically life
23 in prison, I feel it would be appropriate to place this on the
24 record and ask the Court to have a colloquy with the Defendant
25 and place it on the record that the Defendant was indeed aware

1 of the offer for disposition and has knowingly and
2 intentionally and intelligently rejected that offer, Your
3 Honor.

4 THE COURT: All right, any objection to making this a
5 Court's Exhibit?

6 MR. RICHARDSON: None from the State, Your Honor. I
7 believe the date is up in - it was difficult for me to find,
8 up where it has the Solicitor in script I believe it says
9 March 6th possibly?

10 THE COURT: I believe so.

11 MR. RICHARDSON: Difficult to read.

12 THE COURT: All right, we'll make this Court's Exhibi
13 Two, all right. Just mark that and then let me see it back
14 for a second. Thank you.

15 (Court's Exhibit Number Two [3-9-2009 Letter from
16 Solicitor to Mr. Galmore] appropriately marked.)

17 (Defendant sworn by Court.)

18 THE COURT: All right, all right, Mr. Bellamy, what
19 I've received as Court's Exhibit Number Two is a letter from
20 Assistant Solicitor Brad Richardson dated March 6th, 2009,
21 received by the Horry County Public Defender on March 9th,
22 2009. It was addressed to James Cullen Galmore and it
23 outlines a plea offer in this case. Basically what it state
24 is that or it says, "Dear Mr. Galmore, I'm willing to make th
25 following proposal to your above referenced client," that

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1 being you, "In order to dispose of these charges by way of a
2 guilty plea, the Defendant will plead guilty to burglary in
3 the first degree and armed robbery or robbery while armed with
4 a deadly weapon. In exchange for that guilty plea the State
5 will dismiss the charge of kidnapping, and the State would
6 make a recommendation or a negotiation that for the burglary
7 in the first degree and armed robbery that you would receive a
8 15 year sentence and that the charges of kidnapping would be
9 dismissed. " Do you understand that offer?

10 MR. BELLAMY: Yes, sir.

11 THE COURT: And I understand from your attorney that
12 you rejected that offer; is that correct?

13 MR. BELLAMY: Yes, sir.

14 THE COURT: All right, now, the purpose of my asking
15 you these questions is because as you have an attorney in this
16 case and that attorney can advise you one way or the other.
17 However, the decision of whether or not to accept or reject a
18 plea offer is left exclusively up to the Defendant. Do you
19 understand that?

20 MR. BELLAMY: Yes, sir.

21 THE COURT: So, even if Mr. Hazzard recommended that
22 you accept this offer if you did not want to accept it he
23 could not make you accept it. Do you understand that?

24 MR. BELLAMY: Yes, sir.

25 THE COURT: Even if Mr. Hazzard thought that you

1 should not accept this offer and advised you against taking
2 it, if you wanted to accept it you would have the right to
3 accept it. Do you understand that?

4 MR. BELLAMY: Yes, sir.

5 THE COURT: All right, have you had ample opportunity
6 to discuss this plea offer with your attorney?

7 MR. BELLAMY: Yes, sir.

8 THE COURT: All right, do you have any questions
9 at this time that you want to ask your attorney regarding this
10 plea offer?

11 MR. BELLAMY: Yes, sir, I wanted to ask him, I mean ---

12 THE COURT: I mean, if you want to ask Mr. Hazzard
13 something I'll give you the opportunity to ask him now.

14 MR. BELLAMY: Well, the question that I was asking him
15 is whether or not, I mean, I kind of asked him this question
16 Saturday and he kind-of-gave me, he gave me his reasonable
17 doubts for why it would have happened, but I was asking if -
18 mean, I know I had a Co-Defendant, supposed to be have a Co-
19 Defendant doing with this, and he got to plea out to ten
20 years, and I was asking him why would I have to plea to 15
21 years and he plea to ten, why can't I just have the same plea
22 that he had, although I'm still saying I'm innocent.

23 THE COURT: Well, all - all I can tell you is because
24 the Solicitor has control of the case and just as you cannot
25 be made to accept or reject a plea offer that you, you know,

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1 just as you have absolute discretion over whether or not you
2 want to accept or reject a plea offer, the Solicitor has
3 absolute discretion over what plea offer to make and to whom
4 he wants to make it. I don't know the reason why someone else
5 might have got a different plea offer. All I can tell you is
6 that is within the absolute discretion of the Solicitor who's
7 prosecuting the case, and in this case Mr. Richardson made
8 this offer. Whether he made a different offer to a different
9 Defendant I don't know, and quite honestly that's within his
10 discretion. He can do it for whatever reason he deems
11 appropriate. Do you understand that? Do you have any other
12 questions you want to ask?

13 MR. BELLAMY: I mean, there's no other way around to try
14 to work a plea out for just the 15 years?

15 THE COURT: Not if the Solicitor is not willing to
16 make another offer. I mean, the Solicitor has absolute
17 discretion. You cannot force the Solicitor to make a
18 different plea bargain with you. He cannot make you take the
19 plea offer that he makes to you. All he can do, he has the
20 option to make whatever offer he wants to make and then you
21 have the option to accept it or reject it, and if you can't
22 come to terms, if he does not make an offer that you want to
23 accept, then we'll have the trial. So, to answer your
24 question I cannot force and your attorney, no one can force
25 the Solicitor to make a different plea offer. He's authorized

1 to make whatever offer he deems is appropriate and then you
2 can either accept it or reject it. All right, sir, do you
3 have any other questions?

4 MR. BELLAMY: No, sir, I - well, a question, I mean, I
5 know I'm not allowed to speak to the Solicitor, but I had a
6 question, would it be possible that I can just plea to 12
7 years and let it be gone.

8 THE COURT: That issue is not before the Court. The only
9 thing I can tell you is that the Solicitor has offered to let
10 you plead guilty to burglary and armed robbery in exchange -
11 and you've got recommendation/negotiation; is that - does ---

12 MR. RICHARDSON: Your Honor, at this time that plea
13 offer is gone.

14 THE COURT: That offer has been withdrawn.

15 MR. RICHARDSON: Withdrawn.

16 THE COURT: Okay. -----

17 MR. RICHARDSON: If he wishes to plea he can plead to
18 the charges as they are. Of course burglary in the first
19 degree carries 15 years to life and the remaining charges 10
20 to 30 on armed robbery and zero to 30, I believe, on
21 kidnapping.

22 THE COURT: Okay.

23 MR. RICHARDSON: And if that would be his election I
24 would just ask for a finding of no sex registry on the
25 kidnapping.

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1 THE COURT: Okay. All right, in other words, this,
2 this offer has already been withdrawn, Mr. Bellamy. So, your
3 time for even accepting the recommendation or the negotiation
4 of 15 years is no longer an option.

5 MR. RICHARDSON: And Your Honor, I will put on the
6 record Mr. Hazzard and I discussed last week that I - that as
7 of, I believe I said last Thursday by 2:30 that the Defendant
8 would still be allowed to plead to the burglary and the armed
9 robbery for 15.

10 THE COURT: Okay.

11 MR. RICHARDSON: Of course, that time has passed as
12 well.

13 THE COURT: All right.

14 MR. RICHARDSON: That was a verbal.

15 THE COURT: All right, well, Mr. Bellamy, so, that
16 option is no longer available. It's already been withdrawn.
17 So, do you acknowledge that you did reject this offer and did
18 not accept it?

19 MR. BELLAMY: Yes, sir.

20 THE COURT: All right.

21 All right, any further questions that you have?

22 MR. BELLAMY: No, sir.

23 THE COURT: All right, all right, Mr. Hazzard,
24 anything further you want to place on the record in that
25 regard?

1 MR. HAZZARD: Your Honor, let the record reflect the
2 Defendant has indicated a question as to why he couldn't plea
3 out to 12 years. Please let the record reflect that that
4 request as made by the Defendant has been provided to the
5 Prosecution on several occasions actually and we've discussed
6 it back and forth on several occasions and the Prosecutor has
7 always remained steadfast that the offer was 15 years and that
8 steadfastness has always been made known to the Defendant, but
9 his question regarding 12 years has previously been made known
10 to the Prosecution.

11 THE COURT: All right, that's correct, Mr. Richardson.

12 MR. RICHARDSON: That is correct, Your Honor.

13 THE COURT: All right, all right, sir, Mr. Hazzard
14 anything else?

15 MR. HAZZARD: Yes, sir, Your Honor.

16 THE COURT: You can be seated, Mr. Bellamy. Thank
17 you.

18 MR. HAZZARD: Okay, Your Honor, with regard to motions
19 our first motion will be with regard to some subpoenas that
20 were issued. To give the Court some background, I believe on
21 March 20th of 2007, a home invasion involving three masked
22 African-American individuals allegedly occurred. Subsequent
23 during the time of this home invasion a couple of the items
24 that are said to have been taken were the victims' debit card
25 and their cell phone. Now, subsequent to this offense

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1 allegedly occurring the victims' cell phone was used by a Co-
2 Defendant, a Mr. Riccardo Corley, for the purpose of calling a
3 young lady in North Carolina. Now, as a part of their
4 investigation, is it my understanding based on the discovery
5 that I have received, that the North Myrtle Beach Police
6 Department issued two subpoenas, one being to Sprint Nextel
7 Compliance for the phone records from the cell phone, the
8 other one being to First Palmetto Savings Bank, which I
9 believe is the bank that the victims used for their debit
10 account.

11 Now, the subpoena to Sprint Nextel Compliance is dated
12 March 28th of '07, and the caption states City of North Myrtle
13 Beach versus ongoing. The subpoena to First Palmetto Savings
14 Bank is dated April 20th of '07 and the caption reads in part
15 City of North Myrtle Beach versus unknown perpetrator. I'm
16 going to hand up to the Court copies of these two subpoenas as
17 have been supplied to me through discovery and ask that they
18 be made Court's exhibits, along with a copy of State versus
19 Williams, which is 301 S.C. 369, 392 SE2d 181, a 1990 case.
20 I'm also going to provide the Court with a copy of South
21 Carolina Bar Ethics Advisory opinion number 01-05, a copy of
22 Rule 13 of the South Carolina Rules of Criminal Procedure, and
23 a copy of a South Carolina Attorney General opinion number 00-
24 6. Copies of all documents have previously been provided to
25 the Prosecution for their review.

1 THE COURT: All right, Mr. Richardson, any objection to
2 making these a Court's Exhibit?

3 MR. RICHARDSON: No objection to making them an
4 exhibit, Your Honor.

5 THE COURT: All right, so, subpoena in case number
6 2007-06656, City of North Myrtle Beach versus Ongoing, we'll
7 make that Court's Exhibit Three.

8 (Court's Exhibit Number Three [Subpoena, case number
9 2007-06656, City of North Beach versus Ongoing] appropriately
10 marked.)

11 THE COURT: Case number 2007-06656, the case of City
12 of North Myrtle Beach versus Unknown Perpetrator, that
13 subpoena be Court's Exhibit Four.

14 (Court's Exhibit Number Four [Subpoena, case number 2007
15 06656, City of North Myrtle Beach versus Unknown Perpetrator,
16 appropriately marked.)

17 THE COURT: Copy of Supreme Court case State versus
18 Williams, 301 S.C. 369, 392 SE2d 181, be State's [sic] Exhibi
19 Five.

20 (Court's Exhibit Number Five [Copy of Supreme Court case
21 State versus Williams] appropriately marked.)

22 THE COURT: South Carolina Bar Ethics Advisory Opinio
23 Number 01-05, be Court Exhibit Six.

24 (Court's Exhibit Number Six, [South Carolina Bar Ethics
25 Advisory Opinion Number 01-05] appropriately marked.)

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1 THE COURT: Attorney General Opinion Number 00-6 will
2 be made Court Exhibit Seven.

3 (Court's Exhibit Number Seven [Attorney General Opinion
4 Number 00-6] appropriately marked.)

5 THE COURT: And Rule 13 Subpoenas, copy of that rule
6 will be made Court's Exhibit Eight.

7 (Court's Exhibit Number Eight [Rule 13 Subpoenas]
8 appropriately marked.)

9 THE COURT: All right, sir.

10 MR. HAZZARD: Okay, Your Honor, with regard to - first
11 of all, our motion that is related to these documents, the
12 first motion is a motion to quash the three indictments
13 against this Defendant, those indictments being for
14 kidnapping, burglary first and armed robbery. I would ask or
15 turn the attention of the Court initially to State versus
16 Michael Wayne Williams. In this 1990 case, the South Carolina
17 Supreme Court specifically states and the Court states - and
18 the opinion states on pertinent part that the State conceded
19 that as no action was pending against the Defendant, the
20 subpoena duces tecum was clearly defective. In that case the
21 State sought evidence of the Defendant's blood for the
22 purpose, I believe, of a DUI case.

23 Now, what this opinion states is that on its face where a
24 subpoena duces tecum is issued by the State where no action is
25 pending it is clearly defective. So, that's the first point.

1 Our position, which is contra to Williams, because
2 Williams goes on to say that that defect does not require a
3 dismissal of the indictment. Our position, for the record, is
4 contra to Williams, Your Honor, because our position is that
5 these indictments or these subpoenas were used for the purpose
6 of obtaining bank records, and more specifically, for
7 obtaining the cell phone records, and everything that has to
8 do with the prosecution of this Defendant stems from those
9 defective and improper subpoenas, specifically the improper
10 subpoena was sent to Sprint Nextel. The State obtained the
11 cell phone records showing where the Co-Defendant had called
12 his girlfriend in North Carolina. As a result of obtaining
13 those records they then contacted the girlfriend in North
14 Carolina. She then said that Riccardo Corley was the
15 individual who had called her at those times, and as a result
16 of that the State then found and arrested Riccardo, arrested
17 Riccardo Corley. Riccardo Corley subsequent to that arrest
18 then gave a statement inculcating this Defendant. Now, we
19 are aware that Williams states on its face that even though
20 subpoenas may be defective that that does not effect an
21 otherwise validly issued indictment by the Grand Jury. We
22 want to place on the record that this is specifically
23 initially a motion to quash the indictment, contra Williams,
24 so that it is preserved so that the Court may take a second
25 look at it if it so desires for the purposes of appeal.

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1 THE COURT: All right, Mr. Richardson.

2 MR. RICHARDSON: Your Honor, first and foremost the
3 Defendant lacks any standing with which to object to these
4 subpoenas duces tecum. One the Sprint Nextel compliance
5 subpoena is directed to a North Carolina number that does
6 belong to Ms. Bell. Ms. Bell is not here to object to that.
7 The Defendant lacks personal standing. It's not his freedom,
8 his independence, his liberty that is being challenged by
9 this. Secondly, with regard to the subpoena served on First
10 Palmetto Bank, indeed it's the victim's bank. Your Honor,
11 they're just requesting documents which they already have
12 access to. They will consent to. They have consented to.
13 They've talked with Sergeant Sheets consenting. It's just
14 more form for the bank, but in this case the Defendant lacks
15 any standing. He has no personal interest, no personal legal
16 interest in either that cell number or that bank account or
17 any of the information therein.

18 THE COURT: All right.

19 MR. RICHARDSON: And with regard to the indictment,
20 Williams does spell out even assuming arguendo these are
21 defective and the Defendant would have standing, the
22 indictments on their own without alleging what's contained
23 from the - information gleaned from, directly from these, the
24 indictment, the indictments would stand on their own.

25 THE COURT: Okay.

1 MR. HAZZARD: Okay, Your Honor, this additionally is an
2 issue of the fruit of the poisonous tree. So, the analysis of
3 standing in and of itself is not dispositive. First of all,
4 Williams specifically indicates that the indictments are on
5 their face defective. Secondly, to address the prosecution's
6 argument that the records sought belong to the victims, well,
7 that is fine. Then there is absolutely no reason for the
8 State to act in an improper fashion. All they have to do is
9 simply ask these victims for this information and obtain it in
10 that fashion, whether it's to have them sign a release and
11 then fax it. So, that I would submit to the Court is not
12 persuasive. Secondly, with regard to it being the fruit of
13 the poisonous tree, Your Honor, the record is replete with
14 regard to the improper nature of this action. First of all I
15 would point the Court's attention to the South Carolina Bar
16 Ethics Advisory Opinion 01-05, which speaks of and I'm sure
17 the Court is familiar with basically the Five Rivers case that
18 began in Georgetown and I believe was removed to Horry County.
19 The question that is positive is if prosecutor A obtains and
20 serves a subpoena duces tecum during a criminal investigation
21 prior to the issuance of an arrest warrant or true-billed
22 indictment and prosecutor B then uses the information obtained
23 pursuant to the subpoena in prosecuting the Defendant,
24 question may prosecutor B, who is not involved in the issuance
25 of the subpoena, ethically use the information obtained

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1 pursuant to the subpoena duces tecum in prosecuting the case?
2 The response is that it is unethical conduct to do so. Now, I
3 will place on the record very clearly that I do not feel that
4 Prosecutor Richardson has acted unethically in any way, shape
5 or form in this manner. He has been very above board in all
6 of our dealings with regard to Mr. Bellamy's case. However,
7 this ethics advisory opinion is very, very close to the
8 situation that this opinion addresses. In this instance the
9 State, through Detective Sheets and the North Myrtle Beach
10 Police Department, issued subpoenas where there was no action
11 pending either by arrest warrant or true-billed indictment.
12 They subsequently provided that information to Assistant
13 Solicitor Richardson, and he is attempting to use that
14 information to prosecute this Defendant. That is the first
15 thing. There is also another, I'd point the Court's attention
16 to the opinion number 00-6 of the South Carolina Attorney
17 General dated February 10th of 2000, which indicates that
18 generally a search conducted without a warrant is unreasonable
19 and it goes on on the second page on paragraph number three or
20 point three is it proper for the municipal court to issue
21 subpoenas in a criminal case for General Sessions either
22 before or after the arrest is made, and the opinion states
23 municipal judge should not issue subpoenas in a criminal case
24 before an arrest is made, you know. Even after an arrest is
25 made a municipal judge lacks jurisdiction to issue a subpoena

1 in a criminal case for General Sessions.

2 Rule 13 of the South Carolina Rules of Civil Procedure
3 also indicates that upon the request of any party the Clerk of
4 Court for General Sessions shall issue subpoenas. So, there's
5 no question that the actions taken by the State are improper.
6 We would submit then the analysis is since it is improper
7 action that is - that the State is attempting to use against
8 the Defendant in his prosecution we would submit that that
9 constitutes fruit of the poisonous tree, that pursuant to that
10 analysis anything stemming from the fruit of that poisonous
11 tree must and should be excluded from the trial of the case
12 for the purpose of allowing the Defendant to have a fair trial
13 - pursuant to the Sixth and 14th Amendments. You know, so,
14 that, that's our argument, Your Honor, not a matter of
15 standing, a matter of whether or not the State is entitled to
16 engage in an improper activity and then benefit from that
17 activity to the detriment of the Defendant.

18 THE COURT: Okay, I understand your argument but I'm
19 going to deny your motion to quash the indictments. I think
20 there is a distinction when you - that I don't know if it's
21 standing or what. I certainly think your client certainly
22 he's the Defendant in this case and he can make the motion,
23 but I think there is a distinction between them issuing
24 subpoenas to subpoena his phone records, his bank statements
25 and things like that when they're investigating him for a

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1 crime and someone else. I think whoever owned the records,
2 whoever owned the phone, whoever had that, they could come
3 forward and object to the subpoena but based upon the fact
4 that it was obtained from the victims, it was the victims'
5 phone, the victims' bank accounts, I'm going to let the
6 subpoenas stand or let the indictments stand.

7 MR. HAZZARD: Okay.

8 THE COURT: All right.

9 MR. HAZZARD: As a request for alternative relief on
10 this particular issue we would respectfully request that the
11 bank records, the phone records and the testimony of Riccardo
12 Corley be excluded as a remedy for the Defendant in this case.

13 THE COURT: All right, motion is noted. I'm going to
14 deny it. I'm going to allow it - well, I'm going to deny it
15 on the grounds that you've argued thus far. Now, when it
16 comes time and they seek to introduce them you can raise your
17 objections then, but based upon your objection that they were
18 obtained by means of this subpoena I'm going to deny your
19 motion.

20 MR. HAZZARD: Okay, Your Honor, additionally the
21 Defendant wishes to address a couple of other matters. Mr.
22 Bellamy has been incarcerated over 24 months awaiting trial in
23 this case and during that time it is my understanding that
24 against the wishes and instructions of his initial trial
25 counsel, Mr. Galmore, Mr. Bellamy filed a series of motions or

1 which on their face purport to have been filed with the Horry
2 County Clerk of Court. I would request that Mr. Bellamy be
3 sworn and be allowed to address each of these three motions.
4 I'm going to hand the documents that I have up to the Court,
5 the first being a motion that is handwritten and dated
6 February 22nd of 2008, the second one being a motion that is
7 handwritten and dated June 3rd of 2008, the third one, that is
8 typed, and of course ---

9 THE COURT: I mean, what kind of motions are these?
10 Were these motions that were properly filed, properly served?

11 MR. HAZZARD: I cannot speak to that, Your Honor,
12 because the only access I have to these documents are the
13 copies that were mailed - apparently what happened, and again
14 I wasn't representing Mr. Bellamy at this point, but
15 apparently what happened is Mr. Bellamy prepared some
16 documents that purport on their face to have been filed with
17 the Horry County Clerk of Court. The address is Clerk of
18 Court's Office, Horry County, 15th Judicial Circuit, Honorable
19 Melanie Huggins, Clerk, P.O. Box 677, Conway, South Carolina,
20 29528. It is my understanding that Ms. Huggins then, Madam
21 Clerk then mailed copies of these documents to the prosecutio
22 and the prosecution then in turn mailed these documents to th
23 Public Defender's Office, and out of an overabundance of
24 precaution to make sure that all matters are addressed and al
25 matters are on the record the Defense proposes to put the

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1 Defendant on the stand and have him address these - well, two
2 handwritten and one typed document that purport to be motions
3 that he has made pro se.

4 THE COURT: Mr. Richardson, let me hear from you.

5 MR. RICHARDSON: Your Honor, and I would just ask if
6 Mr. Hazzard - is Defense adopting these motions now?

7 MR. HAZZARD: No, sir, I'm not adopting them. The
8 Defendant has the right and apparently prior to my
9 representation he filed these motions.

10 MR. RICHARDSON: Your Honor, he was represented at
11 that time and this would amount to hybrid representation which
12 is not allowed to entertain these motions. The only motion
13 that can be entertained by a represented Defendant is a motion
14 to be relieved is my understanding.

15 THE COURT: Let me hear from you that, on that, Mr.
16 Hazzard, the fact that you can't - I mean, that's the reason
17 we have an attorney is the attorney - now, if you want to go
18 ahead, file the motions, argue them on behalf of your client,
19 we can.

20 MR. HAZZARD: I will not do that, Your Honor. Once
21 again, as I'm sure the Court can understand, I am somewhat
22 hamstrung in this regard because I was not representing the
23 Defendant at the time that these documents were purportedly
24 prepared and filed and served. What I will do is ask for a
25 second to confer with my client and ask him if he wishes for

1 me to adopt these documents and then place him on the stand
2 and have him testify regarding them.

3 THE COURT: Okay, but before we place him on the stand
4 and have him testify regarding them somebody is going to have
5 to tell me what they are.

6 MR. HAZZARD: Okay. First ---

7 THE COURT: All right, but I'll give you an
8 opportunity. Let me let you talk to your client briefly
9 first; okay?

10 MR. HAZZARD: Okay.

11 THE COURT: And decide how you want to proceed.
12 Do you want to take a little break while you discuss it with
13 him?

14 MR. HAZZARD: Yes, sir.

15 THE COURT: All right, let's take about a five-minute
16 break; okay?

17 OFF THE RECORD

18 (On the record, outside the presence of the jury.)

19 THE COURT: All right, Mr. Hazzard, have you had ample
20 opportunity to speak with your client?

21 MR. HAZZARD: Yes, sir, Your Honor. I've had opportunity to
22 speak with my client and review most of the documentation
23 because during the break I've been provided with other
24 original documentation that apparently was served upon or
25 provided to the Solicitor's Office but not provided as a part

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1 of discovery to the Office of the Public Defender because Mr.
2 Bellamy apparently filed several pro se motions during his
3 time of incarceration beginning in 2007. Some were filed in
4 2008 and others as late as obviously March of 2009.

5 THE COURT: Okay, but I mean, these were matters
6 generated by your client?

7 MR. HAZZARD: Correct.

8 THE COURT: Okay, all right, so, how do you want to
9 proceed on them?

10 MR. HAZZARD: Your Honor, every right belongs to the
11 Defendant and I understand what Mr. Richardson says with
12 regard to the issue of hybrid representation, but the rights
13 in this case belong to Mr. Bellamy. They do not belong to me.
14 So, if he has filed these motions and wishes that they be
15 heard I feel that it is incumbent upon me to make it where
16 that can happen.

17 THE COURT: All right, all right, Mr. Bellamy, let me
18 get you to stand please.

19 (Defendant sworn by Court.)

20 THE COURT: All right, now, Mr. Bellamy, you have
21 filed - according to your attorney you have filed some what he
22 has called motions on your own without going through your
23 attorney; is that correct?

24 MR. BELLAMY: Yes, sir.

25 THE COURT: All right, have you had any legal training

1 at all?

2 MR. BELLAMY: No, sir. Well, I got a - well, I got a
3 went to prison for violation of probation when I first got
4 locked up.

5 THE COURT: All right.

6 MR. BELLAMY: And during my whole incarceration there I
7 stayed in the law library.

8 THE COURT: Okay, so, you've read some on your own in
9 the law library; is that correct?

10 MR. HAZZARD: Yes, sir.

11 THE COURT: All right, but you do not have a law
12 degree?

13 MR. BELLAMY: No, sir.

14 THE COURT: You have not attended law school?

15 MR. BELLAMY: No, sir.

16 THE COURT: You're not admitted to the bar in this
17 state or in any other state?

18 MR. BELLAMY: No, sir.

19 THE COURT: All right, well, now, Mr. Hazzard has.
20 He's been to law school. He's studied law. He's passed the
21 South Carolina bar exam. He is very competent as an attorney
22 Now, you have a constitutional right to an attorney and Mr.
23 Hazzard has been appointed to represent you in this case. I
24 strongly advise you to listen to Mr. Hazzard and to listen to
25 his advice because he knows what he's talking about. He know

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1 how to advise you in these legal matters. He is correct in
2 that if you want these issues heard then we can proceed and
3 have them heard. However, if he is advising against you
4 having them heard then he is doing that for a reason. He's not
5 doing that to be mean or anything of that nature. He's doing
6 that because he probably recognizes that by arguing these
7 motions it's going to work out to your detriment. In other
8 words, it's going to hurt you more than it's going to help
9 you.

10 Now, having said that, if you want your motions heard
11 this Court will hear these motions, but I will advise you that
12 anything you say can be used against you in the court of law,
13 that any adverse effects or any prejudices that arise as a
14 result of you arguing these motions or testifying regarding
15 these motions those are consequences you're going to have to
16 live with. Do you understand that?

17 MR. BELLAMY: Yes, sir.

18 THE COURT: All right, do you want to speak with your
19 attorney further regarding these matters?

20 MR. HAZZARD: The Court's indulgence, Your Honor.

21 THE COURT: All right.

22 MR. HAZZARD: Thank you, Your Honor. It is my
23 understanding that, and I'll ask the Court to confirm this
24 with Mr. Bellamy, that he wishes to withdraw all pro se
25 motions with the exception of one pro se motion regarding

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1 speedy trial and the allegation that because of the denial of
2 the speedy trial right that there is certain evidence or
3 witnesses who are no longer available to him, thus violating
4 his constitutional rights.

5 THE COURT: All right, all right, Mr. Bellamy, is that
6 true? You wish to withdraw all of your pro se motions saving
7 and excepting your motion for a speedy trial.

8 MR. BELLAMY: Yes, sir.

9 THE COURT: All right, I'll allow you to do that. Al
10 right, you can go ahead and have a seat. I can let Mr.
11 Hazzard make this argument. With regard to - let me hear from
12 you on his motion for a speedy trial.

13 MR. HAZZARD: Okay, Your Honor, after speaking with Mr.
14 Bellamy - obviously Mr. Bellamy was incarcerated in 2007.
15 This, this ---

16 THE COURT: On these charges.

17 MR. HAZZARD: On these charges, yes, sir.

18 THE COURT: All right.

19 MR. HAZZARD: The crime allegedly occurred on, I
20 believe, March 20th of 2007 and if memory serves correctly Mr
21 Bellamy was arrested in sometime in April or May or June.

22 MR. RICHARDSON: July.

23 MR. HAZZARD: July, in July of 2007. From that time
24 till today he has been incarcerated. Now, there have been a
25 series of letters written by various individuals involved,

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1 involving this matter or these matters. Specifically there
2 was a letter written by a gentleman by the name of Stephan
3 Vereen that would purport to explain how Mr. Bellamy came into
4 possession of the victims' debit card.

5 THE COURT: This is a letter to whom?

6 MR. HAZZARD: This letter was written to Mr. Bellamy and
7 Mr. Bellamy then in turn sent it to the Prosecutor, I believe,
8 the clerk of court and to the Public Defender's Office.

9 THE COURT: All right.

10 MR. HAZZARD: In this letter Mr. Bellamy, Mr. Vereen
11 indicates that he, Mr. Vereen, obtained the debit card from a
12 third individual, that he, Mr. Vereen, in turn on the night in
13 question provided the debit card to Mr. Bellamy in exchange or
14 in satisfaction of some monies that Mr. Vereen allegedly owed
15 Mr. Bellamy. Obviously, at the time of the letter, the letter
16 gives the impression that Mr. Vereen was willing and able and
17 available to testify in this matter. Obviously it is our
18 position that - in this case there is no hair, no
19 fingerprints, no fiber, no identification. The only thing
20 tying Mr. Bellamy to these charges is the word or statement of
21 the Co-Defendant Riccardo Corley. That's it. So, obviously
22 it would be a very strong thing for the Defense if the Defense
23 were to have available to them Mr. Vereen's testimony
24 regarding the fact that he, Mr. Vereen, provided the debit
25 card to Mr. Bellamy. It is Mr. Bellamy's contention that

1 because this matter has dragged on this extended period of
2 time, better than two years now, going on I think month numbe.
3 26, that now Mr. Vereen is not available. The latest
4 information we have is that he is in New York State, that he
5 may possibly be facing some charges of his own, that he is
6 aware of this prosecution but is not willing to testify. So,
7 Mr. Bellamy's position is that had this matter been tried in
8 more timely fashion Mr. Vereen's testimony would have been
9 available to him, testimony that Mr. Bellamy believes to be
10 exculpatory on its face, and ---

11 THE COURT: But I mean, why is the testimony not
12 available now?

13 MR. HAZZARD: Because now according to my client throug
14 some third parties he allegedly has gotten in touch with Mr.
15 Vereen and the word that has come back to him is that Mr.
16 Vereen may very well be on the run--from the law--and--therefore
17 is not willing to place himself within the jurisdiction of
18 this or any other court and Mr. Bellamy's position is that if
19 this matter had been tried in a more timely fashion when Mr.
20 Vereen was ready, able and willing to testify as evidenced by
21 his letter that this potentially exculpatory evidence would b
22 available for the Defense and that because of the delay cause
23 by the action of the State through no fault of the Defendant
24 this potentially exculpatory evidence is no longer available
25 to him.

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1 THE COURT: All right, when was the letter written?
2 When was he willing to testify and when did he cease becoming
3 available to testify?

4 MR. HAZZARD: The Court's indulgence, Your Honor. Let
5 me grab that correspondence for the Court.

6 The first letter I come across from Stephan Vereen is
7 dated November 12th of 2008, November 12th of 2008, Your
8 Honor.

9 THE COURT: All right, and when did he leave the state
10 and decide he did not want to testify?

11 MR. HAZZARD: The Court's indulgence, Your Honor.

12 THE COURT: All right.

13 MR. HAZZARD: After conferring with the Defendant my
14 client indicates that to his knowledge Stephan Vereen left the
15 state and became unwilling to testify in April of 2009.

16 THE COURT: All right, Mr. Richardson, let me hear
17 from you on that.

18 MR. RICHARDSON: Your Honor, if I may go through the
19 timeline a little bit, the Defendant was arrested in July
20 2007. Subsequently that August he was violated on his
21 probation, was sent to the Department of Corrections until the
22 end of at least November 2007. Of course, nothing could be
23 done on this case at that point. The Defendant was, as you,
24 as Mr. Hazzard has gone through, who was busy filing pro se
25 motions at that point. He had a Co-Defendant Mr. Corley at

1 that point. They were both represented, they were both got
2 sent notice of representation of counsel as trying to resolve
3 both cases together. Unfortunately Mr. Corley was assigned
4 Paul Taylor as his attorney. Paul Taylor had represented Mr.
5 Bellamy on his violation of probation; and so, then I had to
6 turn around, notify the Public Defender's Office that I
7 thought it would be a conflict on that. Whenever Mr. Galmore
8 was representing Mr. Bellamy, Mr. Bellamy filed a grievance,
9 want to say it was sometime in the winter or spring of 2008.
10 We went, I believe, it was before you, Your Honor, last, last
11 July after we had letters from Mr. Corley.

12 MR. HAZZARD: The Court's indulgence, Your Honor.

13 MR. RICHARDSON: Okay, okay.

14 Okay, just for dates and I'm guessing at the dates, at
15 that time I believe the Defendant withdrew his grievance and
16 any complaints he had against Mr. Galmore so we could proceed
17 forward again. We received those copies of the letters and I
18 believe Mr. Hazzard may not have been able to find it. One
19 was dated November 12. I think there was another dated
20 November 10th, 2008, from this Stephan Vereen. Stephan has
21 never come into my office and signed any affidavits. We get
22 these letters, can't find Stephan Vereen in our computer. I
23 don't know if Stephan exists. We're talking about a mythical
24 man here, but anyway, subsequently the Defendant, I believe
25 the last grievance was filed whenever Mr. - I believe Mr.

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1 Hazzard took over in January.

2 MR. HAZZARD: March.

3 MR. RICHARDSON: In March 2008. Of course, Mr.

4 Hazzard and I were engaged in a trial the first part of March.

5 He had to come up to speed on this trial. We had a motion in

6 I believe May for a speedy trial at which time that motion was

7 granted that we either try the Defendant by the end of August

8 or bond would be set in the amount of \$25,000, a bond that he

9 could make, and we proceeded on that way, Your Honor. There's

10 been no evidence other than these letters that Stephan Vereen

11 even exists, Your Honor. I've asked the Defendant, Co-

12 Defendant Corley has already pled. He says he's not familiar

13 with a Stephan Vereen.

14 THE COURT: All right, all right, yeah, I notice - I

15 guess this would be a motion to dismiss for violation of the

16 Defendant's right to a speedy trial. I'm going to deny the

17 motion. I don't think that the delay has risen to the extent

18 that it violates his constitutional right to a speedy trial.

19 All right, anything else?

20 MR. HAZZARD: That would be all pretrial motions from

21 the Defendant, Your Honor.

22 THE COURT: All right, anything from the State?

23 MR. RICHARDSON: No, sir, Your Honor.

24 THE COURT: All right, so, we'll be ready to go

25 tomorrow morning?

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1 MR. RICHARDSON: 9:30, yes, sir, Your Honor.

2 MR. HAZZARD: Yes, sir.

3 THE COURT: All right, we'll stand in recess till 9:30
4 tomorrow morning.

5 MR. RICHARDSON: We'll make sure the Defendant is here
6 in enough time.

7 THE COURT: All right.

8 MR. RICHARDSON: Thank you, Your Honor.

9 THE COURT: Thank you.

10 OFF THE RECORD

11 (On the record, August 4th, 2009, outside presence of jury.)

12 THE COURT: All right, before we get started and
13 before we bring the jury in I had noted Mr. Richardson
14 yesterday had made a motion, I don't know that we ever
15 addressed it, to amend the indictments where they ---

16 MR. RICHARDSON: --- It's the first degree burglary
17 indictment, Your Honor. It lists an address being Myrtle
18 Beach.

19 THE COURT: Oh, okay, yeah, the burglary first degree

20 MR. RICHARDSON: Yes, sir, all the discovery would
21 indicate it's North Myrtle Beach. It's North Myrtle Beach
22 police that investigated. It was a scrivener's error on that
23 and I didn't catch it until I believe Thursday.

24 THE COURT: So, the motion is to amend indictment
25 number 2007-GS-26-3930 to where it references an address in

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1 Myrtle Beach, South Carolina, to reference the address, the
2 same but in North Myrtle Beach, South
3 Carolina.

4 MR. RICHARDSON: That's correct, Your Honor. It's in
5 North Myrtle Beach.

6 THE COURT: All right.

7 All right, Mr. Hazzard, let me hear from you on that.

8 MR. HAZZARD: Your Honor, the Defendant has received
9 discovery in this case as the Prosecution indicates. All the
10 discovery indicates that the case was investigated by North
11 Myrtle Beach, although there are certain documents, such as
12 incident reports, things of that nature, that are redacted to
13 remove the address of the victims. The two voluntary
14 statements given by the victims have their name and have their
15 address as [REDACTED], North Myrtle Beach, South
16 Carolina. So, I have been aware and to my knowledge and my
17 discussions the Defendant has been aware of the locus of the
18 alleged incident.

19 THE COURT: All right.

20 MR. HAZZARD: We have no grounds for objection in that
21 regard.

22 THE COURT: All right, I'll grant the motion to amend
23 the indictment and I'm just going to handwrite in and initial
24 North in front of Myrtle Beach.

25 MR. RICHARDSON: Thank you, Your Honor.

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1 MR. HAZZARD: Your Honor, the Defense would have a
2 matter to address prior to the jury being brought out.

3 THE COURT: All right, Mr. Hazzard.

4 MR. HAZZARD: Thank you, Your Honor. Like to place on
5 the record one of the things that Mr. Bellamy has requested h
6 has requested that certain witnesses be subpoenaed. One of
7 those witnesses is a Ms. Jennifer Myers. It is my
8 understanding in speaking with Mr. Bellamy this morning that
9 he wishes to release Ms. Myers from that subpoena. Ms. Myers
10 is here at the courthouse pursuant to that subpoena and I
11 would like to place it on the record and have the Court
12 confirm that it is Mr. Bellamy's wish to excuse Ms. Myers and
13 release her from the subpoena that was issued for her.

14 THE COURT: All right, before we do that, Mr.
15 Richardson, any objection to releasing Ms. Myers?

16 MR. RICHARDSON: ----- No objection, Your Honor.

17 THE COURT: All right, all right, Mr. Bellamy, you
18 understand that you have the right to subpoena certain
19 witnesses to appear and testify should you decide to present
20 defense in this case. You understand that?

21 MR. BELLAMY: Yes, sir.

22 THE COURT: And I understand that you have
23 subpoenaed, who is that?

24 MR. HAZZARD: Jennifer Myers.

25 THE COURT: Jennifer Myers, now, Jennifer Myers is

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1 here pursuant to the subpoena that you had issued. Therefore,
2 she can only be released by the Court and what I need to find
3 out is do you want to release her from that subpoena?

4 MR. BELLAMY: Yes, sir.

5 THE COURT: All right, I'll go ahead and grant the
6 request. We'll release Ms. Myers from the subpoena.

7 MR. HAZZARD: Thank you, Your Honor.

8 THE COURT: All right, anything else?

9 MR. HAZZARD: Nothing else from the Defense, Your
10 Honor.

11 THE COURT: Anything from the State before we bring in
12 the jury?

13 MR. RICHARDSON: No, sir, Your Honor.

14 THE COURT: All right, let's ---

15 MR. HAZZARD: Your Honor, am I correct that the jury has
16 not been sworn at this point?

17 THE COURT: That's correct.

18 MR. HAZZARD: Okay.

19 THE COURT: I was going to go ahead, bring them in,
20 have - go ahead and have them sworn, then I was going to give
21 them some preliminary instructions and then we can begin
22 opening arguments. All right, let's go ahead and bring the
23 jury in.

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

Opening Instructions by Court

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1 THE COURT: Ladies and gentlemen, welcome back. I
2 want to thank everybody for being prompt this morning, being
3 back on time. We are ready now to begin the trial of the cas
4 of the State of South Carolina versus Travis Detron Bellamy.
5 However, before we begin the trial of that case I want to go
6 over some preliminary instructions with you and things of tha
7 nature. As I told you during the qualifications yesterday an
8 prior to voir dire yesterday as jurors you're constantly
9 taking oaths and that is the case or the procedure that we
10 must follow at this point in time. It requires that you be
11 administered another oath and that oath is that you will act
12 properly as jurors and base your decision in this case
13 exclusively on the testimony and evidence presented at trial.
14 So, if I could please get everyone to stand and raise your
15 right hand while the Clerk administers the oath.

16 (Whereupon, Jury sworn by Clerk.)

17 THE COURT: All right, now, if there was anyone that
18 did not respond to that oath by saying, "I do," if you'd
19 please stand at this time.

20 (No response.)

21 THE COURT: All right, let the record show that
22 everyone has responded appropriately to the oath of the jury.
23 Now, before we get started I want to introduce you to th
24 court personnel and who you'll be working with during the
25 course of this trial.

Opening Instructions by Court

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1 (Courtroom personnel introduced to jury.)

2 THE COURT: Now, we're about to begin the trial of the
3 case of the State of South Carolina versus Travis Detron
4 Bellamy, but before we begin the trial I want to tell you that
5 this trial will probably be a little bit different than what
6 you're accustomed to, from what you watch on TV, see in the
7 movies and things of that nature, trials are usually full of a
8 lot of suspense and high anxiety and a lot of drama, and while
9 that may be the case in this trial it probably won't. However,
10 we do hope that you find this trial educational, and we thank
11 you for your service in serving as jurors in this case.
12 Searching for the truth and making sure that justice is done
13 is often a slow, deliberate and repetitive process, a little
14 bit different than what you're accustomed to in the media or
15 on TV or in the movie. However, we do hope that you find this
16 educational.

17 The attorneys appearing before you are advocates for the
18 parties they represent, but first and foremost they're
19 officers of the court. They're sworn to uphold the integrity
20 and fairness of our judicial system and to help you in the
21 search for the truth. You should expect them to be
22 professional, competent and ethical in the representation of
23 their clients, and likewise, they expect you to be competent
24 ethical and professional in the performance of your duties.
25 Now, what I now say to you is intended to serve as an

Opening Instructions by Court

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1 introduction to the trial of this case. These remarks are no
2 a charge on the law in the case. I will instruct you on the
3 law applicable to this case at the end of the trial before yo
4 retire to begin your deliberations. This is merely an
5 explanation of the procedure that we will follow in the trial
6 of this case so that you can better understand what may be
7 happening.

8 Now, the Defendant in this case is charged on three
9 indictments. He is charged with burglary in the first degree
10 armed robbery and kidnapping. Now, the elements of those
11 crimes will be explained to you a little bit later; however,
12 what I need to tell you at this point in time is that these
13 indictments are simply the charges by which this case is
14 brought into court. These indictments are not in any sense
15 evidence of any allegation contained in the indictments. The
16 Defendant has pled not guilty to these indictments; and---
17 therefore, the State has the burden to prove each element of
18 the indictment beyond a reasonable doubt. It will be your
19 duty, ladies and gentlemen, to decide whether or not the Stat
20 has met that burden. Your purpose as jurors is to find and
21 determine the facts of this case. You are the sole judge of
22 the facts of this case. If at any time I make any comment
23 regarding the facts of the case you must disregard my
24 comments. You're to determine the facts from the testimony
25 you hear and other evidence introduced in the trial of this

Opening Instructions by Court

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1 case. It is up to you to determine the inferences which you
2 feel may be properly drawn from that evidence. It is
3 especially important that you perform your duty of determining
4 the facts diligently and conscientiously because ordinarily
5 there is no way to correct an erroneous determination of the
6 facts by a jury. On the other hand and with equal emphasis
7 the same law that makes you the judge of the facts makes me
8 the judge of the law in this case. The law is given by the
9 court as the only law that you can consider. You must accept
10 and follow the law as I give it to you, even though you may
11 disagree with it. Just as I cannot tell you what the facts of
12 this case are, you cannot disagree with me about what the law
13 of this case is. Your job is to take the law as I give it to
14 you and apply it to the facts as you find those facts to be
15 from the testimony of the witnesses and any other evidence
16 that has been introduced. After doing that you will render
17 your verdict, a true and just verdict under the solemn oath
18 that you just took as jurors. Now, until I advise you to
19 begin your deliberations you must not discuss this case with
20 anyone, including your fellow jurors. You cannot discuss it
21 with any friends, family members or anyone involved in the
22 case. After the case is submitted to you then you can discuss
23 it with your fellow jurors but only in the jury room. The
24 attorneys and parties in this case have been advised that
25 they're not to talk to you at all during the trial of this

Opening Instructions by Court

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1 case. So, if anyone - if you see anyone involved in the case
2 and they do not say hello or speak with you they're not being
3 rude. They're just following the instructions of the court.

4 Now, during the trial of this case you're not to read,
5 listen to or watch any news reports about this case. This
6 includes anything that may be in the newspaper or on the
7 Internet, the radio or the television. You're not to conside
8 anything that you may have read or heard about the case
9 outside of the courtroom whether that occurs before or during
10 the trial of this case. It's important that you keep an open
11 mind and not decide any issue in the case until all of the
12 evidence has been presented, the parties have made their
13 closing arguments and I've instructed you on the law in the
14 case. It is your solemn responsibility to determine the guilt
15 or innocence of the Defendant, and your verdict must be based
16 solely on the evidence as it is presented to you in this trial
17 and on the law as I instruct you at the close of the trial.
18 Now, in just a moment the Solicitor will make what's called a
19 opening statement in which the Solicitor will explain to you
20 the issues in this case or at least what the Solicitor thinks
21 the issues in this case are. The attorney for the Defendant
22 may also make an opening statement, although he is not
23 required to do so. Now, what the attorneys tell you during
24 their opening statements is not evidence in this case. It is
25 only their contention as to what the issues in this case are.

Opening Instructions by Court

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1 The evidence in this case will be presented to you by
2 testimony of sworn witnesses from the witness stand and any
3 other exhibits that may be introduced into evidence.

4 Now, in determining what the true facts are in this case
5 you must decide whether or not the testimony of the witnesses
6 is believable. It will be my responsibility to rule as a
7 matter of law as to whether certain testimony is admissible or
8 not; however, once the testimony is admitted, whether or not
9 you believe it, is solely for you to determine. In deciding
10 whether to believe a witness, you have the right to consider
11 the interest of any witness, the bias of any witness, the
12 prejudice of any witness, the opportunity for the witness to
13 have seen the matters and things about which the witness may
14 testify and the way the witness acts on the witness stand.
15 You have the right to consider anything that is in the record
16 that will help you evaluate the testimony of the witness.
17 That means that it is your duty to pay close attention to
18 these witnesses, to observe the witnesses, to listen to the
19 witnesses and to pay close attention to the attorneys and to
20 the Court. Don't let your thoughts wander but give strict
21 attention to the testimony in this case so at the end of all
22 the testimony and after the arguments of counsel and a charge
23 on the law by the court you'll then be in a position to
24 determine what the true facts are and to apply the law to
25 those facts and thus render a true and just verdict in this

Opening Statement by State

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1 case.

2 All right, any challenges or additions to the charge by
3 the State?

4 MR. RICHARDSON: None from the State, Your Honor.

5 THE COURT: Any by the Defendant?

6 MR. HAZZARD: None from Travis Bellamy, Your Honor.

7 THE COURT: All right, all right, ladies and
8 gentlemen, at this time we'll begin with the opening
9 statements. Mr. Richardson.

10 MR. RICHARDSON: Nightmares, folks, we've all had
11 them. We fall asleep, an hour or so into it you start
12 dreaming. You're falling off a cliff, house is on fire,
13 you're in a car wreck, somebody accosts you, you get in a
14 fight with your spouse, your heart starts beating fast, you
15 start breathing heavy, break out in a sweat. Sooner or later
16 sooner or later you wake up. You wake up, you're lying in
17 your bed or lying on the couch. You realize it was a dream,
18 nightmare, your heartbeat starts to slow back down. Your
19 breathing returns to normal and you know everything is going
20 to be all right because it was just one of those dreams, just
21 a nightmare. Unfortunately, Robert and Linda Whitlock back in
22 March 2007, their dream, their nightmare didn't begin while
23 they slept, but began when they awoke, when they awoke to find
24 masked gunmen at their bedside demanding they get out of bed,
25 demanding valuables from them, tying them up, leaving them on

Opening Statement by State

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1 the floor of their house, and their nightmare continues to
2 this day. They haven't known a moment's peace since that time
3 a little less than two and half years ago. So, today it's - I
4 come to you asking you to help me end their nightmare, help
5 give them the peace they deserve.

6 During the course of the next couple of days you're going
7 to hear testimony, you're going to see evidence. Mr. and Mrs.
8 Whitlock, they're going to take the stand and they're going to
9 tell you what happened in the early morning hours of March
10 21st, 2007. They'll tell you that they had gone to bed the
11 night before, late March 20th. Mrs. Whitlock will tell you she
12 is the last one in bed. She stayed up to watch the evening
13 news that came on at 11 o'clock. Shortly after it turned off
14 she turned herself into bed where Mr. Whitlock already was and
15 she fell asleep and they'll both tell you the next thing they
16 knew sometime between one and two in the morning they awoke to
17 have a masked gunman standing beside Mr. Whitlock. He woke
18 Mrs. Whitlock up. She had a, she had a robber on her side.
19 They're masked. They couldn't see their face but these
20 robbers, these burglars were demanding they get out of bed,
21 wanting to know where the safe is, where the cash is, where
22 the valuables are. They wanted it all and they wanted it
23 right then and it struck fear into them, the fear of God. Mr.
24 Whitlock will tell you how one of the masked men took him off
25 toward the living room looking for valuables and yet another

Opening Statement by State

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1 took Mrs. Whitlock and their little dogs, tried to put her in
2 the bathroom, hold her there. She'll tell you how she tried
3 to escape when that robber turned his back, but they caught
4 her, they hog tied her and put her on the ground in the living
5 room as they demanded from Mr. Whitlock, "Where are the
6 valuables? Where is the safe?" Folks, they'll tell you they
7 are people of meager means. They don't have a wall safe where
8 they have the hope diamond, a couple of Picassos, but what
9 valuables they had they were more than willing to give up to
10 try and save their lives.

11 Mr. Whitlock will tell you how the leader of the pack,
12 the man who had been at his side, goes through Mrs. Whitlock's
13 purse, finds an ATM card, demands the PIN number, tells Mrs.
14 Whitlock, "I want the PIN number," asks her several times,
15 writes it down and threatens her, "If this PIN number isn't
16 correct come back and kill you." They take jewelry. They
17 take that ATM card. They take the mini-van, cell phone and
18 they leave the Whitlocks tied in their own house. Mr. and
19 Mrs. Whitlock will tell you that thankfully, thankfully these
20 thieves eventually left their home while they're tied up and
21 they wait about five minutes and Mrs. Whitlock is able to shed
22 her bond. She has got a T-shirt on she's sleeping in. She
23 throws a towel around herself and runs, runs to neighbor's
24 house. She finally gets one. Five minutes after they leave
25 she finally gets a neighbor that's awake to call 911 and

Opening Statement by State

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1 that's when the police arrive and she reports the crime.

2 You will hear testimony from one of those thieves,
3 Riccardo Corley and he'll tell you that he took part in it.
4 He'll tell you who else took part in it that he knew and he'll
5 tell you that he has already pled guilty on one of the charges
6 and he'll tell you that the State has dismissed a couple of
7 charges but he'll tell you he's going to prison and he'll tell
8 you what happened that night. He'll tell you, he'll
9 corroborate what the Whitlocks tell you and he'll give you the
10 identifies of those involved.

11 You will hear about the investigation, about how the
12 police found the ATM card that was stolen from Mrs. Whitlock
13 was used at one, the first time was at 1:26 in the morning,
14 about 43 minutes after the burglars left, that ATM card is
15 being used. Got to use it quick before it gets cancelled.
16 Then it's used again about 10 minutes later and again 10
17 minutes after that and once more at about 3:15 in the morning
18 it's used for a final time. The thieves are trying to get
19 more valuables from them and you will see pictures from those
20 ATMs.

21 Folks, all the evidence that we produce here at trial,
22 including the fact that the stolen van is found a short
23 distance from the Defendant's home, all of it is going to
24 point in one and only one direction, to the Defendant's guilt.
25 Travis Bellamy is guilty of burglary in the first degree

Opening Statement by State

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1 because he broke into the Whitlocks' home. He led the charge
2 into the Whitlocks' home back two a half years ago, early
3 morning hours of March 21st, 2007, in the nighttime. It was
4 dark outside. He was armed or appeared to be armed and you'll
5 have all the elements of first degree burglary and armed
6 robbery right there, and as to kidnapping, well, he bound her
7 He forcibly detained them. So, he's guilty of that kidnapping
8 as well, and folks, all the evidence will point in that
9 direction to the Defendant's guilt, to the fact that the
10 Defendant is the one who conceived this nightmare. The
11 Defendant is the one that implemented the plan. The Defendant
12 is the one who began this nightmare and he should be found
13 guilty.

14 I have got a little boy about two years old. From time
15 to time he will have a nightmare and he'll wake up and I hear
16 him clear across the house. I hear a whine. I hear, "Daddy,
17 daddy, daddy, daddy, daddy," and maybe I'm spoiling them
18 because I don't just wait till he goes back to sleep, but I
19 hop out of bed because he's calling for me and I go to his
20 room, pick him up out his crib and little tears coming down.
21 He's had a bad dream. I put him up on my chest and I go sit
22 down and he lays his head on my chest and it soothes him. He
23 gets a cool drink of water and it soothes him and he knows
24 everything is going to be all right. It was just a dream,
25 just a nightmare and he knows that it is over now, and I'm

Opening Statement by Defense

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1 asking you send the Whitlocks a message to let them know their
2 nightmare has ended, that justice prevailed, that Travis
3 Bellamy is to be found guilty, guilty of first-degree
4 burglary, guilty of armed robbery, guilty of kidnapping,
5 guilty of inflicting this nightmare upon this couple.

6 THE COURT: Does the Defendant wish to give an
7 opening statement?

8 MR. HAZZARD: Thank you, Your Honor.

9 When I was 13 - I'm sorry, good morning.

10 When I was 13 my parents required that I gain some life
11 skills that other kids my age didn't have to learn, especially
12 the boys. They required that I learn how to cook and how to
13 actually clean and how to do a little bit of sewing, you know,
14 just enough to sew a tiny tear or put a button back on a
15 shirt, and one day I was sitting there trying to get this
16 sewing thing down, trying for the hundredth time to get that
17 thread to go into that needle and I couldn't get it, and I got
18 frustrated, and I asked my mamma, "Mamma, why do I have to
19 learn this? None of my other friends got to do this," and my
20 mother said, "Because I want you to be self-sufficient," and I
21 said, "Why is that important? I mean, obviously, I'm not
22 self-sufficient now. Why am I going to have to be self-
23 sufficient later," and she said, "Because when you're self-
24 sufficient you're not beholding to anyone for favors because
25 when you have to ask for a favor there are only two ways it

Opening Statement by Defense

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1 ends, one you owe someone something in return, and it's a deb
2 you may or may not be willing to pay, or two, you're
3 disappointed because they have turned you down."

4 Now, we don't know each other. Me and the 14 of you we
5 are strangers and among yourselves, the 14 of you may not kno
6 each other, but yet we are all here today and I, a stranger,
7 come to you asking a favor and I see a couple of you look a
8 little nervous, and I can understand that, just as if any
9 stranger on the street came up to you and said, "Excuse me,
10 Miss, excuse me, Sir, can you do me a favor?" Any of us woul
11 hesitate to say yes and you already have enough of a burden c
12 you without me asking a favor of you. After all you hold
13 Travis's life in your hands. That's enough of a burden to
14 start out with today, but you can relax because the favor I a
15 asking is simply for you to act the way you normally would
16 act, to simply use your common sense, your knowledge and
17 judgment gained through living. For instance, as any of you
18 who has two or more children will know, when you hear that
19 crash on the other end of the house and you go to see who
20 broke that lamp, you don't automatically believe the first
21 voice you hear and you definitely don't automatically believe
22 the loudest voice you hear. Now, in this case as you've
23 already seen, the State in the person of Bradley Richardson,
24 very fine, very seasoned, very skilled attorney, is the first
25 voice you hear, and they are definitely going to be the

Opening Statement by Defense

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1 loudest voice because they've got 20 year officers like Paul
2 Sheets here and other decorated officers and highly skilled
3 and trained individuals who will all get on that stand. So,
4 they're going to be the first and the loudest, but let's get
5 back to that lamp. When you walk in that room and you see
6 those two children what do you do? You listen to what each of
7 them has to say and you look at the evidence around you to see
8 whether or not it corroborates what's being said to you and
9 that's all that Travis and I are asking that you do today
10 because the State is going to present their case and they're
11 going to put all these folks up, but as the Judge has asked
12 and as I am asking as a favor, do not make a judgment just
13 having heard one side or just having heard one witness.
14 Listen to all of the evidence, and as we go through this
15 process and as you hear these witnesses, also keep an eye out
16 for what is missing. Keep an eye out for what is missing in
17 this case.

18 Now, I will try to point these things out as we go along
19 but I'm getting a little bit older and the ginkobinkolova
20 doesn't work quite as well as it should. So, my memory isn't
21 as great as it should be, but I'll try to point things out but
22 I know the 14 of you in your collective wisdom are sharper
23 than I am. So, keep an eye out for what is there and what is
24 missing and after all of the evidence in this case is in, all
25 of the testimony, then bring your collective wisdom to bear,

1 and looking at the 14 of you, one thing I do know is this, at
2 the conclusion of this case, I and Travis will owe you a debt
3 of gratitude for your service and we will not be disappointed
4 Thank you.

5 THE COURT: All right, Mr. Richardson, you can call
6 your first witness.

7 MR. RICHARDSON: Thank you, Your Honor.

8 The State would call Sergeant Ken Kovarsky.

9 Whereupon, Kenneth L. Kovarsky, was called to the stand,
10 duly sworn by the clerk and testified as follows:

11 THE CLERK: State your full name, spell your last
12 name.

13 MR. KOVARSKY: Sergeant Kenneth L. Kovarsky, K-O-V-A-R-S
14 K-Y.

15 DIRECT EXAMINATION

16 BY MR. RICHARDSON:

17 Q Good morning, Sergeant.

18 A Good morning.

19 Q Thank you for being with us. Could you please tell the
20 jury about your place of employment, how long and in what
21 capacity?

22 A I've been employed with the City of North Myrtle Beach
23 for the past 15 years, been a sergeant for the patrol divisio
24 for the last seven.

25 Q And how long have you been involved in law enforcement?

Kenneth Kovarsky - Direct by State

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1 A A total of 19 years, four years in the Marine Corps doing
2 the same thing.

3 Q And you're a patrol sergeant?

4 A Yes.

5 Q Okay, as a patrol sergeant for the City of North Myrtle
6 Beach could you describe what your duties normally involve?

7 A As a shift supervisor we try to maintain the order of the
8 officers, make sure they do all the paperwork properly, get
9 the proper evidence, statements, notify detectives if need be
10 and just make sure everything is documented properly,
11 completed to the best of their abilities.

12 Q Okay, and do you have the opportunity to respond to
13 calls?

14 A Yes, I do.

15 Q So, you've been employed with the City of North Myrtle
16 Beach for a while?

17 A Right.

18 Q In the same capacity.

19 A Right.

20 Q I assume you were employed by the City back in March of
21 2007?

22 A Yes, I was.

23 Q Do you recall if you were working the evening of March
24 20th through the early morning of March 21st, 2007?

25 A Yes, I was night shift.

1 Q In the course of your duties with patrol in North Myrtle
2 Beach did you have the opportunity to respond to

3

4 A Yes, I did.

5 Q And that's - what city is that in?

6 A It's in North Myrtle Beach, the back side of Barefoot
7 Landing.

8 Q And I know this seems like a silly question but what
9 county is that in?

10 A Horry County.

11 Q Horry County. What was your purpose of your response to
12 that address?

13 A Because it was a - the call that came out was a hot call
14 I responded to make sure that everything was done properly.

15 Q And you say a hot call, what - you got to educate us a
16 little bit. What's a hot call?

17 A Calls in progress or recently happened burglaries,
18 robberies, people there are - victims are obviously still
19 present, it just occurred. We try to respond to make sure
20 everything was done right.

21 Q How were you notified of this hot call?

22 A Our radio, dispatch radio.

23 Q Did you ever learn what time - was it from a 911 call,
24 was ---

25 A Dispatch advised 911 call of a robbery in progress and v

Kenneth Kovarsky - Direct by State

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1 responded somewhere between around a quarter to one on the
2 21st.

3 Q Do you recall when the 911 call was?

4 A I don't know when that was. I'm assuming shortly
5 before.

6 Q Okay, and did you ever learn who resided at that
7 particular address?

8 A The victims that are in the courtroom today.

9 Q Mr. and Mrs. Whitlock?

10 A Yes.

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

13 A Yes, I did.

14 Q Okay, and without telling us exactly what they said, how
15 did the Whitlocks appear to you?

16 A Distraught, upset, scared.

17 Q And did they report any type of crime?

18 A Yes, they did.

19 Q Okay, and what type of crime was it?

20 A It was burglary, I mean, kidnapping, you know, robbery.

21 Q And did you maintain that case or did you ever turn it
22 over to anybody?

23 A We did a preliminary and then with a case like that we
24 notify detectives so they can come process the scene.

25 Q Okay, and did anyone else respond to the scene?

1 A Officer Roger King who's our - my backup officer, and
2 then Detective Carl Farmer came out to process the scene.

3 Q Okay.

4 MR. RICHARDSON: Your Honor, I have no further
5 questions of Sergeant Kovarsky.

6 THE COURT: All right, Mr. Hazzard.

7 MR. HAZZARD: The Court's indulgence, Your Honor.

8 THE COURT: All right.

9 CROSS EXAMINATION

10 BY MR. HAZZARD:

11 Q Good morning, Sergeant Kovarsky.

12 A Good morning.

13 Q How are you?

14 A Good.

15 Q Okay, now, you indicate that you have 19 years of law
16 enforcement experience; correct?

17 A Yes.

18 Q And that includes four years in the Marine Corps?

19 A Yes.

20 Q Okay, tell us a little bit about your training?

21 A Which part?

22 Q The part that has to do with this type of case with
23 regard to reporting to a reported crime scene?

24 A While in the military I went through crime scene
25 photography and sketching, went through evidence collection.

Kenneth Kovarsky - Cross by Defense

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1 Through the City of North Myrtle Beach I have been through
2 investigation classes, actually investigations, photography,
3 supervisory classes, it's a laundry list. How far do you want
4 me to go?

5 Q Well, let me ask you this, might be able to shortcut it a
6 little bit. What training do you have, what do you train to
7 do when you report to a crime scene?

8 A We're supposed to first of all tend to the victims, make
9 sure there's no medical injuries or if they require any
10 medical attention, secure the scene, make sure there's no
11 suspects still in the area that we can detain or apprehend,
12 preserve any evidence that may need to be collected that would
13 help us in finding who did the incident involved, collection
14 of evidence, notifying detectives, process everything.

15 Q Were you the first officer on the scene?

16 A I can't remember if I was the first or second, may have
17 got there right around the same time.

18 Q Okay, so, all of these things that you indicate are your
19 responsibility at a hot crime scene?

20 A Right.

21 Q What evidence did you gather and keep control of to
22 avoid it being spoiled in any way?

23 A What I observed, I didn't gather any evidence. The
24 detectives handle all the evidence collection, but I just make
25 sure that nobody contaminates it that doesn't need to be

1 there. Obviously the victims are already there. So, there's
2 not any risk of any contamination from them, and I just make
3 sure my officers or myself don't touch anything that could
4 possibly lead to the conviction and arrest of a person.

5 Q Okay, are you trained to observe the layout, the scene,
6 what's going on at the residence when you respond to it?

7 A We're trained to observe, yeah.

8 Q Okay.

9 A Make mental note, make documentation.

10 Q Okay, and you talked with Mr. and Mrs. Whitlock;
11 correct?

12 A Yes, I did.

13 Q And they told you what they say happened; correct?

14 A That's correct.

15 Q Okay, and when you observed their home you indicated to
16 Mr. Richardson that the Whitlocks said that it was a burglary
17 correct, among other things?

18 A Correct.

19 Q Okay, did you see any evidence of forced entry anywhere
20 to the residence?

21 A I didn't observe any evidence of forced entry, none of
22 the doors were popped, none of the locks were cut or popped.
23 The house was disheveled and ransacked.

24 Q What about the windows? Did it look as if someone had
25 forced any of the windows to gain access to the home?

Kenneth Kovarsky - Cross by Defense

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1 A None of the windows appeared to be broken.

2 Q Okay, now, in your 19 years experience for someone to be
3 the victim of a burglary more often than not there is some
4 sign of forced entry; correct?

5 A More often than not but not all the time.

6 Q But more often than not, okay, now, you said the house
7 appeared to be ransacked but you didn't collect any evidence;
8 correct?

9 A Correct.

10 Q Okay, are you trained in processing the crime scene or
11 is that specifically what Officers Farmer and King are for?

12 A That's what the detectives are for. Officer King did not
13 collect any evidence.

14 Q Okay, listen to my question, please, sir. Did you
15 process the crime scene?

16 A No.

17 Q Okay, is that specifically what Officers Farmer and King
18 are for or do they have a different rank? I'm sorry.

19 A Officer Farmer, or Officer King was just a backup
20 officer, secondary officer or Detective Farmer would be the
21 processing officer.

22 Q Okay, what does the processing officer do? What does
23 that entail based on your experience and knowledge?

24 A They observe, collect, photograph evidence, if there's
25 anything that needs to be collected they collect it for later

1 prosecution or testing.

2 Q Okay, and when you say they're collecting evidence
3 they're basically trying to obtain evidence that shows that a
4 perpetrator has been at the residence; correct?

5 A They collect evidence that would lead to the arrest of a
6 perpetrator, yeah, fingerprints, DNA, whatever you might be
7 able to find.

8 Q Yeah, things that all of us leave everywhere we go,
9 correct, fingerprints, hair, stuff like that; right?

10 A Unless they're wearing gloves.

11 Q Okay, so, we wouldn't leave possibly any hair anywhere if
12 we were wearing gloves?

13 A I don't know what you would lead, leave.

14 Q So, did the Whitlocks indicate to you that whoever did
15 this was wearing gloves?

16 A I don't know if they indicated to the detectives or not.
17 I don't - they didn't indicate it to me.

18 Q Okay, and you asked them that because you, you, your 15
19 years of experience that's one of the questions that you would
20 ask, correct, how they were dressed, what they looked like,
21 height, weight; correct?

22 A Yes.

23 Q Okay, now, let's turn to the issue of height and weight
24 How did they describe the individuals who allegedly broke into
25 their home?

Kenneth Kovarsky - Cross by Defense

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1 A Well, without looking at my notes from what I can
2 remember it was three black males.

3 Q Do you wish, I'm sorry. Let me stop you right there. Do
4 you wish to go get your notes?

5 A If I - the incident report, I don't believe there's much
6 in it.

7 Q Okay, okay, so, if there's nothing in the incident report
8 that will help you refresh your recollection please continue,
9 sir.

10 A Three black males wearing masks, dark clothing.

11 Q That's it?

12 A Pretty much it that I got. My interview with them was -
13 once I was done and detectives arrived at the scene it was
14 turned over to them.

15 Q Okay, but now on a hot call like this you want to obtain
16 as much information as far as the possible identities of the
17 perpetrators so that they can be caught as quickly as
18 possible; right?

19 A The best evidence we had was a stolen van. We notified
20 the surrounding agencies to be on lookout for that van. If
21 we could find the van we could probably find the perpetrators
22 inside it.

23 Q Okay, but with your experience you're trained to ask
24 specific questions such as how tall are the perpetrators, how
25 big are the perpetrators; correct?

1 A We go by approximates, approximate weight, approximate
2 height ---

3 Q Okay, were you ---

4 A -- could you give us any hair, eyes, clothing, basic
5 descriptors.

6 Q Okay, now, to your recollection were you given any
7 approximates on height or weight for any of the individuals
8 allegedly involved in this burglary?

9 A From what I can recall, no.

10 Q Now, is that unusual in your experience when someone is
11 freshly been the victim of a crime, apparently something that
12 has happened face to face in their home and they can't give
13 you any description from, you know, three foot dwarf to a
14 seven foot basketball player? They can't tell you anything.

15 A Well, I'm sure somebody - they can tell me the differenc
16 between three foot and seven foot but between five foot and
17 six three most people won't be able to give me a good
18 description.

19 Q Did they give you - let's be clear on this. Did they
20 give you any description?

21 A Three black males, masked, dark clothes.

22 Q Thank you, sir. No further questions.

23 THE COURT: Redirect?

24 MR. RICHARDSON: None from the State, Your Honor.

25 THE COURT: All right, you may step down.

Robert Whitlock - Direct by State

1 Call your next witness.

2 MR. RICHARDSON: The State would call Robert
3 Whitlock. Your Honor, I would ask that Sergeant Kovarsky be
4 excused as well.

5 THE COURT: Any objection?

6 MR. HAZZARD: No objection from Travis Bellamy.

7 THE COURT: All right, Sergeant Kovarsky, you're
8 excused. Thank you.

9 Whereupon, Robert Whitlock was called to the stand, duly
10 sworn by the Clerk and testified as follows:

11 THE CLERK: State your full name and spell your last
12 name.

13 MR. WHITLOCK: Now?

14 THE CLERK: Yes, sir.

15 MR. WHITLOCK: My name is Robert Whitlock, and what else?

16 THE CLERK: Spell your last name.

17 MR. WHITLOCK: W-H-I-T-L-O-C-K.

18 DIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Mr. Whitlock, it's going to be important to kind of talk
21 into that microphone, too, so the jury can hear you; okay?

22 A All right, sir.

23 Q Thank you.

24 Mr. Whitlock, could you please tell us a little bit about
25 yourself, where you currently live, where you're from, what

1 your occupation is or your former occupation?

2 A I'm 66 years old and my wife and I had been visiting the
3 beach for approximately 20 years. She retired and we decided
4 we wanted to live here and we bought a house five years ago
5 and moved here.

6 Q 2004?

7 A Yes, sir.

8 Q Okay, and where is that house located?

9 A Pardon?

10 Q Where is that house located?

11 A Barefoot Resort and Golf.

12 Q And so, you all were living there back in March of 2007

13 A Yes, sir.

14 Q And where are you from originally?

15 A Virginia.

16 Q Virginia, okay. Well, let's go back to March 2007,

17 March 20th through the 21st, 2007, you all were living at

18 Briarcliffe?

19 A Yes, sir.

20 Q And that's in what county?

21 A Horry.

22 Q And do you recall the night of March 20th leading into
23 the early morning of March 21st, 2007?

24 A Yes, sir.

25 Q Why does that date and time stick out in your mind?

Robert Whitlock - Direct by State

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1 A We had a home invasion.

2 Q Take us through that night if you would, Mr. Whitlock,
3 the night and early morning of the home invasion. Could you
4 tell us what led up to you going to bed that night, watching
5 TV, reading, whatever you did on to the time you went to
6 sleep?

7 A Yes, sir, I go to bed between nine and 10 and my wife
8 doesn't come to bed till maybe 12 or 12:30. She watches the
9 news and maybe a movie. Well, I was asleep and I didn't know
10 whether she was in bed yet or not and someone patted me on my
11 shoulder and I opened my eyes and there was a gentleman there
12 with a mask on and a chrome plated pistol. Now, the reason I
13 could see that is I had put nightlights in my bedroom and the
14 hallway because my wife had just had surgery and that's so she
15 could see to get through the house, and the gentleman that
16 patted me on the shoulder and woke me up he said, "Be
17 patient," and my wife started screaming and the dogs started
18 barking. So, the person that was over her put her in the
19 bathroom with the dogs and then the gentleman that was giving
20 me orders, he said, "Where is your wife's pocketbook," and I
21 said, "It is in the Carolina room." So, he said, "Well, let's
22 go." So, he followed me back through the house and I got her
23 pocketbook out, and he, he got the billfold out and he told me
24 to turn my back and not look at him, but I did see him get the
25 ATM card and he made the statement to me, he said, "I don't

1 want the credit cards because they will get you in trouble,"
2 and then there was a three drawer chest right behind there
3 that we just keep miscellaneous things in. He got in those
4 drawers and he found an envelope that had over a hundred
5 dollars in it and the reason I know that he got it because
6 that envelope turned up on the floor, the amount that was in
7 it and then he said, "All right, let's go back to the
8 bedroom."

9 He took me back there. My wife is still in the bathroom
10 and he found her jewelry box, which had quite a bit of good
11 jewelry in it. He took all of that and all the furniture
12 that's in the bedroom. He took the drawers and just did them
13 took the mattress off the bed, and after he got all the
14 jewelry he said, "All right, let's go back to the living
15 room."

16 At that time they had cut all the phone cords. He tied
17 my hands behind my back and tied my feet together and he asked
18 me, he said, "Where is your safe?" I said, "I don't have a
19 safe." He said, "If there's one behind that big picture can
20 shoot you?" I said, "Yes, sir." So, he looked. Then there
21 was a large mirror on the other wall, and he said, "If there'
22 one behind there can I shoot you?" And I said, "Yes, sir."
23 He said, "I'm going out in the garage and look for your safe."
24 Said, "If there's one there can I shoot you," and I said yes.

25 He went to the garage. He came back and he had some rop

Robert Whitlock - Direct by State

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1 and he pulled my feet up and tied it to my hands, and about
2 the same time they brought my wife out, told her to lay on the
3 floor, tied her hands and tied her legs together. Then the
4 same gentleman that was giving me orders he went to the
5 kitchen and started going through all the cabinets and even
6 pulled the refrigerator out, I guess looking for the safe, but
7 in the lower drawer of one of the cabinets we had a Brinks
8 firebox that we just kept important papers in it. So, he
9 pulled that in - out and came in. I was laying on the couch
10 and he dropped it on the floor and he said, "Now, what is
11 that?" I said, "It's just a firebox to protect important
12 papers," and he picked it up and just dumped it out on the
13 floor and went through the paperwork and he didn't find
14 nothing there. And, oh, yes, and during this the other two
15 people - well, one, after he tied my wife up, the other two
16 were in the other two bedrooms and you could hear them tearing
17 up things and throwing things. So, then they came back in
18 there and all three of them they asked my wife three times
19 what her PIN number was. He would ask her once, then a few
20 minutes later he would ask her again.

21 Q When you say he you're talking the guy who tied you up?

22 A The one that was in control of me.

23 Q That had gotten the ATM card out?

24 A Yes, and then he went to kitchen table and got a piece of
25 paper and pencil and wrote that number down and they started

1 cutting off the lights, and they said, "All right, we're
2 going, two of us are going to the bank. One's going to stay
3 here and if this PIN number does not work we will come back
4 and kill you. So, my wife and I laid there about five minute
5 and she said, "Do you think they're gone?" I said, "I believe
6 they are." So, we started getting untied. She got untied
7 before I did and went out the door and went to a neighbor and
8 called the police and I got untied just a few minutes later.

9 Q What - you said one was in control of you; correct?

10 A Yes, sir, all night long.

11 Q And you said the other two, so, how many total robbers
12 were ---

13 A There was three in the house.

14 Q Could you tell the race or sex of these?

15 A Yes, they were black.

16 Q Male female?

17 A Males.

18 Q Now, you said they wore masks. How could you tell they
19 were black?

20 A They - two of them had like a stocking pulled over their
21 head and they'd cut the holes for the eyes, and I could tell
22 it, and the one, the other one had a jacket pulled around her
23 real tight, and just, and you could see part of his face.

24 Q And you said your house was lit by nightlights?

25 A Yes, I had the little small plug-in nightlights in our

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1 bedroom. That's why I could see him when he woke me up and
2 then down the hallway, for her safety.

3 Q So, you could see them but not a lot of detail?

4 A Yes.

5 Q The one that was in control of you that is leading you
6 around the house demanding the PIN number ---

7 A Yes, sir.

8 Q --- could you tell about how tall he was?

9 A Yes, sir, he was, he was taller than I was and the other
10 two were much shorter than I.

11 Q How tall are you?

12 A Five nine and a half.

13 Q Five nine and a half. So, he was taller than five nine
14 and a half?

15 A Yes, sir.

16 Q And he was taller than the other two individuals?

17 A Oh, yes, very much. I would say he was approximately
18 six, two.

19 Q Six two, and that's a guess; is that correct?

20 A Yes, sir, just a guess.

21 Q And you never saw a face; correct?

22 A No, sir.

23 Q And so, you wouldn't be able to identify the robbers by
24 their face.

25 A No, sir, I wouldn't.

1 MR. RICHARDSON: Your Honor, if I could ask Mr.
2 Whitlock to take a step down from the stand. He talked about
3 his house and I just want the jury to understand.

4 THE COURT: All right.

5 BY MR. RICHARDSON:

6 Q If you'll stand right there in front of that microphone.
7 Mr. Whitlock, I know you've told me you're not an artist.

8 A No, sir.

9 Q But if I could move this a little bit closer so you can
10 get close to the microphone. If you could just could you
11 sketch a sketch of your house, the basic layout?

12 A Basically.

13 Q Yes, sir, and just show us where the road is, that [REDACTED]

14 [REDACTED].

15 A All right, [REDACTED] is the, there's the street.

16 Q If you'll speak up a little, yeah, and I'll - is that
17 going to help you?

18 A This is [REDACTED].

19 Q Yes, sir.

20 A And our house sits near the corner. Here's the left side
21 of the house. It comes over. I'll explain this in just a
22 minute which rooms were what.

23 Q And you can just sketch it out, Mr. Whitlock, and then
24 we'll let you explain to the jury what each room is.

25 A Here's the door that the subjects entered. This is a

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1 Carolina room.

2 Q Is that on the back of the house?

3 A Yes, sir.

4 All right, and here is the kitchen and here is the living
5 room right. Now, there is a hallway that comes right past
6 this and comes down through here to our room. The subjects
7 came through here, I'm sure, through the kitchen, into the
8 living room and down the hallway to our bed.

9 Q So, if I understand they would have had to go from the
10 Carolina room through ---

11 A The kitchen, the living room.

12 Q And then through the hallway to get down to your bedroom?

13 A Right, yes, and this is a two-car garage here.

14 Q Okay. So, they found you in your bedroom?

15 A Yes, sir.

16 Q And took you back out to the kitchen, the living room.

17 A And takes me, and takes me back over here where her
18 pocketbook was and then he returns me to this room, gets all
19 the jewelry.

20 Q And your wife, where is the bathroom located where they
21 had your wife?

22 A Right here and there's another bathroom back here.

23 Q They had her in the hall bath?

24 A Yes, sir.

25 Q Now, you indicated that they ended up tying you all up.

1 Where did they leave you all tied up?

2 A There's a sofa, a couch, whichever is here. He made me
3 lay down on it. He made my wife lay down on the floor right
4 here and they had cut all the telephone wires in the house and
5 that's what they started tying me with. When he went to the
6 garage to look for a safe he come back with some rope and
7 that's when he pulled my feet up and tied them. She was just
8 laying flat on the floor with her feet tied and her arms in
9 front of her.

10 Q Mr. Whitlock, you said you believe that the robbers
11 entered here through the Carolina room?

12 A Yes, sir.

13 Q Why do you believe that?

14 A Well, if they would have entered here we would have hear
15 them or my dogs would have barked up here and if I - you want
16 me to talk about the keys now?

17 Q Yes, sir.

18 A All right, we were - we couldn't figure out - remember
19 how they got it, figured out how they get in the, got in the
20 house, but when we bought this house out here sits our air
21 conditioner and there's a little box over here on the - just
22 about this big. It's called a disconnect. If a heat pump
23 gentleman wanted to work on this, didn't want no power on it
24 he would simply open this box and pull this thing out so
25 there'd be no power on it. So, I wanted to hide a key when :

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1 moved there and I opened this little box and there was a key
2 there. So, I just figured the former owner who we bought it
3 from had put that key there.

4 Q Yes, sir.

5 A And so, after all the detectives left and everything I
6 went out this door here and this box was open and the key was
7 missing.

8 Q Had there been a lock on this box or anything?

9 A No, sir.

10 Q So, anybody could have just opened it and taken the key
11 out?

12 A Yes, sir.

13 Q And you said that the door was open on it. Was there a
14 key in there?

15 A Yes, sir, the key, key was in here and they ---

16 Q The key was replaced in there?

17 A They took it.

18 Q Whenever you went out the next morning, did you find the
19 key inside?

20 A No, sir.

21 Q So, the key was gone?

22 A They took it with them or probably threw it into the
23 woods beside us.

24 Q Okay, Mr. Whitlock, you can resume your seat.

25 Mr. Whitlock, did you have an alarm in the house at the

1 time?

2 A No, sir.

3 Q And you talked to us about that spare key. You said tha
4 your wife was able to get away before you were.

5 A Yes, they tied her much more simpler than they did me.

6 Q About how long after the robbers left was it that your
7 wife got away?

8 A I'd say five or six minutes.

9 Q Five or six minutes?

10 A She asked me if I thought they were still in our house
11 and I said I don't think so, and so, she got untied and I was
12 trying to get untied and she ran to the neighbor's house and
13 where they called 911.

14 Q How long were these thieves in your house?

15 A I would guess 30 to 40 minutes because they went through
16 everything pretty thorough.

17 Q Seemed a lot longer?

18 A Yes, sir.

19 Q Time kind of slows down?

20 A Oh, yes.

21 Q So, guessing at five minutes before she got loose and
22 ran, could have been a shorter time.

23 A Yes, sir.

24 Q Were you able to determine what property if any were
25 stolen?

Robert Whitlock - Direct by State

1 A Was any returned?

2 Q Anything that was stolen, were you able to tell me
3 what was stolen?

4 A Yes, made a list of all her jewelry and, of course, they
5 took our vehicle but we got it back, but we had a ---

6 Q ATM card?

7 A Yes, the ATM card.

8 Q Any phones or anything?

9 A Yes, one of the shorter boys that was in control of her
10 took her cell phone.

11 Q They cause any damage to the house?

12 A No, sir, other than just putting everything back together
13 and getting everything off the floors.

14 Q You've talked to us about the masks they had on and one
15 had his - they had a hoody pulled tight.

16 A May I back up just one minute, please?

17 Q Yes, sir.

18 A The middle bedroom we turned it into like her office.
19 She's got her computer and all in there. The computer stand
20 is very big and she had collectibles on it and someone in
21 there just took their arm and knocked all of that into the
22 floor and broke it. That's the only damage.

23 Q Prior to the robbery was your house in pretty straight
24 condition?

25 A Yes, sir.

1 Q You've talked to use about the masks and the hoody pulled
2 tight. Could you describe how else the robbers were dressed,
3 what type of clothing?

4 A Not real good I couldn't.

5 Q Light, dark?

6 A Dark.

7 Q Dark clothing? And did you give these descriptions to
8 the police?

9 A Yes, sir.

10 Q And was any property ever returned?

11 A No, sir, just the vehicle.

12 Q The vehicle. Mr. Whitlock, thank you for your time and
13 if you would just answer any questions Mr. Hazzard may have.

14 THE COURT: Mr. Hazzard.

15 MR. HAZZARD: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. HAZZARD:

18 Q Mr. Whitlock, how many detectives have you talked to in
19 this case?

20 A Two.

21 Q And who were those detectives, sir?

22 A Detective Sheets and I forget the other one's name.

23 Q Okay, that's all right. Now, you say that there's this
24 key in this disconnect box.

25 A Yes, sir.

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1 Q Okay, did you tell Detective Sheets or Officer Kovarsky
2 or this other detective or anyone else in the North Myrtle
3 Beach Police Department about that on the night of this
4 incident?

5 A No, sir.

6 Q Okay.

7 A Not until the next day.

8 Q So, you told them the next day?

9 A Yes, sir.

10 Q And who did you tell?

11 A The other detective that I can't remember his name.

12 Q The other detective who you can't remember his name.

13 Okay, so, then whatever detective this is I'm sure he'll have
14 that in his report; would you think?

15 A I would think so.

16 Q Okay. Now, so, you've got - how long have you owned that
17 house, sir?

18 A Five years.

19 Q Five years and it's your testimony to this jury that that
20 key has been in that box every day of those five years?

21 A Yes, sir.

22 Q Okay, so, then these thieves, first of all, either just
23 picked your house out of all the houses in your neighborhood
24 and picked your disconnect box?

25 A Yes, sir.

1 Q Is that what you're saying? Okay, or if they knew that
2 the key was there they waited five years to come break into
3 your house? Is that what you're saying?

4 A My guess it wouldn't be that way. I would guess that
5 someone that did some maintenance on the heat pump saw the key
6 there and probably sold that information to somebody.

7 Q That's what you think?

8 A Yes, sir.

9 Q Okay, all right, and did you tell that to either
10 Detective Sheets or this detective that we don't know his
11 name?

12 A No, sir.

13 Q Why not? Wouldn't you think that would be important?

14 A That's just an, that's just an idea that came up.

15 Q Okay, so, you didn't tell these trained detectives so
16 that they could run that down, check service calls on your
17 heat pump, maybe talk to the people who worked on it?

18 A I take that back. I did tell that and they did check ou
19 one person that they found out had worked on that heat pump
20 but I never did hear what that person told the detectives.

21 Q Okay, so, now, you recall telling them that?

22 A Yes, sir.

23 Q Okay, and do you ---

24 A A detective come out there and they had, the company tha
25 worked on it had put their decal on it and he wrote down that

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1 name and he said he was going to talk to that person but I
2 never heard anymore about it.

3 Q Okay, do you remember was this the same unnamed detective
4 or was this Detective Sheets?

5 A The other.

6 Q The other fellow?

7 A He was a black gentleman. Very ---

8 Q Black, so, the black detective?

9 A Very nice person. .

10 Q Okay, all right, all right, I'm sure he'll be here to
11 testify then. Now, Mr. Richardson has been asking you about
12 what these fellows looked like and how they were dressed,
13 okay? Were they wearing long sleeves, short-sleeved shirts,
14 tank tops?

15 A I paid most attention to the one that was telling me
16 what to do and kind of like he had two layers of coats on.

17 Q Two layers of coats?

18 A Yeah, seemed like real blousy but the other two I didn't
19 pay a whole lot of attention to them but they all had dark
20 clothes on and all three had weapons.

21 Q All three had weapons?

22 A Yes, sir.

23 Q Okay, what did the other two weapons look like?

24 A One had a sawed off gun, it could either, I would guess
25 it was either a 22 or a 410 shotgun.

1 Q Okay.

2 A And the one that took charge of my wife he had like a
3 small automatic, could have been a 25 or a 380.

4 Q Okay, okay, and you told this I'm sure to either the
5 nice detective or detective - was Detective Sheets nice to
6 you?

7 A Oh, yes.

8 Q Okay, so, both of them were nice. I don't want to
9 describe him as not. So, did you provide this information to
10 these police officers?

11 A I don't remember but I'm sure I did.

12 Q You're sure you did.

13 A I'm sure I ---

14 Q So, their reports will indicate that; right?

15 A I would think so.

16 Q You would think so. All right, now, how long were you
17 you say there were three of them?

18 A Pardon? Oh ---

19 Q You say there were three intruders, sir?

20 A Yes, sir.

21 Q Okay, how long were these three intruders in your home?

22 A As I said a while ago I would think 30 or 40 minutes.

23 Q 30 or 40 minutes, okay, and about what time did they
24 wake you up?

25 A I really don't know. I would say after one o'clock or

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1 something or 1:30. I don't know.

2 Q You don't know?

3 A No, sir, if I wanted to know I could see what time the
4 call went in and I probably heard when my wife called but I
5 don't remember.

6 Q Okay, all right, so, it's your testimony that you kept
7 this key in this box and this is - and we're talking about an
8 extremely small box; right?

9 A It's about this large.

10 Q You think so?

11 A Four by four.

12 Q Okay, but yet the box isn't empty. It's got other
13 equipment in it; right?

14 A It's just got one little slide thing you pull out and
15 the key would lay right under it.

16 Q Okay, and this key has been there for five years. The
17 only people that touch this box may be people who do
18 maintenance work on your heating and cooling system; correct?

19 A That's correct.

20 Q And you provided the police with the names of the
21 company of any people who had worked on your heating and
22 cooling system?

23 A When the detective looked at the heat pump in that box
24 he looked and there's a decal there which I remember seeing
25 the mechanic put on there.

1 Q Okay.

2 A That's to remind us who worked on it.

3 Q All right, and nobody else had worked on it; correct?

4 A Not as I know of.

5 Q Okay, and if anyone had you would know; right?

6 A Yes, sir.

7 Q All right, so, they according to you, your best knowledge
8 the police checked out that company, no problem there; right?

9 A I never did hear back from him but he said he was going
10 to check with that individual.

11 Q Okay, all right, thank you, sir.

12 A Yes, sir.

13 Q No further questions.

14 THE COURT: Redirect.

15 MR. RICHARDSON: Real quick.

16 REDIRECT EXAMINATION

17 BY MR. RICHARDSON:

18 Q The robbery definitely happened after midnight, early
19 morning hours of March 21st.

20 A Yes, sir, definitely.

21 MR. HAZZARD: Objection, asked and answered.

22 THE COURT: All right, sustained.

23 Q You spoke to a lot of detectives?

24 A Two.

25 Q Two. You spoke to a lot of police officers?

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1 A Yes, sir.

2 Q And you gave them as much information as you could?

3 A Yes, sir.

4 Q Could have been either one at either time.

5 MR. HAZZARD: Objection, leading.

6 THE COURT: Sustained.

7 A Yes, sir.

8 MR. RICHARDSON: No further questions, Your Honor.

9 THE COURT: All right, sir, you may step down.

10 All right, let's go ahead and take a little bit of break,

11 give the jury a little break.

12 All right, ladies and gentlemen, we're going to take

13 about a 15 minute break, give you an opportunity to stretch

14 your legs, get something to drink, use the restroom, whatever

15 the case may be. Please do not discuss this case. It's too

16 early to begin deliberations. Do not discuss it. Do not talk

17 about it amongst yourselves, don't conduct any independent

18 investigations. As I told you at the outset you will be

19 allowed to make some phone calls, return calls and things of

20 that nature. However, you are not to discuss anything about

21 this case. You're not to discuss anybody who has testified,

22 what has been discussed thus far or what stage we're in. Any

23 communications must not include anything about this case

24 whatsoever. Hope you enjoy your break and we'll bring you

25 back in about 15 minutes. Thank you very much.

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: All right, let's try to be back and ready
4 to go at about five after; okay?

5 MR. RICHARDSON: Thank you, Your Honor.

6 THE COURT: Thank you very much.

7 OFF THE RECORD

8 (On the record.)

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: All right, anything from the State before
12 we bring the jury back in?

13 MR. RICHARDSON: Nothing from the State, Your Honor.

14 THE COURT: Anything from the Defendant?

15 MR. HAZZARD: Nothing on behalf of Defendant Bellamy,
16 Your Honor.

17 THE COURT: All right, let's go ahead and bring the
18 jury in.

19 (The following takes place in the presence of the
20 jury.)

21 THE COURT: All right, ladies and gentlemen, welcome
22 back. We're ready to resume the trial of this case. Mr.
23 Richardson, you can call your next witness.

24 MR. RICHARDSON: Thank you, Your Honor. The State
25 would call Linda Whitlock.

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1 THE COURT: All right.

2 Whereupon, Linda K. Whitlock, was called to the stand,
3 duly sworn by the Clerk and testified as follows:

4 MS. WHITLOCK: Linda K. Whitlock, W-H-I-T-L-O-C-K.

5 THE COURT: All right, Mr. Richardson.

6 MR. RICHARDSON: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. RICHARDSON:

9 Q Good morning, Ms. Whitlock.

10 A Good morning.

11 Q I believe we've already heard you live with your husband
12 at North Myrtle?

13 A That's correct.

14 Q And how long have you all lived there?

15 A It will be five years this month August 27th.

16 Q And so, you all were living there back in March of 2007?

17 A Yes, sir.

18 Q How long were you all living there at that point?

19 A Prior to this happening?

20 Q Yes, ma'am.

21 A Approximately two and a half years.

22 Q And you ever been a victim of a burglary?

23 A No, sir.

24 Q You've never been a victim of a burglary?

25 A Not prior to this.

1 Q Prior to this, so, one time?

2 A One time.

3 Q So, no doubt you remember that night vividly?

4 A Yes.

5 Q Let's go back in time March 20th, 21st, early morning
6 hours. Do you recall the evening of March 20th leading up to
7 your going to bed?

8 A Yes, I do.

9 Q Could you take us through a little bit of that, your
10 leading, leading up to you going to bed?

11 A Okay, I always sit in my Carolina room and watch
12 television and I had gotten in the habit of going to bed
13 between 11:30 and 12 at night prior to my or after my surgery
14 and so after about - well, it was between 11:30 and 12,
15 approximately 11:40 I went to bed. My husband always goes to
16 bed earlier than I do.

17 Q Was anyone else living in your house at that point?

18 A Just us two and the dogs.

19 Q How many dogs?

20 A We have three dogs.

21 Q So, you went to bed sometime between 11:30 p.m. and
22 midnight?

23 A That's correct.

24 Q On March 20th and that led into the early morning of
25 March 21st?

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- 1 A Yes.
- 2 Q What condition was the house in whenever you went to bed?
- 3 A The house was clean. We had cleaned carpet in the
- 4 bedroom that day and you might say how can I remember that,
- 5 but actually the car insurance adjuster had asked me what I
- 6 had been doing that day. So, I remembered.
- 7 Q And when you went to bed doors locked?
- 8 A I am hoping that I did lock the door. There's a
- 9 possibility I did not but I felt very safe in that
- 10 neighborhood. We have nine windows in the Carolina room. The
- 11 blinds always stayed open. I could look out my window and see
- 12 the neighbors next door in their house. That's how safe the
- 13 neighborhood seemed. I could have made a mistake and left the
- 14 door unlocked.
- 15 Q So, your blinds were up in the Carolina room when you
- 16 went to bed?
- 17 A They were and there was not a blind on the door leading
- 18 out onto the patio.
- 19 Q And when you went to bed describe the lighting conditions
- 20 in the house.
- 21 A I leave one light on in the Carolina room and there's
- 22 just a light in the hallway, a nightlight, a nightlight in the
- 23 bathroom and a nightlight in our bedroom.
- 24 Q So, the house would have been fairly dark?
- 25 A That's correct.

1 Q Do you recall after you went to bed being awakened?

2 A Yes, I do.

3 Q Can you tell us a little bit about that?

4 A I was in a deep sleep. I don't know how long it took m
5 to go to sleep. My husband reached over and patted me and
6 when I looked up I saw a man holding a gun over him and one o
7 my side and I started screaming. When I started screaming th
8 dogs became agitated and started barking and growling. That
9 made them very mad; and so, I was afraid they were going to
10 shoot the dogs.

11 Q Now, what kind of dogs are these? These big attack dogs

12 A No, we have a Schnauzer, a wire-haired Dachshund and a
13 short-haired Dachshund.

14 Q So, small animals?

15 A Small animals.

16 Q Now, you wake up, there's somebody on Mr. Whitlock's
17 side?

18 A Yes.

19 Q And somebody on your side?

20 A Yes.

21 Q Were there any other people in the house?

22 A You could hear someone in the other rooms putting down
23 blinds and making racket, going through things.

24 Q So, at least three persons?

25 A Yes, sir.

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1 Q Now, once you started screaming what happened?

2 A They told me to be quiet, to hush.

3 Q Did they let you stay in bed or ---

4 A No, they told me to get up. The one on my side of the
5 bed did not have a full mask on but had a hooded jacket that
6 was tied very tightly around his face. You could tell that he
7 was black. So, they proceeded - the man on my side never said
8 anything but they told me to or he on Robert's side to go to
9 the bathroom and with the dogs and to quieten them down.

10 Q So, the man on Robert's side appeared to be in charge?

11 A Yes.

12 Q And the height of the two people in the bedroom, who was
13 taller, who was shorter?

14 A The tallest one's on Robert's side. The smaller one on
15 my side.

16 Q Now, they get you to the bathroom. Do you take anything
17 with you in the bathroom?

18 A No, sir, just the dogs. I'm sitting there on the commode
19 looking down because I do not want to look at his face because
20 I'm afraid I'm going to agitate him, be able to identify him.

21 Q Did you remain in the bathroom?

22 A At one point the one that was over me was antsy and he
23 left his position. I tried to run and was grabbed by the back
24 of the neck by my shirting, and at that point I was put on the
25 ground, a tile floor and tied hands behind the back, feet

1 behind my back or feet tied.

2 Q And you say your shirting, your sleep shirt?

3 A Yes, it was just a t-shirt.

4 Q And this tile floor where is that located in your house?

5 A We had it all over the house, but I was in the living
6 room right at the entrance of the hallway and at the front of
7 the door entrance.

8 Q Now, once they had you in the living room were you there
9 alone?

10 A Alone?

11 Q Was anyone else in the living room?

12 A My husband was on the couch.

13 Q And did anyone say or do anything to either one of you
14 all while you were in the living room?

15 A At this time the one doing all the talking is asking
16 about a safe, "Where is your safe?" My husband said, "We are
17 poor people. We don't own a safe." I think my husband
18 already told you this but he asked a repetition of questions,
19 if he could take a picture off of the wall, if he finds a
20 safe, could he shoot him. My husband answered yes. "If I
21 take a mirror off the wall, I find a safe, can I shoot you?"
22 My husband answers yes, the same thing about the garage. The
23 did take the pictures off the wall, found nothing. There was
24 a reference made not to take any credit cards, wanted to know
25 which one was my debit card, what my number was. A few

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1 seconds passed, whatever. He asked me the number again.

2 Surprisingly I remembered. I don't know why but I remembered
3 the PIN number.

4 Q Were there any threats that were made to you?

5 A That they were going to leave and one person would stay
6 behind and if the PIN number didn't work that they would come
7 back and kill us and then they started throwing - we had sweat
8 jackets hanging nearby over my head and I felt I was going to
9 be killed.

10 Q Now, you said, you said they informed you they were going
11 to leave one person behind when they left. Did there ever
12 come a time when they did leave?

13 A It became very quiet and within a few minutes I wasn't
14 staying there if I had to get knocked back down. I asked
15 Robert, I said, "Do you think they are gone?" And he said, "I
16 don't know." I got up. This is four months after I my hip
17 surgery, got up. The telephone lines had been cut, looked for
18 my cell phone, couldn't find it, and I went out the door, went
19 to two people's house. The third person, she was up or near
20 the door and answered immediately. I asked her to please call
21 911, that we had been robbed.

22 Q About how long after these burglars left your house was
23 it that you were calling 911?

24 A Between three to five minutes.

25 Q Three to five minutes. Now, you said the lead guy kept

1 asking you what your PIN number was.

2 A Yes, sir.

3 Q Did he do anything to record this, the PIN number that
4 you saw, memorialize it in any way?

5 A He had wrote it down, got a piece of paper off of the
6 table.

7 Q And now, did you call 911 or your neighbor?

8 A My neighbor.. She asked me to come into the house and I
9 said no. I wanted to go back and see about Robert.

10 Q So, no more than five minutes after the robbers left 911
11 is being called.

12 A That's correct.

13 Q Did you have the opportunity to speak with North Myrtle
14 Beach Police Department?

15 A Yes, sir, but I don't remember faces or names or I do
16 know Mr. Farmer came. I believe he's a detective.

17 Q Do you recall telling anyone what property if any were
18 stolen?

19 A Yes.

20 Q And what did you tell them?

21 A Well, at this time you're rattled. I mean, you can't
22 think about nothing else but your life at this point. I knew
23 that my jewelry had been taken, of course the cell phone.
24 Later I found about other things that were taken which was
25 money that was hidden or is extra in the billfold laying in

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1 the drawer, but the bigger things that I could think about.

2 Q You're talking about your ATM card?

3 A Yes.

4 Q And what about your van?

5 A Yes, the van, and I didn't even notice it had been stolen
6 till I came back from calling or the neighbor calling the
7 police.

8 Q Where had the van been parked?

9 A It always stays outside the garage.

10 Q So, you're so distraught you don't even notice at first
11 your van is stolen.

12 A That's correct.

13 Q Did you give the detectives any kind of description of
14 the man who broke into your home?

15 A You know, I really don't remember. You're thinking,
16 "What, what just happened here?" I'm sure we said three
17 people, what type of clothing, baggy clothes, black, brown.

18 Q But you gave some kind of description at that point? You
19 just don't recall?

20 A Yes, sir.

21 Q So, it was your van, jewelry, a little bit of cash, ATM
22 card that was stolen?

23 A The majority of things.

24 Q And these young men they weren't invited in your home?

25 A No, sir.

1 Q Thank you. Thank you. If you'll answer any questions
2 Mr. Hazzard may have.

3 THE COURT: Mr. Hazzard?

4 MR. HAZZARD: Thank you, Your Honor.

5 CROSS EXAMINATION

6 BY MR. HAZZARD:

7 Q Mrs. Whitlock, did you tell the police that the men that
8 broke into your home were wearing gloves?

9 A Yes, I did because they took every picture off of the
10 wall and where they had pulled the pictures off of the wall
11 were black streaks. So, they continuously kept their gloves
12 on.

13 Q Oh, so, you told the police that they were wearing
14 gloves?

15 A Yes, sir.

16 Q Okay, so, then the police reports will indicate that yo
17 told them that you would think?

18 A They should.

19 Q All right, now, who's the first officer you remember
20 speaking to?

21 A I, really, I'm bad on names and - but I believe it was
22 the man that testified first.

23 Q Sergeant Kovarsky?

24 A Yes, sir.

25 Q Okay, and did you give him a description of the height

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1 and the weight of the perpetrators?

2 A No, nothing about - I don't think any about height and
3 weight. I don't recall that.

4 Q Okay, now, you indicated that you might have left the
5 door unlocked but you think you locked the door but you're not
6 sure before you went to bed; correct?

7 A I'm just saying that I'm possibly I can make an error and
8 I could have not locked it.

9 Q Sure, we all can, no question about that. To your
10 knowledge do any of your neighbors say that three roving
11 thieves were going from door to door checking for unlocked
12 doors on that night, ma'am?

13 A Did any of my neighbors say that?

14 Q Yes, ma'am.

15 A No.

16 Q Okay, now how close, ma'am, is your house to your
17 neighbor's house on either side, about how much distance?

18 A I'm the world's worst when it comes to measurements.
19 This is a close neighborhood. Some houses you can reach next
20 door and ask for a cup of coffee. I have a street in front of
21 my house, just, just across the street sits a house.

22 Q Okay, so, there aren't any houses to your left or your
23 right?

24 A We have a berm and there's a house over next to it.

25 Q Okay, on which side, ma'am, the left? Let's visualize

1 you standing in your doorway looking out your house.

2 A Okay, I have a street in front of me.

3 Q Okay, and what is to your left?

4 A To my left is a forest.

5 Q Okay, so, there's no house there.

6 A No.

7 Q And then to the right of it would be the berm?

8 A The berm and the house.

9 Q Then the house, okay, fair enough, but there are houses
10 directly across from you?

11 A Adjacent. Say I'm standing over here, I - my - if I go
12 out my door towards Sergeant Sheets is the neighbor's house
13 that I first ran to.

14 Q Okay.

15 A And I couldn't get a response. So, I go across the
16 street. She wouldn't come to the door and the lady next door
17 to her answered.

18 Q Okay, when you say across the street that means the hous
19 back on your side of the street across the berm?

20 A All right, here's

21 Q Yes, ma'am.

22 A I went across the street to this neighbor.

23 Q Yes, ma'am.

24 A There's a street that runs this way across, across the
25 street.

1 Q Oh, got you, got you.

2 A Is that clear?

3 Q Yes, ma'am.

4 A Okay.

5 Q Yes, ma'am, okay, now, when these thieves came in you're
6 not clear on the time; correct?

7 A Yeah, I'm pretty sure that it is - well, not what time
8 they entered. I know what time I went to bed. How long it
9 took me to go to sleep because I'm sure I was given time to go
10 to sleep.

11 Q Okay.

12 A Definitely between twelve and one.

13 Q Okay, all right, fair enough. Now, when these thieves
14 came in did they turn on all the lights?

15 A As I said, I left one light on in the Carolina room.
16 They lowered all of the blinds and there was a candle where
17 you had to take and use a lighter. They lit that. Other
18 than that everything else was off except maybe - I can't
19 remember if the kitchen light was on or not.

20 Q Okay, now, during the course of this investigation I
21 believe you said you remembered talking to Detective Farmer;
22 correct?

23 A Yes, sir.

24 Q Do you see any other officers and detectives in this
25 courtroom that you spoke with during the course of this

1 investigation?

2 A Not just that night but ---

3 Q Yeah, just not that night, from 2007 up until today?

4 A Detective Sheets.

5 Q That's Detective Sheets right there?

6 A Yes.

7 Q Okay, anyone else?

8 A Is that Detective Farmer on the right?

9 Q I'm not sure. Is that Detective Farmer? Okay, that's

10 Detective Farmer, all right, anybody else?

11 A Not right off.

12 Q Okay, so, then these would be the gentlemen that you give
13 the information as far as height and weight, things like that
14 the fact that they were wearing gloves; correct?

15 A Yes, sir, I did - I was the stronger one at the point and
16 one day when I was out I went to the North Myrtle Beach Police
17 and spoke with the chief, it was a William Bailey, I'm not
18 sure, but I went in and talked with him in detail about
19 different things.

20 Q Uh-huh, having to do with this incident?

21 A Yes, sir.

22 Q Okay, to your knowledge did he generate an incident
23 report memorializing this conversation?

24 A I don't know.

25 Q You don't know, okay, fair enough.

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1 A He shared some things with me.

2 Q Okay, all right, so, you talked with Chief Bailey,
3 Detective Sheets and Detective Farmer; correct?

4 A Correct.

5 Q Okay, now, at some point were you present when they -
6 well, let me ask you this, to your knowledge at some point did
7 they dust your house for fingerprints?

8 A When Detective Farmer came in he had his kit and he said
9 - we had told him that they had gloves on and he said,
10 "There's no point in dusting anything because they had gloves
11 on."

12 Q Uh-huh, so, he didn't dust.

13 A No, sir.

14 Q Okay, all right, okay, all right. Thank you. No further
15 questions.

16 THE COURT: Redirect?

17 MR. RICHARDSON: No redirect, Your Honor.

18 THE COURT: All right, you may step down.

19 THE COURT: Call your next witness.

20 MR. RICHARDSON: The State would call Detective
21 Farmer.

22 THE COURT: All right.

23 Whereupon, Carl D. Farmer was called to the stand, duly
24 sworn by the Clerk and testified as follows:

25 THE CLERK: State your full name and spell your last

1 name.

2 MR. FARMER: Carl D. Farmer, F-A-R-M-E-R.

3 DIRECT EXAMINATION

4 BY MR. RICHARDSON:

5 Q I guess I can still say good morning, Detective.

6 A Good morning.

7 Q Could you tell us a little bit about your employment,
8 where you're employed and in what capacity?

9 A I've been employed with the North Myrtle Beach
10 Department of Public Safety for 22 years. I've been a
11 detective for 12 years.

12 Q 12 years as an investigator?

13 A As an investigator.

14 Q And as an investigator with the City of North Myrtle
15 Beach Police Department how does it work whenever a case is
16 developed? Do you work them only by yourself, together, how
17 does, how does it work?

18 A Our cases are assigned to us by our lieutenant, but on
19 this particular case I was on call when this came in.

20 Q And so, you're familiar with the case in which the
21 Whitlocks' home was broken into?

22 A Yes, I am.

23 Q Did you respond to the scene?

24 A Yes, I did.

25 Q Do you recall what time you responded to the scene?

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1 A It was probably a little after two.

2 Q A little after two? Other officers were already there?

3 A Yes.

4 Q Okay, and what did you do once you responded to the
5 scene?

6 A I responded to the scene. I spoke with Sergeant
7 Kovarsky who was in charge of the scene at the time. He gave
8 me a brief, briefing on what had occurred. He told me about
9 the vehicles that had been stolen and they had an APB or all
10 points bulletin looking for that vehicle.

11 Q And let me stop you, whenever they send out the APB or
12 the BOLO for a vehicle, what information do they give?

13 A They give the vehicle description, tag, possible persons
14 driving that vehicle.

15 Q VIN number if they've got it?

16 A Yes.

17 Q And what's a VIN number?

18 A The VIN number is the vehicle identification number.
19 Each vehicle has one. It's on your vehicle registration that
20 coincides with your tags.

21 Q And I'm sorry to interrupt you on that. Please continue
22 on. You're there and you get the information on the stolen
23 van, you speak with Sergeant Kovarsky.

24 A I asked them at that time about the victims. He told me
25 they were inside. I went inside. I walked inside, started to

1 look around, talk to the victims. I questioned them about
2 what had happened. They gave me the information that the
3 suspects had worn gloves. I asked them what did they touch
4 and they said they had not touched anything. So, I proceeded
5 through the house and I took pictures of the residence of the
6 disarray in the house. When I concluded that I informed them
7 that I would not do any fingerprints because they specificall
8 told me the suspects had on gloves.

9 Q Are you familiar with the science of fingerprinting?

10 A Yes, I am.

11 Q And what effect, if anything, do gloves have on the
12 leaving of fingerprints?

13 A You're not able to get any details of the fingerprints
14 through the gloves. A majority of the time that's why people
15 wear gloves when they do something like this.

16 Q And like it is in the movies, TV?

17 A Yeah.

18 Q So, it would have been futile to spread that dust
19 everywhere.

20 A Yes.

21 Q I'm going to show you what's been marked as State's One
22 through Nine for identification; okay?

23 MR. HAZZARD: The Court's indulgence, Your Honor.

24 THE COURT: All right.

25 MR. HAZZARD: No objection.

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1 THE COURT: All right.

2 BY MR. RICHARDSON:

3 Q Detective, I'm going to show you what's been previously
4 marked for identification as State's One through Nine. If you
5 could take a look at those items and tell - and just take your
6 time, tell me if you recognize those?

7 A Yes, I do.

8 Q And have you had the opportunity to view these before?

9 A A few moments ago.

10 Q And how can you identify these items?

11 A These were pictures that I took of the residence.

12 Q And do they fairly and accurately depict the scene as you
13 saw it the early morning hours of March 21st, 2007?

14 A Yes, it does.

15 Q That's at :?

16 A Yes, it is.

17 MR. RICHARDSON: Your Honor, at this time the State
18 would seek to introduce State's One through Nine.

19 THE COURT: Any objection?

20 MR. HAZZARD: Without objection.

21 THE COURT: State's exhibits One through Nine admitted
22 into evidence without objection.

23 (State's Exhibits One through Nine [Photographs] admitted
24 into evidence and appropriately marked.)

25 MR. RICHARDSON: The State would seek to publish at

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1 this time, Your Honor.

2 THE COURT: All right, no questioning any witnesses
3 while they're being published because I want the jury to
4 either listen to the testimony or ---

5 MR. RICHARDSON: Well, I'm actually going to be asking
6 questions on it.

7 THE COURT: Oh, okay, then that'll be fine, yeah.

8 BY MR. RICHARDSON:

9 Q Detective, State's Exhibit One, could you tell us what
10 we're seeing in that, the purpose of taking that photograph
11 was?

12 A The purpose of this is when they were - the Whitlocks
13 loosened themselves this was the rope that was used to tie
14 them up and they left it on the chair, on the stool.

15 Q And that's the Whitlocks left the rope?

16 A Yes, they did.

17 Q And I believe State's Two through Six, can you tell us
18 what we're seeing there and also Number Nine?

19 A Exhibits Two through - Two through Seven and including
20 Nine is bedrooms of the residence. Exhibit Number Six is the
21 kitchen when they went through the cabinets.

22 Q And what do these items show?

23 A It shows how the suspects went through the residence
24 looking for items to steal.

25 Q And now let's look at State's Number Seven and Eight see

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1 if you can look at those and tell me what is depicted there.

2 A That is the cords from the telephone on Exhibit Number
3 Seven and the living room area is State's Exhibit Number
4 Eight.

5 Q Okay, and the items found in that, particularly this cord
6 and that rope could you tell us what that is?

7 A Exhibit number seven it is the telephone cord that was
8 used to tie them and the rope in Exhibit Number Eight was also
9 used to tie the victims up.

10 MR. RICHARDSON: Your Honor, I'm going to publish
11 these to the jury now so they can get a little bit closer
12 look.

13 THE COURT: All right, let's wait while they review
14 them.

15 MR. RICHARDSON: Yes, sir.

16 THE COURT: All right, Mr. Richardson.

17 MR. RICHARDSON: Thank you.

18 BY MR. RICHARDSON:

19 Q Detective Farmer, did the Whitlocks give you any kind of
20 description of these suspects?

21 A Yes, they did. It was a vague description. They were
22 very upset at the time when I got there. They told me what
23 they could. I reinforced that information with the officers
24 that were on the scene. They had told those officers and they
25 were looking for the suspects.

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1 Q How if any way did they describe them?

2 A They said there were three, three males,
3 males and they were wearing dark clothes and they had on ...
4 had on masks and they were once again specific about the
5 gloves.

6 Q Now, at any point during your investigation did the
7 Whitlocks tell you anything about a key?

8 A The next day I talked to Mr. Whitlock and he told me
9 about the key.

10 Q Do you know if that was ever checked into?

11 A I passed it on to Sergeant Sheets because he knew the
12 people that - Centec and he said he would follow through with
13 them on it.

14 Q Okay, and you got called out in the middle of the night
15 correct?

16 A Yes, I did.

17 Q Okay, and did you maintain the investigation?

18 A Yes, I did for a couple of days. I was scheduled to go
19 on vacation and then Sergeant Sheets assisted and just took
20 over the investigation. When I returned, I started back
21 assisting him.

22 Q So, you started off with the investigation and then you
23 turned it over to Sergeant Sheets?

24 A Yes.

25 Q And he was your sergeant at the time?

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1 A Yes.

2 Q And then whenever you came back you assisted following
3 up?

4 A Yes.

5 Q Okay, so, it was a team effort?

6 A Yes.

7 Q All right, Detective, thank you very much. If you'd
8 answer any questions Mr. Hazzard may have.

9 THE COURT: Mr. Hazzard.

10 MR. HAZZARD: Thank you, Your Honor.

11 CROSS EXAMINATION

12 BY MR. HAZZARD:

13 Q Detective Farmer, I take it that you as part of your job
14 as a 22 year veteran that you prepared some incident reports
15 or investigative reports in this case; correct?

16 A Yes, I did.

17 Q Okay.

18 MR. HAZZARD: Your Honor, we have a matter to take up
19 outside the presence of the jury.

20 THE COURT: All right, ladies and gentlemen, I'm going
21 to excuse you back to the jury room for just a minute while we
22 take up this matter of law. As I told you at the outset you
23 and you alone are the deciders of the facts of this case. I
24 decide the law in this case. Now, when we excuse you to the
25 jury room it's not that we're trying to hide anything from you

1 or keep anything from you. It's just that when we discuss
2 these legal matters it often requires me as the judge and the
3 attorneys to discuss factual issues. Now, what we say during
4 the course of these arguments is not evidence and we don't
5 want anything that we say to influence you in your decision
6 about what the facts are because you're to decide the issues
7 of fact exclusively from the testimony and evidence presented
8 from the witness stand. So, that's why we excuse you to the
9 jury room is so that nothing we say during the course of
10 deciding this legal matters, so nothing that we say in those
11 arguments will influence your decision on the factual issues.
12 So, it'll give you a little bit of break. We're going to
13 excuse you back to the jury room and I'll bring you out in
14 just a moment. Thank you very much.

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

17 THE COURT: All right, Mr. Hazzard.

18 MR. HAZZARD: Your Honor, the witness has just
19 testified that he has prepared incident reports in this case.
20 I have never received any incident reports bearing this
21 witness's signature or purporting to be from him as part of
22 the discovery.

23 THE COURT: All right, was the request for disclosur
24 made?

25 MR. HAZZARD: Yes, sir, Your Honor.

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1 THE COURT: All right, Mr. Richardson.

2 MR. RICHARDSON: Your Honor, there were reports in
3 discovery that was made referencing work that they did - that
4 Detective Farmer did with, for instance there's one ---

5 THE COURT: Well, no, let me ask you this, were there
6 any reports that were not produced to the Defendant's
7 attorney?

8 MR. RICHARDSON: Not to my knowledge, Your Honor. We
9 even took it to the precaution of last Monday, that being July
10 28th, I believe it was?

11 MR. HAZZARD: 27TH.

12 MR. RICHARDSON: 27TH, I'm sorry, to take time, I met
13 with Mr. Hazzard at the North Myrtle Beach police department.
14 Sergeant Sheets brought in his file and said, "Please look
15 through anything you need, please look through this. We just
16 want to make sure everything has been over," every report that
17 they have, that they had that I've got has been turned over,
18 Your Honor.

19 THE COURT: All right, well, let me ask Detective
20 Farmer, did you, did you give everything you had, incident
21 reports and things of that nature to Mr. Richardson or does he
22 have everything that you all have involved in this case?

23 A Yes, Your Honor.

24 THE COURT: All right.

25 MR. HAZZARD: Then, Your Honor, I would like to see what

1 reports he's talking about and compare them to the reports
2 that I have.

3 THE COURT: All right, let's look through and see
4 what he's talking about and see if there's anything that has
5 not been disclosed.

6 MR. HAZZARD: Permission to approach the witness, Your
7 Honor?

8 THE COURT: Okay, well, first let's get on the record
9 what has been produced to you and has that been produced to
10 you during discovery?

11 MR. HAZZARD: Okay, Your Honor, the first document has
12 North Myrtle Beach logo, detective case, investigator in this
13 case number 200706656 and the first line of it says, "Three
14 vehicles have been entered as suspects." This document has
15 never been provided to me; however, as a part of my
16 preparation for this case I requested the discovery from
17 Joshua Bailey the attorney for the Co-Defendant Riccardo
18 Corley and so obtained this document in that fashion. So, no
19 it has never been provided to me. With regard to ---

20 THE COURT: Well, wait a minute, it was provided to
21 you by the Co-Defendant's attorney but not provided to you by
22 the State.

23 MR. HAZZARD: Pursuant to discovery, correct.

24 THE COURT: All right, go ahead.

25 MR. HAZZARD: The second document is a two-page

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1 document, the same case number, the heading is a case number
2 20070665 - 6656, I apologize, dated 03-21-2007, then it
3 states, "Farmer, Repec, 04-10-2007," starts out, "Preface, the
4 purpose of this exercise is to compare travel from elapsed
5 times," and it goes on. It's a comparison of travel times from
6 different alleged pertinent points in this case. I have this
7 document. I am not sure if this was provided by the State or
8 as a part of the Co-Defendant's information. The third
9 document is interview with Willie Eaddy 4-10-07 at 10:15 a.m.
10 This was provided to me as a part of discovery by the State.

11 THE COURT: All right.

12 MR. HAZZARD: And my concern at this point is are these
13 all the documents that he purports to have worked on.

14 THE COURT: Oh, okay, all right, well, I'll let you
15 ask him on that then. Go ahead. Yeah.

16 MR. HAZZARD: Okay.

17 EXAMINATION

18 BY MR. HAZZARD:

19 Q Detective, I'm going to hand you these two documents been
20 provided to me by the Prosecutor and Detective Sheets and ask
21 you to take a look at them and tell us if you can identify
22 them?

23 A Yes.

24 Q Okay, do these - are these documents your work product?

25 A Yes, along with Lieutenant Repec and Sergeant Sheets.

1 Q With regard to this particular case are there any other
2 investigative reports that you authored?

3 A Everything that I had I turned in to Sergeant Sheets,
4 yes.

5 Q So, there are others?

6 A No, everything that was there that I did I turned in to
7 Sergeant Sheets. He was the case agent. He organized it, put
8 it together in a format so ---

9 Q Thank you, sir. Listen to my question very carefully,
10 please, sir. My question to you is this, in the presence of
11 the jury I asked you whether or not you had prepared any
12 investigative reports and your response was to the
13 affirmative; is that correct?

14 A Yes.

15 Q Okay, I have handed you three documents for your
16 perusal; is that correct?

17 A Yes.

18 Q Do these three documents constitute the sum and total o
19 your investigative reports prepared in this case?

20 A Yes, including the pictures.

21 Q Okay, so, as far as written documentation those three
22 documents in your hand are the only three investigative
23 reports that you prepared in this case?

24 A I'd have to look through to say all of them. This is
25 what they've given me from the reports.

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1 Q Okay.

2 MR. HAZZARD: Then I would ask that the Defendant be
3 allowed to come down off the - the witness be allowed to come
4 down off the stand and look through the case file.

5 THE COURT: All right, let's let him see if there's
6 anything, and I mean, I think it's pretty obvious we're trying
7 to find out if everything has been disclosed to the Defendant.
8 So, let's ---

9 MR. RICHARDSON: Your Honor, I'll deliver it up to
10 him.

11 THE COURT: All right, yeah, do we want to go ahead
12 and maybe take about a five-minute break while he goes through
13 that?

14 MR. RICHARDSON: That's fine. Your Honor, I have one
15 more witness for this morning actually.

16 THE COURT: Okay, that'll be fine. Let's take about a
17 five-minute break so he can look through that and just see if
18 there's anything that is contained in the file that Detective
19 Farmer generated that was not produced to the Defendant. I
20 think that's what we were trying to find out; correct?

21 MR. HAZZARD: That's correct, Your Honor.

22 THE COURT: All right, let's take about a five-
23 minute break while he does that.

24 OFF THE RECORD

25 (On the record.)

1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: All right, have we had time for Detective
4 Farmer to review the materials?

5 MR. RICHARDSON: Yes, sir.

6 THE COURT: All right, Mr. Hazzard, any questioning?

7 MR. HAZZARD: Your Honor, based on the representation
8 made by Detective Farmer the three documents initially shown
9 to him during the in-camera hearing are the only three
10 documents that he has prepared as far as this case is
11 concerned. Therefore, his response to the question of
12 incident reports would be these three documents previously
13 referenced in the record and although not all were received
14 pursuant to discovery I do believe that that was a mere
15 oversight and I have previously obtained the documentation no
16 received from the attorney for co-counsel or attorney for the
17 Co-Defendant.

18 THE COURT: All right, all right, anything before we
19 bring the jury back in?

20 MR. HAZZARD: Nothing from the Defendant, Your Honor.

21 MR. RICHARDSON: No, sir, Your Honor, if information
22 was not turned over I'd just like to apologize to the Court
23 and to Mr. Hazzard.

24 THE COURT: All right, thank you very much. All
25 right, let's bring the jury back in.

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

2 THE COURT: All right, ladies and gentlemen, welcome
3 back. We're in cross examination by Mr. Hazzard. Mr.
4 Hazzard, you can continue.

5 MR. HAZZARD: Thank you, Your Honor.

6 BY MR. HAZZARD:

7 Q Detective Farmer, when we took a break I asked you
8 whether or not you had prepared any investigative reports in
9 this case and you indicated you had; is that a correct
10 statement?

11 A Yes, I did.

12 Q Okay, and I'm going to hand you three documents and ask
13 you to take a look at them and after you finish looking at
14 them tell me if those three documents constitute the full sum
15 and substance of the reports that you generated in this case.

16 A Yes, it is.

17 Q Okay, and if you would review that documentation and I
18 believe you were present when Mrs. Whitlock testified, sir; is
19 that correct?

20 A Yes, I was.

21 Q Okay, and she indicated that she had spoken with you and
22 told you that the intruders had worn gloves; is that correct?

23 A Yes, she did.

24 Q Okay, now, please find for me the place in that
25 documentation where it indicates that you were informed that

1 the intruders wore gloves, please.

2 A It's not in this documentation.

3 Q Is it in any other documentation relating to this case
4 prepared by you?

5 A No, it's not.

6 Q To your knowledge is it in any documentation prepared by
7 anyone else?

8 A No, it's not.

9 Q Okay, now, you indicated you've been on the force for
10 22 years; correct?

11 A Yes.

12 Q And 12 of those years you've been a detective; correct?

13 A Yes.

14 Q Okay, so, you are trained to, A, extract information;
15 correct?

16 A Yes.

17 Q And B, you are trained to memorialize it; correct?

18 A Yes.

19 Q Because details are very important; aren't they?

20 A Yes, they are.

21 Q You're talking about a criminal investigation, you are
22 talking about people's lives and their livelihoods; correct?

23 A Yes.

24 Q Okay, now, this is an important point that you would not
25 fail to memorialize, sir, now; is it?

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1 A I did this time.

2 Q You think you did this time, all right, and you indicated
3 also that you took some pictures; right?

4 A Yes, I did.

5 Q And you were in the courtroom when Mrs. Whitlock
6 testified; right?

7 A Yes.

8 Q Okay, and she indicated that she knew that she had told
9 you that the gentleman had worn gloves because when they took
10 the pictures off the wall they left these streaks or smears on
11 the wall; correct?

12 A Yes.

13 Q Okay, did you take pictures of these streaks or smears?

14 A I didn't do pictures of smears. I don't recall any
15 smears.

16 Q You don't recall any smears? You can answer. You don't
17 recall any smears?

18 A No.

19 Q Okay, because if there had been that would not be
20 consistent with someone's home; correct?

21 A Yes.

22 Q And so, in your training, in your experience you would
23 take pictures of something that is out of place and
24 inconsistent; correct?

25 A Yes.

1 Q Okay, now, I'm holding the statements, the voluntary
2 statements of Linda K. Whitlock and Robert Whitlock. Both of
3 them are dated March 21st, 2007, and both have a time of 2:25
4 a.m. Were you the officer that they provided this to or not,
5 sir, I'm sorry, the detective that they provided this to?

6 A Was it signed by me?

7 Q Well, it has a witness but that's hard to read. Now, at
8 the top it says, "I am giving this statement to King-DG." Who
9 would that be, sir?

10 A Officer King.

11 Q Okay, all right, now, had you arrived at the house prior
12 to 2:25 a.m. or after 2:25 a.m.?

13 A I'm not sure.

14 Q Okay, would you have a log or does North Myrtle Beach use
15 a log where you have to sign in and sign out from
16 investigative scenes?

17 A Once I arrived on the scene I would notify dispatch and
18 there is a log.

19 Q Okay, but you don't have that information readily
20 available to you as you sit here today?

21 A No, I do not.

22 Q Okay, that's fine. Now, in the course of your
23 investigation in this case have you had an opportunity to
24 review the voluntary statements made by Mr. and Mrs. Whitlock

25 A No, I haven't.

Carl Farmer - Cross by Defense

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1 Q Okay, let's see, now, when you spoke with the Whitlocks
2 do you recall them telling you that they had been - bless you
3 - do you recall them telling you that they had been tied up
4 with some form of rope; correct?

5 A Yes.

6 Q And in fact, pictures have been taken of a kind of a
7 yellow looking rope; correct?

8 A Yes.

9 Q And you took those pictures?

10 A Yes, I did.

11 Q Now, what is the - what is your responsibility and your
12 purview as far as forensic collection of evidence? What are
13 you trained and authorized to collect besides fingerprints?

14 A To collect the evidence so it can be tested for DNA or
15 anything else like that. If there's no DNA because I was told
16 that there was no gloves, I did not collect those items at
17 that time, but I did make notation by taking those pictures to
18 ensure that those items were there.

19 Q Okay, now, did you collect this rope, take it into
20 evidence, collect it as a piece of evidence?

21 A I can't recall taking the rope at that time.

22 Q Okay, are you - so, you say that your job you don't - so,
23 you don't analyze the evidence, your responsibility is to
24 collect it so that others may analyze it.

25 A Yes.

1 Q Okay, so, if you collect this rope and I'm sure you can
2 test it for fibers and things of that nature; correct?

3 A SLED can.

4 Q SLED can, because if supposedly the person who did the
5 typing up - it's one of two things, right? If somebody got
6 tied up they were either tied up by somebody with or without
7 gloves on; correct?

8 A Yes.

9 Q So, if they didn't have any gloves on then we would thin
10 SLED might be able to find some skin cells on the rope; right

11 A When they came in they had gloves on.

12 Q You were there when they came in?

13 A No, according to the Whitlocks.

14 Q Thank you, sir. Let's get to what you know.

15 A Okay.

16 Q Okay, now, based on your training if the perpetrator tha
17 did the tying up didn't have gloves on, was barehanded, then
18 you would think you would find some skin cells on the rope;
19 right?

20 A Yes.

21 Q Okay, now, let's look at the other side, if they did hav
22 gloves on when they did the tying up you would think you ough
23 to be able to find some trace of the gloves on the rope;
24 right?

25 A Yes, if you locate the gloves.

Carl Farmer - Cross by Defense

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1 Q Yeah, or you would locate trace of any glove that would
2 indicate that somebody was wearing gloves; right?

3 A Yes.

4 Q And then if you do find the gloves later on you can match
5 them; right?

6 A Yes.

7 Q Okay, for the purpose of this very serious case please
8 tell me that was done to your knowledge.

9 A I can't recall about all the evidence that was collected.

10 Q Okay, did you collect any evidence?

11 A I photographed and I'm not - I don't think I collected
12 because there's no paperwork showing it.

13 Q Okay, do you have any knowledge as to who else in the
14 North Myrtle Beach Department would have collected evidence?

15 A Not at this time.

16 Q All right.

17 MR. HAZZARD: The Court's indulgence, Your Honor.

18 THE COURT: All right.

19 BY MR. HAZZARD:

20 Q Now, based on the documentation that you have and based
21 on your own recollection please tell me what - did you speak
22 with both of the Whitlocks, Mr. and Mrs. Whitlock?

23 A Yes, I did.

24 Q Okay, does the documentation you have give any indication
25 as to any description being given as to the height, weight of

1 the alleged perpetrators?

2 A Not in this documentation.

3 Q Do you have any other documentation that you prepared
4 that indicates that the Whitlocks gave some type of height,
5 weight, age indication?

6 A It should be indicated on the initial incident report.

7 Q The initial incident report, all right. Let me grab the
8 incident reports I have because I've got one that says
9 incident report and then one that says supplemental incident
10 report. So, let's see here. I'm going to give you this
11 document I have that says incident report and ask you whether
12 that would be the initial incident report.

13 MR. RICHARDSON: Your Honor, the State would just
14 object to anything in the incident report going in as hearsay

15 THE COURT: I don't think he's gotten to that point
16 yet. So, I'll overrule the objection at this point in time.

17 Q Okay, sir.

18 A Could you repeat your question?

19 Q My question was, sir, do you have any documentation that
20 would indicate that at any point in time the Whitlocks
21 provided you with a height, weight and age description of the
22 alleged perpetrators, something other than three generic black
23 males?

24 A No.

25 Q Okay, all right, thank you, sir.

Carl Farmer - Redirect by State

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1 MR. HAZZARD: No further questions.

2 THE COURT: All right, redirect.

3 MR. RICHARDSON: Very briefly.

4 REDIRECT EXAMINATION

5 BY MR. RICHARDSON:

6 Q Detective Farmer, how many detectives showed up at the
7 Whitlocks that night?

8 A One.

9 Q So, it was likely utilized other officers to take written
10 statements?

11 A Yes.

12 Q While you investigated the crime scene?

13 A Yes.

14 Q Okay, and Mr. Hazzard talked about, I guess we term it
15 omissions from your, from your reports. In your reports do
16 you see any mention of the VIN number for that stolen van?

17 A No, I do not.

18 Q Tag number?

19 A No, I do not.

20 Q Lighting conditions?

21 A No.

22 Q But you did gather that information?

23 A Yes, we did.

24 Q And the information that you gathered you said you turned
25 this over to Sergeant Sheets the next morning?

- 1 A We - yes, I did.
- 2 Q Okay, and you would have given him your information?
- 3 A Yes.
- 4 Q Maybe verbally?
- 5 A Yes.
- 6 Q Mr. Hazzard asked you about DNA, he was talking about
- 7 looking for DNA on the rope. Is it - here, let's see, having
- 8 touched that Bible, is it likely that I just left DNA on that
- 9 Bible?
- 10 A Yes.
- 11 Q Do you know if it could be tested for it?
- 12 A It could be tested but I'm not sure if you would get
- 13 anything back.
- 14 Q But up to somebody from SLED to be able to tell us that?
- 15 A Yes.
- 16 Q And if I would have had gloves on would I have left DNA?
- 17 A No.
- 18 Q And fingerprint dusting, it makes a mess?
- 19 A Yes, it does.
- 20 Q Okay, but this was a serious crime.
- 21 A Yes, it was.
- 22 Q If there would have been a chance of obtaining
- 23 fingerprint evidence would you have tried?
- 24 A Yes, I would have.
- 25 Q But because of the gloves you knew it was futile?

Carl Farmer - Redirect by State

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1 A Yes.

2 MR. RICHARDSON: Thank you, Your Honor.

3 THE COURT: All right, sir, you may step down.

4 MR. HAZZARD: Your Honor, one thing.

5 THE COURT: I don't recall that he brought up anything

6 new on ---

7 MR. HAZZARD: He indicated, he indicated that he

8 provided his information to Detective Paul Sheets. I just

9 want to ask him one question.

10 THE COURT: One question but you've already addressed

11 that on your cross examination, but go ahead.

12 MR. HAZZARD: No, if the Court feels I have, I have

13 addressed it then I'll take it up with Detective Sheets at

14 that time.

15 THE COURT: All right, you may step down.

16 MR. RICHARDSON: Your Honor, I'd ask that Detective

17 Farmer be excused to return to his duties.

18 THE COURT: All right, any objection?

19 MR. HAZZARD: No objection from Travis Bellamy, Your

20 Honor.

21 THE COURT: All right, Detective Farmer, you're

22 excused.

23 MR. RICHARDSON: Your Honor, I have one final witness.

24 THE COURT: All right, let's go ahead.

25 MR. RICHARDSON: If it please the Court.

Mark S. Bonner - Direct by State

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1 THE COURT: You can call your next witness.

2 MR. RICHARDSON: The State would call Sergeant Mark
3 Bonner. Thank you.

4 Mark S. Bonner was called to the stand, duly sworn by the
5 Clerk and testified as follows:

6 THE CLERK: State your full name and spell your last
7 name.

8 MR. BONNER: Sergeant Mark S. Bonner, B-O-N-N-E-R.

9 DIRECT EXAMINATION

10 BY MR. RICHARDSON:

11 Q Good afternoon now, Sergeant Bonner.

12 A Good afternoon.

13 Q With whom do you work?

14 A I work for the Horry County Police Department.

15 Q How long?

16 A I've been with them almost ten years. The end of this
17 month will be ten years.

18 Q And in what capacity are you currently employed?

19 A Currently I'm rank of sergeant. I'm assigned to the
20 beach patrol division.

21 Q How about back in 2007 where were you working?

22 A When I first got promoted I worked in the north precinct
23 which basically covers from Little River westbound to the
24 county line, Marion County line.

25 Q Okay, and how far back towards Conway does that cover?

Mark S. Bonner - Direct by State

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1 A All the way down 905. I'd probably say 10 miles or so
2 outside north of Conway.

3 Q And so, you're employed with the county police as a
4 patrol sergeant north precinct back March 23rd, 2007?

5 A Yes, sir.

6 Q Okay, and you didn't work for North Myrtle Beach Police
7 Department?

8 A No, sir.

9 Q Okay, during the course of your duties as a patrol
10 sergeant in the north sector for Horry County did you have
11 opportunity to become involved in this case on April or I'm
12 sorry March 23rd, 2007?

13 A Yes, sir.

14 Q Could you tell us a little bit about that.

15 A While on routine patrol I was patrolling an area off of
16 Old Wilson Road which is off Highway 905 north of Conway just
17 patrolling the area. We have a community activist there that
18 likes to see us a lot in their neighborhood; and so, he has a
19 couple of holes there that people tend to gather late at night
20 early in the mornings whatnot. So, while I was on patrol I
21 was checking a bar called the Hut. It was actually a closed
22 bar, but it's a wooded area kind of set off from Old Wilson
23 Road. So, it's kind of a little hiding spot. So, at that
24 point in time I pulled in, was running through that business
25 and I saw a vehicle parked up against the building pretty

Mark S. Bonner - Direct by State

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1 close. I ran the vehicle tag on that, on the vehicle and it
2 came back NCIC as stolen during this home invasion.

3 Q And what did you do upon getting that information from
4 the NCIC?

5 A At that point in time we secured the scene. The vehicle
6 was locked. So, we didn't process it in any way. Doing our
7 normal protocol we notified our tow company who would tow it
8 to an impound lot to wait for it to be processed for any
9 evidentiary value.

10 Q Okay, so you didn't enter the vehicle.

11 A No, sir.

12 Q And you had it towed to your impound?

13 A Yes, sir.

14 Q Where is that impound located?

15 A That's in Conway.

16 Q Where at in Conway?

17 A Highway 701 just north of here, northwest of here.

18 Q Near the post office?

19 A Near the post office.

20 Q And that's the extent of your involvement in this
21 investigation?

22 A Yes, sir.

23 Q Thank you. If you'll answer any questions Mr. Hazzard
24 may have.

25 THE COURT: Mr. Hazzard?

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1 MR. HAZZARD: No questions, Your Honor.

2 THE COURT: All right, sir, you may step down.

3 All right, do we want to go ahead and break for lunch
4 now?

5 MR. RICHARDSON: Your Honor, I think the next couple
6 of witnesses might be lengthy. So, it would probably be
7 appropriate.

8 THE COURT: All right, ladies and gentlemen, we're at
9 a good time. It's almost 12:30. We're going to break for
10 lunch. I'm going to excuse you for lunch. I'll ask that you
11 be back in your jury room at let's say at about 10 till two.
12 That will give you about an hour and 20 minutes and that'll
13 give us an opportunity so we can get started back at two
14 o'clock.

15 MR. RICHARDSON: Your Honor, if Sergeant Bonner could
16 be excused as well.

17 THE COURT: Any objection?

18 MR. HAZZARD: No objection.

19 THE COURT: All right, sir, he's excused. Thank you
20 very much.

21 MR. RICHARDSON: Thank you. Sorry to interrupt, Your
22 Honor.

23 THE COURT: That's all right.

24 All right, I remind you, ladies and gentlemen of the
25 jury, that still you are not to discuss this case even among

1 yourselves at this time. Deliberations are still premature.
2 So, you cannot discuss this case even among yourselves at thi
3 point in time. Please do not conduct any independent
4 investigation. Do not discuss any of the events of this tria
5 with anyone, but I hope everyone has a good lunch and we'll
6 excuse you until ten till two. Thank you very much.

7 (The following takes place outside the presence of the
8 jury.)

9 MR. RICHARDSON: Your Honor, if we may approach the
10 bench just on scheduling.

11 (A bench conference was held.)

12 THE COURT: All right, we'll stand in recess - I have
13 the jury coming back at ten till two so that we can be in and
14 get ready to go at two o'clock.

15 MR. RICHARDSON: Yes, sir, Your Honor.

16 THE COURT: All right, all right, thank you very much

17 OFF THE RECORD

18 (On the record.)

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: All right, I understand we have some
22 matters we need to put on the record before we bring the jury
23 in?

24 MR. RICHARDSON: Yes, sir, Your Honor.

25 THE COURT: All right.

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1 MR. RICHARDSON: Riccardo Corley, please.

2 (Riccardo Corley enters courtroom.)

3 THE COURT: All right, you can just stand right there.
4 That'll be fine. All right, and this witness's name?

5 MR. RICHARDSON: This is Riccardo Corley, Your Honor.

6 THE COURT: Riccardo Corley.

7 All right, Mr. Corley, you've been called as a witness to
8 testify in this case. Now, I now advise you that as a witness
9 you have the right to invoke the protections given to you by
10 the Fifth Amendment to the Constitution of the United States.
11 This amendment provides in part no person shall be compelled
12 in any criminal case to be a witness against himself. This
13 provision means that you cannot be required to be a witness
14 against yourself. This is a personal right which can only be
15 claimed by you. You have the right to refuse to answer any
16 question asked of you which you think gives you reasonable
17 cause to believe that the answer to the question if given
18 might tend to incriminate you. If you wish to exercise this
19 right when a question is asked you will state to this court
20 that you refuse to answer the question because the answer may
21 tend to incriminate you or "incriminate me" would be your
22 testimony. I also advise you that you are not the final
23 decision-maker on the issue of whether an answer to - excuse
24 me, of whether an answer to a question will violate the
25 protection afforded to you by the Fifth Amendment. It is for

1 this Court to determine if silence on your part is justified.
2 Do you understand that?

3 MR. CORLEY: Yes, sir.

4 THE COURT: All right, do you have any questions about
5 what I've explained to you?

6 MR. CORLEY: No, sir.

7 THE COURT: All right, so, if you're called as a
8 witness you will be sworn to tell the truth, you will be asked
9 questions. If you think any question incriminates you, you
10 can assert your Fifth Amendment Right against self
11 incrimination. However, we will then have a discussion and I
12 will determine whether or not your answering the question will
13 incriminate you and if it turns out that it will not
14 incriminate you then I can direct you to answer the question.
15 Do you understand that?

16 MR. CORLEY: Yes, sir.

17 THE COURT: Do you have any questions you want to ask
18 me?

19 MR. CORLEY: No, sir.

20 THE COURT: All right.

21 MR. RICHARDSON: Your Honor, if I may just put on the
22 record ---

23 THE COURT: All right.

24 MR. RICHARDSON: --- what he's pled to. On - looks
25 like on July 22nd, 2009, this Defendant pled to the charge of

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1 armed robbery on indictment number 2007-GS-26-3008 as related
2 to this matter. The State nolle prossed indictment numbers
3 2007-GS-26-2940 for burglary in the first degree and 2007-GS-
4 29 or 26-2941 for kidnapping. The Defendant received a
5 sentence of ten years which was negotiated, Your Honor. In
6 addition the State will grant transactional immunity for any
7 statements made by the Defendant to date as it relates to
8 this crime, the early morning hour March 21st, 2007, burglary
9 at the Whitlocks' home.

10 THE COURT: All right, so, as I understand, Mr. .
11 Corley, as a Co-Defendant with Mr. Bellamy ---

12 MR. RICHARDSON: Yes, sir.

13 THE COURT: --- on the charges of armed robbery,
14 burglary in the first degree and kidnapping.

15 MR. RICHARDSON: Yes, sir, the burglary and the
16 kidnapping have been dismissed. Now he has pled on the armed
17 robbery. He has been sentenced before Judge Hyman.

18 THE COURT: Okay, so, he's pled guilty to armed
19 robbery. He's received a sentence. So, there's no additional
20 punishment that can be imposed as a result of that crime.

21 MR. RICHARDSON: No, sir.

22 THE COURT: The kidnapping charges and the burglary in
23 the first degree have been dismissed, nolle prossed.

24 MR. RICHARDSON: As a condition of the plea.

25 THE COURT: All right, and so that was a condition of

1 the plea. So, he is no longer subject to jeopardy for those
2 charges either; is that correct?

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

4 THE COURT: All right, sir.

5 All right, sir. All right, Mr. Corley, do you understand
6 that ---

7 MR. CORLEY: Yes, sir.

8 THE COURT: --- the immunities granted to you? Do you
9 understand the immunities, that they dismissed some burglary
10 charge against you and they dismissed kidnapping charge
11 against you? So, they can't charge you with that anymore.
12 You can't be punished for that. Do you understand that?

13 MR. CORLEY: Yes, sir.

14 THE COURT: Do you understand that you've already ple
15 guilty to armed robbery and you've already received your
16 sentence for that; correct?

17 MR. CORLEY: Yes, sir.

18 THE COURT: All right, so, you can't be punished
19 anymore for that one. Do you understand that?

20 MR. CORLEY: Yes, sir.

21 THE COURT: All right, now, your testimony, if you're
22 called as a witness and you're asked a question then the only
23 immunity you have been granted is for those three charges,
24 those three charges being the armed robbery, the kidnapping
25 and the burglary in the first degree, all of which allegedly

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1 occurred on March the 21st, 2007, arising out of breaking into
2 the home of the Whitlocks in North Myrtle Beach; do you
3 understand that?

4 MR. CORLEY: Yes, sir.

5 THE COURT: All right, do you have any questions you
6 want to ask me?

7 MR. CORLEY: No, sir.

8 THE COURT: All right, do we want - do you want to go
9 ahead and put anything else on the record or ---

10 MR. RICHARDSON: The State is ready to proceed, Your
11 Honor, I believe that's all the State needs at this point.

12 THE COURT: All right.

13 I think the reason we have you out here, Mr. Corley, is
14 there was some - we received word there was some hesitation on
15 your part to testify; is that correct?

16 MR. CORLEY: Yes, sir, I ain't got nothing to say.

17 THE COURT: Okay, when you say you ain't got nothing
18 to say is that because you're stating you don't know anything
19 or is it because you just do not want to testify?

20 MR. CORLEY: I ain't want to testify.

21 THE COURT: Okay, all right, because of the immunities
22 granted to you heretofore for the pleading guilty to armed
23 robbery and the dismissal of the other charges I am going to
24 allow the State to call you as a witness and I'll have to deal
25 with the questions if a question is asked and you want to

1 assert your Fifth Amendment Right against self incrimination
2 then we'll have to place on the record whether or not that
3 incriminates you and then based upon my decision I'll have to
4 direct you to either answer the question or not answer the
5 question. Do you understand?

6 MR. CORLEY: Yes, sir.

7 THE COURT: All right, you want to just have him
8 stand over there so we can bring the jury in and then you cal
9 him or do you want to ---

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: --- go ahead and have him take a seat?

12 MR. RICHARDSON: Either or, I'm up to the Court's
13 discretion on that. It might save time to go ahead and have
14 him sit.

15 THE COURT: I mean were you going to go ahead and cal
16 him now?

17 MR. RICHARDSON: I was going to call him next witness
18 Your Honor.

19 THE COURT: All right, so, let's go ahead and put for
20 the record who you're calling as a witness.

21 MR. RICHARDSON: I'm sorry, Your Honor?

22 THE COURT: You want to go ahead and ---

23 MR. RICHARDSON: I'm going to be calling Mr. Corley a
24 the State's next witness.

25 THE COURT: All right, Mr. Corley, if you'd come

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1 around and have a seat in the witness chair.

2 (Complies with request.)

3 MR. RICHARDSON: Thank you, Your Honor.

4 THE COURT: If I could get you before you sit down, if
5 you could please stand and raise your right hand.

6 (Defendant sworn by the Court.)

7 THE COURT: All right, if you'd please have a seat.

8 All right, to tell you the truth I probably should have
9 sworn him in front of the jury. So, let's go ahead.

10 MR. RICHARDSON: I was going to ask if you'd re-swear
11 him.

12 THE COURT: Let's go ahead and bring the jury in.
13 What'll happen when the jury gets in I'll have you stand and
14 I'll swear you in again; okay? As a matter of a fact when the
15 jury gets in just go ahead and state who you're calling as a
16 witness.

17 MR. RICHARDSON: Yes, Your Honor. Thank you.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: All right, ladies and gentlemen, welcome
21 back. I hope everyone had a nice lunch. We're ready to
22 resume this trial. All right, Mr. Richardson, you can call
23 your next witness.

24 MR. RICHARDSON: Your Honor, the State would call
25 Riccardo Corley.

1 THE COURT: All right, Mr. Corley, if you'd please
2 stand, raise your right hand.

3 (Riccardo Corley sworn by Court.)

4 THE COURT: All right, if you'd please have a seat.
5 I'll need you to speak into the microphone, speak up loudly
6 and clearly. Give the court reporter your full name and spel
7 your last name.

8 MR. CORLEY: Riccardo Corley, C-O-R-L-E-Y.

9 THE COURT: All right.

10 All right, Mr. Richardson.

11 MR. RICHARDSON: Thank you.

12 DIRECT EXAMINATION

13 BY MR. RICHARDSON:

14 Q Riccardo, could you tell us how old you are?

15 A 21.

16 Q You're 21?

17 THE COURT: You're going to need to lean up and speak
18 into that microphone.

19 A 21.

20 Q 21 and where are you from?

21 A Red Bluff.

22 Q Red Bluff, is that near any major highways or anything?

23 A 905.

24 Q Right off 905, and that's here in Horry County?

25 A Yeah.

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- 1 Q Where have you been living for the past two years?
- 2 A In J. Reuben Long.
- 3 Q And do you know the Defendant?
- 4 A No, sir.
- 5 Q You don't know the Defendant Travis Bellamy?
- 6 A Yes, sir.
- 7 Q Yes, you do know him?
- 8 A Yes, sir.
- 9 Q Okay, are you related to him?
- 10 A No, sir
- 11 Q So, you all aren't cousins?
- 12 A No, sir.
- 13 Q Let's get a couple of things out of the way, you pled
- 14 guilty to robbing the Whitlocks; correct?
- 15 A Yes, sir.
- 16 Q You pled guilty to armed robbery about two weeks ago.
- 17 A Yes, sir.
- 18 Q And you received a sentence of 10 years; correct?
- 19 A Yes, sir.
- 20 Q No parole, and it was a negotiated sentence; correct?
- 21 A Yes, sir.
- 22 Q And you were facing a lot more time for kidnapping and
- 23 burglary in the first degree; correct?
- 24 A Yes, sir.
- 25 Q And those charges were dismissed; correct?

1 A Yes, sir.

2 Q And do you know who dismissed them?

3 A You.

4 Q Correct, I did. Let's get, let's get into the crime in
5 which you pled guilty. Do you remember the burglary and arme
6 robbery of Mr. and Mrs. Whitlock?

7 A No, sir.

8 Q You don't. Do you recall giving a statement to Detectiv
9 Paul Sheets, Sergeant Paul Sheets in which you talked to him
10 about that robbery?

11 A Yes, sir.

12 Q You do recall giving that statement, and you gave that
13 statement a little over two years ago?

14 A Yes, sir.

15 Q Sometime in April of 2007?

16 A Something like that.

17 Q Something like that and you were arrested afterwards?

18 A I was arrested before.

19 Q You were arrested before.

20 Do you recall a burglary over in the Briarcliffe section
21 of Horry County?

22 A I don't remember.

23 Q I'm sorry?

24 A I don't remember.

25 Q But you remember giving a statement to Detective Sheets,

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1 correct?

2 A Yeah.

3 Q Do you recall telling Detective Sheets that you
4 participated in a burglary over in that area?

5 A No, sir.

6 Q You don't recall telling him you participated in that?
7 The statement you gave to Paul Sheets got down April 25th,
8 2007, is that about right?

9 A Yes, sir.

10 Q Did you tell him the truth in that statement?

11 A No, sir.

12 Q You did not.

13 What did you tell him that wasn't true?

14 A The whole statement.

15 Q The whole statement? Do you recall telling Detective
16 Sheets you got a stolen cell phone from the burglary?

17 A No, sir.

18 Q You don't.

19 MR. RICHARDSON: The Court's indulgence.

20 THE COURT: All right.

21 BY MR. RICHARDSON:

22 Q Do you recall telling Detective Sheets the direction you
23 traveled to get to the Whitlock home?

24 A No, sir.

25 Q You're saying you don't recall it or you didn't state it?

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1 A Listen, I ain't got nothing to say.

2 Q Are you indicating that you refuse to answer the
3 question?

4 A Yes, sir.

5 MR. RICHARDSON: Your Honor, at this time the State would
6 seek leave to treat this Defendant as a hostile witness.

7 THE COURT: All right, Mr. Hazzard.

8 MR. HAZZARD: Your Honor, it's my understanding there
9 has to be some showing of, you know, actual surprise and harm
10 So, I would suggest or I would ask then at the very least for
11 the protection of the record that that be placed on the
12 record.

13 THE COURT: All right, I'm going to go ahead and I'm
14 going to allow him to treat the witness as a hostile witness.

15 All right, ladies and gentlemen of the jury, basically
16 what happens when a person ordinarily when you call a witness
17 to testify you cannot ask leading questions. You can only ask
18 questions of the witness about what he knows, what he
19 personally observed and things of that nature. However, when
20 a person is classified as a hostile witness it does give the
21 State, even though this witness is called by the State, it
22 allows them to ask leading questions and that's the purpose of
23 qualifying this witness as a hostile witness. All right, Mr.
24 Richardson.

25 MR. RICHARDSON: Thank you, Your Honor.

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1 Your Honor, if I could have this marked as - just for
2 identification purposes only.

3 THE COURT: All right.

4 (Whereupon, State's Exhibit Number 47 [Statement] marked
5 for identification.)

6 MR. RICHARDSON: For the purposes of the record the
7 State is going to hand to Mr. Corley State's Exhibit Number
8 47.

9 BY MR. RICHARDSON:

10 Q Mr. Corley, could you tell me what the heading on that
11 paper I just handed to you is, what it states?

12 A It say the interview.

13 THE COURT: Excuse me, you've got to speak up.

14 A About the interview.

15 Q What's the date on it?

16 A April 25th.

17 Q April 25th, 2007, and it says interview with who?

18 A Corley.

19 Q Riccardo Corley?

20 A Yes, sir.

21 Q Okay.

22 MR. HAZZARD: Your Honor, may we approach?

23 THE COURT: All right.

24 (A bench conference was held in the presence but out of
25 the hearing of the jury.)

1 BY MR. RICHARDSON:

2 Q Okay, up in the top part right here could you just start
3 reading right here? I'm at the top of page one, the heading
4 Mark Sheets one, two, three, four line starts, "You tell me,"
5 and just for the purpose of the court ---

6 MR. HAZZARD: Your Honor, I'm going to object. The
7 prosecutor has - the prosecutor has asked Mr. Corley about the
8 statement. Mr. Corley has admitted that he gave a statement
9 and says that the statement was a complete fabrication. If he
10 - I would submit if he wants to ask Mr. Corley about did he
11 say certain things or not that's fine, but to basically use
12 Mr. Corley to publish the statement I would submit is
13 improper.

14 THE COURT: And I think he's right. I think you can
15 ask him did he give a statement and then if he denies it and
16 it's inconsistent with the statement you can use it to impeac
17 him but at this time you can only ask him if he did or did no
18 give or state such, whatever.

19 MR. RICHARDSON: Yes, sir.

20 The Court's indulgence.

21 BY MR. RICHARDSON:

22 Q Do you recall Sergeant Sheets asking you about Travis?

23 A I don't have nothing to say.

24 MR. RICHARDSON: Your Honor, once again I'd ask for a
25 instruction that he answer the question.

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- 1 THE COURT: All right, yes, sir, you're going to need to
2 answer the question. Go ahead.
- 3 A Yes, sir.
- 4 Q You did not give a statement to him about Travis?
- 5 A I said yes, sir.
- 6 THE COURT: All right, you're going to need to speak
7 up.
- 8 A Yes, sir.
- 9 THE COURT: Okay.
- 10 Q Yes, sir, you gave him information about Travis or no,
11 sir, you did not?
- 12 A I didn't.
- 13 Q Did you tell Detective Sheets that Travis came by to pick
14 you up at your house?
- 15 A All that been a lie.
- 16 Q That was a lie.
- 17 A All that been a lie.
- 18 Q I'm sorry?
- 19 A All that been a lie.
- 20 Q Did you tell Detective Sheets that?
- 21 A Yes, sir.
- 22 Q I'm sorry?
- 23 A Yes, sir.
- 24 Q You did tell him that?
- 25 A Yeah.

1 MR. HAZZARD: Okay, Your Honor, we have a matter to tak
2 up outside of the presence of the jury.

3 THE COURT: All right.

4 All right, ladies and gentlemen of the jury, we have
5 another legal matter we need to take up. So, I'm going to
6 excuse you back to the jury room, give you an opportunity to
7 stretch your legs. We'll have you back out in just a minute.
8 Thank you very much.

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: All right, Mr. Hazzard.

12 MR. HAZZARD: Okay, Your Honor, my understanding where
13 we started out with this the issue was whether or not Mr.
14 Corley was willing to testify and whether he was a cooperatin
15 witness. Mr. Corley apparently according to the Court's
16 ruling has indicated that he does not wish to testify, thus
17 making him virtually unavailable to the Defense, but at this
18 point the prosecution is asking a witness who is unavailable
19 to the Defense about my client, thus raising a Bruton issue.

20 THE COURT: No, you're going to, you're going to be
21 able to cross examine him. He can ask him, "Didn't you say
22 this? Didn't you say this? Didn't you say this?" Now, his
23 testimony I'm presuming is on cross examination you're going
24 to bring out he's going to say that was all a lie, that the
25 fact that he is here, he is in the witness stand, the

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1 | prosecution can ask him these questions, "Didn't you tell the
2 | officer A? Didn't you tell the officer B? Didn't you tell
3 | the officer C?" He can either say, "Yes, I told him," or,
4 | "No, I didn't." If he says, "No, I didn't", then I think he
5 | can use the statement to impeach him, if it's inconsistent
6 | with his prior statement. If he admits to the statement that
7 | is consistent with the prior statement then the prior
8 | statement doesn't come in, but the fact that he's here in the
9 | witness stand gives you the opportunity to cross examine him.

10 | MR. HAZZARD: Okay. I would also ask that - I know
11 | that the Court has already instructed Mr. Corley regarding his
12 | constitutional rights and his need to testify. He has already
13 | been instructed with regard to that. I would ask that the
14 | Court not with prompting from the Prosecution ask or ask the
15 | Court to instruct Mr. Corley to answer with regard to every
16 | question. He has already been told that he needs to respond.

17 | THE COURT: No, he's been - yeah, he's been told that
18 | he has to respond, that if he does not want to respond to a
19 | question because he feels that it will incriminate him then he
20 | can assert his Fifth Amendment Right. If he does not assert
21 | his Fifth Amendment Right against self-incrimination then I'm
22 | going to direct him to answer the question. So far he's been
23 | saying, "I've got nothing to say," and I'm telling him he's
24 | got to answer the question.

25 | MR. HAZZARD: Unless he's asserting his Fifth Amendment

1 Right.

2 THE COURT: If he is asserting his Fifth Amendment
3 Right then we'll deal with that on a question by question
4 basis, and it ---

5 MR. HAZZARD: So, if he wishes to assert it then he
6 needs to give that as a response, "I wish to assert my Fifth
7 Amendment Right," is what the Court is saying.

8 THE COURT: Right, and then we'll determine that if h
9 is, in fact, being questioned about something that can
10 incriminate him.

11 MR. HAZZARD: All right, nothing further. Thank you.

12 THE COURT: All right.

13 Anything from the State before we bring the jury back in

14 MR. RICHARDSON: No, sir, Your Honor.

15 THE COURT: All right, let's bring the jury back in.

16 All right, Mr. Corley, before the jury gets in here if
17 you could please speak up. The court reporter has to take
18 everything down and I'm having trouble hearing you also. So,
19 if you could please speak up when you respond; okay?

20 (Whereupon, the following takes place in the presence of
21 the jury.)

22 THE COURT: All right, the jury's back. Mr.
23 Richardson, you can continue with your questioning.

24 MR. RICHARDSON: Thank you, Your Honor.

25 BY MR. RICHARDSON:

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1 Q Mr. Corley, do you recall telling Sergeant Sheets that
2 Travis used a key to get into the house?

3 A I can have my Fifth Amendment Right?

4 THE COURT: All right, I deem that there's - that's
5 nothing incriminating you on that. So, you need to answer
6 that question.

7 A No, sir.

8 Q You don't recall or you didn't tell him that?

9 A I didn't tell him that.

10 Q Do you recall telling Sergeant Sheets you didn't know the
11 other black guy that was with you all?

12 A Yes, sir.

13 Q You do recall telling him that?

14 A Yes, sir.

15 Q Do you recall telling Sergeant Sheets that other guy you
16 didn't know had a hood on?

17 A I don't remember.

18 Q Do you recall Sergeant Sheets asking you who had the
19 weapon?

20 A No, sir.

21 Q Do you recall stating Travis did?

22 A No, sir.

23 Q Do you recall telling Sergeant Sheets, "They went in
24 first, then I came in"?

25 A No, sir.

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1 Q Do you recall telling Sergeant Sheets, "We kind of
2 scattered out, we woke them up and they started yelling and
3 the dog came out"?

4 A No, sir.

5 Q Do you recall telling Sergeant Sheets, "Then took the ol
6 lady in the bathroom with the dogs, we tied them up"?

7 A No, sir.

8 Q Do you recall telling Sergeant Sheets what your - when h
9 asked you what your job was, "I was watching them, Travis tol
10 me to tie them up"?

11 A No, sir.

12 Q Do you remember telling Sergeant Sheets, "When I seen th
13 phone I grabbed the phone"?

14 A No, sir.

15 Q When asked who was driving the vehicle do you recall
16 telling Sergeant Sheets Travis was?

17 A No, sir.

18 Q Do you recall telling Sergeant Sheets you saw Travis
19 pulling a trailer with that same truck?

20 A No, sir.

21 Q Do you recall telling Sergeant Sheets he had the trailer
22 that same night?

23 A No, sir.

24 Q Do you recall telling Sergeant Sheets you had on blue
25 jeans, black t-shirt, toboggan and bandana?

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1 A No.

2 Q Do you recall telling Sergeant Sheets, "He came with a
3 bandana. I didn't have a bandana. It was hot that night"?

4 A No, sir.

5 Q Do you recall Sergeant Sheets asking you, "Travis tied
6 the people up, did you help them, help tie them up," and you
7 responded the other two did?

8 A No, sir.

9 Q Do you recall telling Sergeant Sheets that you all used
10 rope to tie them up?

11 A No, sir.

12 Q Do you recall telling Sergeant Sheets you didn't think
13 that they brought it with them?

14 A No, sir.

15 Q Do you recall telling Sergeant Sheets, he asked, "When he
16 went in the back door," referring to Travis, "how did you and
17 the other guy get in?" Do you recall telling Sergeant Sheets,
18 "We went in behind"?

19 A No, sir.

20 Q Do you recall telling Sergeant Sheets when he said, "But
21 you saw him use the key," you stated, "Yeah, he used the key."

22 A No, sir.

23 Q Sergeant Sheets asked you, "Who got the credit card PIN,"
24 do you recall telling him, "She told him the PIN number"?

25 A No, sir.

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1 Q Do you recall telling Sergeant Sheets that you and this
2 other guy you didn't know drove the truck back to the Red
3 Bluff area?

4 A No, sir.

5 Q Do you recall telling Sergeant Sheets that Travis drove
6 the Whitlocks van away?

7 A No, sir.

8 Q Do you recall telling Sergeant Sheets Travis took the va
9 to the club?

10 A No, sir.

11 Q Do you recall telling Sergeant Sheets that you got
12 dropped off at Mt. Calvary?

13 A No, sir.

14 Q He asked you to clarify at your grandma's house and do
15 you recall telling him, "No, I was staying in a trailer"?

16 A No, sir.

17 Q Sergeant Sheets asked you, "You talked to your
18 girlfriend. Tell me when your girlfriend and when her mom
19 called," and you told him, "Her mamma called and said police
20 called." Do you recall saying that?

21 A No, sir.

22 Q Do you recall telling Sergeant Sheets that you made a
23 call on the Whitlocks' cell phone about ten minutes after you
24 all left the robbery location?

25 A No, sir.

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1 Q Do you recall telling Sergeant Sheets you all, that you
2 and this other guy you didn't know went down a dirt road and
3 then 22?

4 A No, sir.

5 Q Told him, came down 90, 90 to 22 to 905.

6 A No, sir.

7 Q Do you recall telling Sergeant Sheets that Travis was the
8 one going to the ATM getting the money?

9 A No, sir.

10 Q Do you recall telling Sergeant Sheets he asked you what
11 did you get out of the deal and you stated, "A phone, wasn't
12 nothing in there."

13 A No, sir.

14 MR. RICHARDSON: The Court's indulgence.

15 THE COURT: All right.

16 MR. RICHARDSON: And Your Honor, for the record I just
17 want to make sure I get this clarified.

18 BY MR. RICHARDSON:

19 Q Did you tell Detective Sheets that you and Travis and
20 another guy you didn't know committed this burglary?

21 A No, sir.

22 Q You did not tell Detective Sheets that?

23 A No, sir.

24 Q Did you tell Detective Sheets that Travis had a key to
25 get in the house?

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1 A No, sir; no, sir.

2 Q Did you tell Detective Sheets that you all drove to the
3 robbery location in a black Explorer?

4 A No, sir.

5 Q Did you tell Detective Sheets that you all took a dirt
6 road to get to the robbery house?

7 A No, sir.

8 Q Did you tell Detective Sheets that Travis had a gun?

9 A No, sir.

10 Q Did you tell Detective Sheets that Travis was driving
11 that black Explorer?

12 A No, sir.

13 Q Did you tell Detective Sheets that Travis drove the
14 stolen van away?

15 A No, sir.

16 Q Did you tell Detective Sheets that Travis was going to
17 use the ATM card to get money out?

18 A No, sir.

19 MR. HAZZARD: Okay, Your Honor, at this point we're at
20 the asked and answered for the past five questions have
21 already been asked and answered.

22 THE COURT: Well, before he asked him did he recall
23 saying it. Now he's asking him point blank did he say it.
24 So, I'm going to allow it. Go ahead.

25 MR. RICHARDSON: Thank you, Your Honor.

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1 BY MR. RICHARDSON:

2 Q Did you tell Detective Sheets you had on blue jeans and a
3 black shirt, a toboggan and bandana the night of the robbery?

4 A No, sir.

5 Q Did you tell Detective Sheets that Travis had a trailer
6 behind that black explorer?

7 A No, sir.

8 Q Did you tell Detective Sheets that it was your job to
9 keep watch over the Whitlocks?

10 A No, sir.

11 Q Did you tell Sergeant Sheets that Travis and the other
12 guy tied the Whitlocks up?

13 A No, sir.

14 Q Did you tell Detective Sheets that you called your
15 girlfriend in North Carolina that same night?

16 A No, sir.

17 Q Did you tell Detective Sheets that you called your
18 girlfriend ten minutes after the robbery that night?

19 A No, sir.

20 Q Did you tell Detective Sheets that on March 21st in the
21 early morning hours you committed a burglary of the Whitlocks'
22 home?

23 A No, sir.

24 Q Did you tell Detective Sheets that you all woke the
25 Whitlocks up?

1 A No, sir.

2 Q Did you tell Detective Sheets that the dogs started
3 barking whenever you woke them up?

4 A No, sir.

5 Q Did you tell Detective Sheets that Travis told you to ti
6 them up?

7 A No, sir.

8 Q Did you tell Detective Sheets that you got the phone?

9 A No, sir.

10 Q Did you tell Detective Sheets that they did not bring th
11 rope with them?

12 A No, sir.

13 Q Did you tell Detective Sheets that she, referring to Ms.
14 Whitlock, gave Travis the PIN number for the ATM card?

15 A No, sir.

16 Q Did you tell Detective Sheets that you all came in on
17 Water Tower Road?

18 A No, sir.

19 Q Did you tell Detective Sheets that Travis went out on th
20 paved portion of the road?

21 A No, sir.

22 Q Did you tell Detective Sheets that you came in and went
23 out, you and this other guy the same way?

24 A No, sir.

25 Q Did you tell Detective Sheets that Travis took the stole

Riccardo Corley - Cross by Defense

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1 | van to the club?

2 | A No, sir.

3 | Q Did you tell Detective Sheets that you got dropped off at
4 | Mt. Calvary?

5 | A No, sir.

6 | MR. RICHARDSON: Your Honor, at this time I have no
7 | further questions of Mr. Corley.

8 | THE COURT: All right, Mr. Hazzard, cross examination.

9 | MR. HAZZARD: Thank you, Your Honor.

10 | CROSS EXAMINATION

11 | BY MR. HAZZARD:

12 | Q Mr. Corley, my name is Ronald Hazzard, and I'm with the
13 | Public Defender's Office for the 15th Judicial Circuit. That
14 | means I try cases in Horry and Georgetown County for folks who
15 | cannot afford an attorney, okay. Now, I believe you told Mr.
16 | Richardson that you did give some form of an interview to Paul
17 | Sheets on April 25th of 2007; is that correct?

18 | A Yes, sir.

19 | Q Okay, and you got to speak up ---

20 | THE COURT: All right, I need you to speak up.

21 | Q --- so the jury can hear you and the court reporter and
22 | the Judge can hear you, and that when you gave this statement
23 | I think you also said that it was basically full of lies;
24 | correct?

25 | A Yes, sir.

1 Q Okay, now, your charges in this case, I believe, were
2 burglary first degree, kidnapping and armed robbery; is that
3 correct, sir?

4 A Yes, sir.

5 Q Okay, so, is it your understanding that you were facing
6 life in prison plus 50 years?

7 A Yes, sir.

8 Q Okay, just like Travis, the same charges, okay. Now,
9 Detective Sheets basically told you he wanted you to just tel.
10 him something about Travis; is that correct?

11 A Pretty much, sir.

12 Q Okay, and that if you could give him some or if you would
13 give him something on Travis that things could go easier on
14 you; is that correct?

15 A Yes, sir.

16 Q Okay, and as a result of you giving this statement on
17 April 25th, 2007, you went from life plus 50 to 10 years in
18 jail; is that correct?

19 A Yes, sir.

20 Q No further questions.

21 THE COURT: Anything on redirect?

22 REDIRECT EXAMINATION

23 BY MR. RICHARDSON:

24 Q Mr. Hazzard brought up that - I believe he indicated tha
25 Detective Sheets said something about it's going easier on

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1 | you?

2 | A Yes, sir.

3 | Q Didn't Detective Sheets tell you that he wanted you to
4 | tell the truth, all the truth and not part of the truth, "I
5 | need the whole truth."

6 | A No, sir.

7 | Q Excuse me?

8 | A No, sir.

9 | Q He didn't tell you that?

10 | A No, sir.

11 | THE COURT: Any other questions?

12 | MR. RICHARDSON: Your Honor, if I may just have one
13 | moment. I'm just trying to review one document.

14 | THE COURT: All right.

15 | BY MR. RICHARDSON:

16 | Q And you told Mr. Hazzard that you were doing, that you
17 | were giving that statement to get out of a sentence?

18 | A Yes, sir.

19 | Q Didn't you write a letter back in May and then again in
20 | June of 2008 stating that you gave that statement because you
21 | didn't get along with Travis?

22 | A Say what?

23 | Q Didn't you write a letter stating that the reason you
24 | gave the statement was because you didn't get along with
25 | Travis?

1 A Yes, 'sir.

2 Q So, which is it? You gave the statement because you got
3 caught; correct?

4 A No, we been, we been ---

5 Q Got caught making a call from the stolen cell phone;
6 correct?

7 A No, sir.

8 MR. RICHARDSON: Your Honor, I have no further
9 questions of this witness at this time.

10 THE COURT: All right, sir, you may step down.

11 MR. HAZZARD: Your Honor, I hate to ask this, can we
12 take a very brief recess like five minutes?

13 THE COURT: All right.

14 MR. HAZZARD: Thank you, Your Honor.

15 THE COURT: All right, ladies and gentlemen, we're
16 going to take about a five or ten minute break, give you an
17 opportunity to stretch your legs, get something to drink.
18 I'll excuse you back to the jury room and bring you back out
19 in just a moment. Thank you very much.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: All right, you need a break or put
23 something on the record?

24 MR. HAZZARD: Yes, sir.

25 THE COURT: All right, let's take about a ten-minute

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1 break.

2 OFF THE RECORD

3 (On the record.)

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

6 THE COURT: All right, anything before we bring the
7 jury back in?

8 MR. RICHARDSON: No, sir, Your Honor.

9 MR. HAZZARD: Nothing on behalf of Defendant Travis
10 Bellamy, Your Honor.

11 THE COURT: All right, let's bring the jury back in.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: All right, ladies and gentlemen, welcome
15 back.

16 Mr. Richardson, you can call your next witness.

17 MR. RICHARDSON: Thank you, Your Honor.

18 May it please the Court? The State would call Sergeant
19 Paul Sheets.

20 THE COURT: All right, sir.

21 Paul Eugene Sheets was called to the stand, duly sworn by
22 the clerk and testified as follows:

23 THE CLERK: Please state your full name and spell your
24 last name.

25 MR. SHEETS: Paul Eugene Sheets, S-H-E-E-T-S.

1 Q Good afternoon, Sergeant Sheets. Could you please tell
2 us about your employment, where and how long and in what
3 capacity?

4 A I work for the City of North Myrtle Beach for the
5 Department of Public Safety. I've been there approximately 21
6 years, the first four years as a road patrolman and the rest
7 as an investigator, two years was with the DEA out of Florence
8 as a task force officer and the last seven as a detective
9 sergeant with the investigations.

10 Q So, you've been in law enforcement for a while?

11 A Yes, sir.

12 Q And you said you're a sergeant in investigations?

13 A Yes, I'm the sergeant of investigations and in
14 narcotics.

15 Q And as - so, I guess you would do investigations as
16 well?

17 A Yes, I do help out with some investigations, yes, I do,
18 sir.

19 Q And as a - as one of the investigators, as sergeant for
20 the investigation squad, the narcotic squad with North Myrtle
21 Beach what do your duties entail?

22 A Well, we investigate the crimes that the uniform patrol
23 do the incident reports on. They are given to us. We dish
24 them out to other detectives and we investigate them. There
25 are certain crimes that we do investigate. Some we don't bu

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1 most of the violent ones and the bigger crimes we do.

2 Q And were you sergeant with investigations back in March
3 2007?

4 A Yes, I was.

5 Q In your capacity as sergeant with that unit did you have
6 an opportunity to come in contact with Robert and Linda
7 Whitlock?

8 A I did, sir.

9 Q When was that?

10 A It was 21st of March, the day, the morning of by
11 telephone first and then in person.

12 Q Okay, and by morning are you talking about right after
13 midnight or ---

14 A No, it's - I didn't know anything about the case until
15 eight o'clock that next morning. When we came in we had had a
16 briefing. We did go over what we're going to do for the day
17 in reference to the case and my job was to contact them and
18 find out some information.

19 Q And do you know if there was a 911 call?

20 A Yes, there was.

21 Q Do you know what time that 911 call was placed?

22 A That 911 was at 1:48 a.m.

23 Q 1:48 a.m. During the course of your part of the
24 investigation did you learn about any stolen property?

25 A I did.

1 Q Specifically did you learn about an ATM card?

2 A Yes, sir.

3 Q And describe any action taken by you with regard to that
4 ATM card.

5 A Okay, the ATM card that was stolen during the incident I
6 had Ms. Whitlock call her bank when it opened up that same
7 morning on the 21st. I told her to ask them in reference to
8 the place it was used, the time and the address so we can
9 further the investigation.

10 Q And were you able to learn the times? Were you able to
11 learn if the ATM card was used?

12 A Yes, sir, it was used twice that day when they got some
13 currency or some cash and then two more times where they were
14 - were denied.

15 Q Okay, do you know what times that the ATM card was
16 utilized?

17 A Yes.

18 Q And could you tell the Court what time?

19 A I think the first one was at the Sun House on Highway
20 905. It was approximately 2:26, around that, around that time
21 in the morning.

22 Q And that was the first place it was used?

23 A Yes.

24 Q And the 911 call was at 1:48?

25 A Yes.

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- 1 Q Okay, and you said it was used three more times or
2 attempted to be used three more times that day.
- 3 A Yes, sir, it was.
- 4 Q How about the next time it was used?
- 5 A My - can I go to this to make sure I get the right
6 times? The next time was at the Coastal Federal Bank in
7 Conway.
- 8 Q And Coastal Federal has that changed names now?
- 9 A It's BB&T at this time, yes, sir.
- 10 Q Okay, and do you know what time that was?
- 11 A Wasn't very long after. I think ---
- 12 Q Would looking at your notes help refresh your
13 recollection?
- 14 A Yes, sir, I want to look at them here.
- 15 MR. RICHARDSON: Your Honor, I would ask that he be
16 allowed to refresh his recollection.
- 17 THE COURT: All right.
- 18 A Approximately 2:48 AM.
- 19 Q 2:48 a.m. and how about the third location?
- 20 A The third location was Conway National. Excuse me, that
21 was at 2:48 a.m. The first - the Coastal Federal was at maybe
22 2:38. I'm sorry.
- 23 Q And finally I believe you indicated there was a fourth
24 location?
- 25 A Yeah, the fourth location was First Federal in Conway.

1 I believe that's in maybe the Wal-Mart, somewhere in Conway.
2 It was at 3:15 a.m.

3 Q And are all those addresses here in Horry County?
4 A Yes, sir.

5 Q Could you give us the address of those locations, first
6 Sun House Petroleum.

7 A Okay, sir, do you want me to go back to it to make sure I
8 get it right?

9 Q Of course.

10 A Okay, the Sun House, it's - I don't have the direct
11 address but it's on 905. I don't have the address here in my
12 notes here. I just don't - I don't have the street address
13 and number here on my, in my notes.

14 Q Okay, how about the address to the Coastal Federal, now
15 BB&T?

16 A No, sir, I don't have it in my notes here.

17 MR. RICHARDSON: The Court's indulgence.

18 THE COURT: All right.

19 A I did find the addresses here in my notes. I'm sorry.

20 Q Okay, well, if you could tell us the addresses then.
21 Thank you.

22 A Okay, Sun House is at 2760 Highway 905, Conway, South
23 Carolina. Coastal Federal Bank, then again it doesn't have i
24 on this. It looks the copy machine did cut that off. The
25 Conway National Bank is 2601 Main Street, Conway, and the

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1 First Federal which I have in Wal-Mart, 2709-A Church Street,
2 Conway, South Carolina.

3 Q Okay, would 2600 N. Main sound about right for the
4 Coastal Federal?

5 A Yes, it was right across the street from the Conway
6 National Bank.

7 Q And all those addresses are here in Horry County?

8 A Yes, sir.

9 Q Upon receiving information that Ms. Whitlock's ATM card
10 had been used at those several locations in a short period
11 after the crime, what if any steps did you take?

12 A I contacted Coastal Federal first in reference to the
13 ATM card being used there since it was used there and I did
14 obtain some surveillance video pictures from the bank.

15 Q How about with regard to Sun House?

16 A I also went to the Sun House after that and obtained
17 video that they had on their surveillance equipment in
18 reference to the use of the card there, too.

19 Q Okay, and did you do anything with that video?

20 A I did. I made a copy on a CD.

21 Q Okay, and did you take any stills or anything off of
22 that video?

23 A I did, sir. When I got back I did make still copies
24 from that video.

25 Q Okay, now, I'm going to show you what's been marked for

1 identification, make sure I've got the right one, State's Ten

2 Do you recognize State's 10?

3 A Yes, sir, it's the video of the Sun House gas station.

4 Q That's a copy of the video you received?

5 A Yes.

6 Q And does it truly and fairly and accurately represent
7 what they sent to you?

8 A Yes.

9 Q And I'm going to show you also State's 11, 12 and 13 fo
10 identification purposes only. If you could tell me what's
11 depicted in 11, 12 and 13.

12 A Yes, sir, these are the photos that I took off the video
13 from the Sun House gas station.

14 Q Okay.

15 MR. RICHARDSON: The Court's indulgence.

16 BY MR. RICHARDSON:

17 Q Do these pictures fairly and accurately depict what you
18 observed on that video?

19 A Yes, sir.

20 Q And you received that from Sun House Petroleum?

21 A Yes.

22 Q That's the address you indicated earlier?

23 A Yes.

24 MR. RICHARDSON: Your Honor, at this time the State
25 would seek to introduce State's 11, 12 and 13.

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1 MR. HAZZARD: Your Honor, I would submit that someone
2 from Sun House Petroleum needs to come and testify as to those
3 documents before it goes into evidence through Detective
4 Sheets. He's saying he detained - he retained something from
5 someone else. The party from whom he obtained it would be the
6 one to indicate whether or not those pictures fairly and
7 accurately depict some form of video surveillance system that
8 they had in place.

9 THE COURT: All right, I'm going to go ahead and admit
10 it, State's Exhibits 11, 12 and 13 admitted into evidence over
11 Defendant's objection. Go ahead.

12 MR. RICHARDSON: Yes, Your Honor, and I will - intend
13 to have someone from Sun House Petroleum coming tomorrow, too.

14 THE COURT: All right.

15 (State's Exhibit Numbers 11, 12 and 13 [Photographs]
16 admitted into evidence and appropriately marked.)

17 MR. RICHARSON: Your Honor, while I gather the other
18 exhibits I'm actually going to show them State's 11, 12 and
19 13, would seek to publish at this time.

20 THE COURT: All right, sir.

21 BY MR. RICHARDSON:

22 Q Thank you. Sergeant Sheets, I'm going to show you
23 State's 14 through 27. I believe you had indicated that the
24 next location was Coastal Federal. If you could take a look
25 at State's 14 through 27 for identification and tell me if you

1 recognize those items.

2 A Yes, I do.

3 Q And how do you recognize these items?

4 A These are surveillance pictures I received from Coastal
5 Federal Bank.

6 Q Okay, and those are the ones you requested for that tim
7 period?

8 A Yes, sir.

9 Q And why did you request that certain time period?

10 A Because it showed on the bank records of the Whitlocks'
11 ATM card.

12 Q And do those fairly and accurately depict the items you
13 received from Coastal Federal?

14 A Yes, the pictures I received from them.

15 Q Do you remember who you received them from?

16 A I do. I've got it written down here. Perry Dalton is
17 who I spoke with there at the bank.

18 MR. RICHARDSON: Your Honor, at this time the State
19 would seek to introduce State's 14 through 27 into evidence.

20 THE COURT: All right.

21 MR. HAZZARD: Subject to the same objection raised wit
22 regard to the previous pictures last in order.

23 THE COURT: All right, Plaintiff's Exhibit Number ---

24 MR. RICHARDSON: State's.

25 THE COURT: Excuse me, State's Exhibits 14 through 2'

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1 admitted evidence over the Defendant's objection.

2 (State's 14 through 27 [Photographs] admitted into
3 evidence and appropriately marked.)

4 MR. RICHARDSON: And Your Honor, I would seek to
5 publish these at this time.

6 THE COURT: All right, sir.

7 BY MR. RICHARDSON:

8 Q Sergeant Sheets, one more big stack. I think you
9 indicated the next location you got a hit on was 2601 Conway
10 National?

11 A Yes, sir, Conway National.

12 Q Let me show you State's 28 through 40. Will you look at
13 those and tell me if you recognize those photographs?

14 A Yes, I do.

15 Q And how do you recognize these photographs?

16 A These are the photographs I received from Conway
17 National surveillance video or, excuse me, from the
18 surveillance of photos they sent me.

19 Q From their ATM?

20 A Yes.

21 Q And do they fairly and accurately depict what Conway
22 National sent to you?

23 A Yes.

24 Q And once again, why did you request these particular
25 photographs?

1 A That was the third location that the Whitlocks' stolen
2 debit card was used.

3 Q In that timeframe?

4 A Yes.

5 MR. RICHARDSON: Your Honor, once again I'd seek to
6 introduce State's 28 through 40.

7 THE COURT: Mr. Hazzard.

8 MR. HAZZARD: Subject to the same objection, Your Honor
9 specifically that no chain of custody has been laid and that
10 the - whatever medium that is has not been authenticated from
11 the party from whom Detective Sheets states he obtained it.

12 THE COURT: All right, I'll admit State's Exhibits
13 Number 28 through 40 is admitted into evidence over Defendant
14 objection.

15 (State's Exhibits 28 through 40 [Photograph] admitted
16 into evidence and appropriately marked.)

17 MR. RICHARDSON: Thank you, Your Honor, and permissio
18 to publish at this time.

19 THE COURT: All right.

20 BY MR. RICHARDSON:

21 Q Finally, Sergeant, I'm going to show you what has been
22 marked as State's 41, 42 and 43 for identification. If you
23 could review those and tell me if you recognize those
24 pictures?

25 A I do.

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1 Q And how do you recognize those pictures?

2 A These are the photos I received from First Federal in
3 reference to the surveillance at the ATM machine.

4 Q And why did you request these particular photos?

5 A That was the last place that the stolen ATM card was
6 used at that time.

7 MR. RICHARDSON: Your Honor, once again, the State
8 would seek ---

9 BY MR. RICHARDSON:

10 Q And do these fairly and accurately depict the pictures
11 you received from First Federal?

12 A Yes.

13 MR. RICHARDSON: Your Honor, at this time the State
14 would seek to introduce 41, 42 and 43 into evidence.

15 THE COURT: All right, Mr. Hazzard.

16 MR. HAZZARD: The Defense objects on the grounds of a
17 lack of authentication.

18 THE COURT: All right, objection is noted. However, I
19 admit State's Exhibits 41, 42 and 43 into evidence over
20 Defendant's objection.

21 (State's 41, 42 and 43 [Photographs] admitted into
22 evidence and appropriately marked.)

23 MR. RICHARDSON: The State would seek to publish at
24 this time.

25 THE COURT: All right, go ahead.

1 MR. RICHARDSON: Your Honor, if we could approach
2 while they're reviewing that.

3 THE COURT: All right.

4 (Bench conference was held in the presence but out of the
5 hearing of the jury.)

6 MR. HAZZARD: Thank you, Your Honor.

7 BY MR. RICHARDSON:

8 Q Detective Sheets, when did this crime occur?

9 A The 21st of March.

10 Q And did there come a time when you developed Travis
11 Bellamy as a suspect in this crime?

12 A Yes.

13 Q I'm going to show you State's Number 45. Can you tell
14 me if you recognize that photograph?

15 A Yes, I do.

16 Q And what do you recognize that photograph as being?

17 A The Defendant.

18 Q And where did you, where did you obtain that photograph

19 A This is a driver's license picture from the DMV.

20 Q And you requested that from the Department of
21 Transportation?

22 A Yes, sir.

23 Q And when was the Defendant apprehended?

24 A July 2nd.

25 Q Did you have the opportunity to view the Defendant at

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1 that time?

2 A I did.

3 Q I'm going to show you what's been marked as State's
4 Number 44. Tell me if you recognize that.

5 A Yes, I do.

6 Q And what do you recognize that photograph as being?

7 A The Defendant, Travis Bellamy.

8 Q And that's how he appeared in July of 2007?

9 A July 2nd. This was the photo taken on possibly July 3rd
10 when he was booked in.

11 Q Some three months after the crime?

12 A Yes.

13 Q But certainly closer in time than today.

14 A Yes.

15 MR. RICHARDSON: Your Honor, the State would seek to
16 introduce 44 and 45 into evidence.

17 THE COURT: All right, any objection?

18 MR. HAZZARD: Your Honor, the Defense will object to
19 picture or Exhibit Number 45.

20 MR. RICHARDSON: 44.

21 MR. HAZZARD: Oh, okay, so, you did them in reverse.

22 Okay, we object to Number 44 because it is, actually is
23 cumulative to Number 45 and as well the probative value of it
24 is far outweighed by the prejudicial nature of the photo.

25 THE COURT: All right, your objections are noted.

1 However, I admit State's Exhibits 44 and 45 into evidence over
2 Defendant's objection.

3 (State's Exhibit Numbers 44 and 45 [Photographs] admitted
4 into evidence and appropriately marked.)

5 MR. RICHARDSON: The State would just seek to publish
6 these at this time.

7 THE COURT: All right.

8 BY MR. RICHARDSON:

9 Q Sergeant Sheets, we've talked about the ATM card. Was
10 there a cell phone stolen as well?

11 A Yes.

12 Q Could you tell us what if any follow-up investigation
13 was done with regard to that cell phone?

14 A The day, the 21st I did receive information that the
15 victim's cell phone was stolen. On that date we subpoenaed
16 the records for her phone.

17 Q Okay, and what if anything did you learn from the
18 information you got about the phone?

19 A After obtaining the subpoena request we found that the
20 phone was used at, you know, after the phone was taken from
21 her residence.

22 Q Immediately after?

23 A No, 10, maybe 10 minutes later.

24 Q So, about ten minutes after the robbery Mrs. Whitlock's
25 phone is calling another number?

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1 A Yes.

2 Q And were you able to learn the location of the person
3 that was called from that phone?

4 A Yes, sir. Yes, we did.

5 Q Okay, and where was that person located?

6 A In Shallotte, North Carolina.

7 Q Okay, did you ever go - did you ever have the
8 opportunity to go speak with that person?

9 A Yes, I did.

10 Q Do you know what that person's relationship was to
11 anyone involved in this case?

12 A Yes.

13 Q Okay, were they related in any way to your knowledge to
14 the Whitlocks?

15 A No, they weren't.

16 Q How about any of the Defendants charged in this crime?

17 A Yes.

18 MR. HAZZARD: Objection.

19 THE COURT: Sustained.

20 Q Without telling us what was said, what was the name of
21 the person in North Carolina?

22 A The name that was on the subscriber information was
23 Patricia Bell.

24 Q And did you speak with Patricia Bell?

25 A No, I spoke with her daughter, Tricia Bell.

1 Q And how old was her daughter?

2 A 18.

3 Q Okay, and without telling us exactly what Ms. Bell told
4 you following your conversation with Ms. Bell did you develop
5 any suspects?

6 A Yes, I did.

7 Q An who was that?

8 A Riccardo Corley.

9 Q Now, when did you, when did you speak with Ms. Bell?

10 A March 30th.

11 Q March 30th, and did there come a time when you had the
12 opportunity to interview Riccardo Corley?

13 A Yes.

14 Q And where was that?

15 A At the city complex, North Myrtle Beach Department of
16 Public Safety.

17 Q Tell us how that interview began, how it was conducted,
18 what steps you took.

19 A I read his Miranda Right to him which he understood and
20 signed the Miranda sheet.

21 Q Now, let me stop you. This jury has probably seen it o
22 TV, but can you tell us what you mean by you read his Miranda
23 Rights?

24 A The right to a lawyer, have him present while being
25 questioned and so on, and he did understand each one I read t

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1 him and he did sign it.

2 Q Did he appear to understand the English language?

3 A Yes, he did.

4 Q Did he appear high or intoxicated?

5 A No, sir.

6 Q Did you or anyone in your presence do anything to
7 threaten him?

8 A No.

9 Q Coerce him in any way?

10 A No.

11 Q Make him any kind of undue promises?

12 A No.

13 Q What if anything did you tell him regarding the knowledge
14 you had of him related to this crime?

15 A In reference to the incident or the cell phones or both?

16 Q To the - yeah.

17 A Yeah, I told him that, that we understood that he made
18 the phone call to the phone number from North Carolina of
19 Patricia Bell which was given to her daughter Tricia Bell.
20 So, Tricia Bell is the one that received a phone call from the
21 Whitlocks' phone at approximately 1:57 or 1:55 AM on the 21st,
22 the morning of the 21st.

23 Q And during this interview did Riccardo Corley admit to
24 his part in the robbery?

25 A Yes.

1 Q Did Riccardo, did Riccardo Corley indicate that he
2 participated in a burglary at the Whitlocks' residence?

3 A Yes, he did.

4 Q Did Riccardo Corley indicate that he was with two other
5 persons?

6 A Yes, he did.

7 Q Did Riccardo Corley indicate that he did not know one of
8 the persons?

9 A Yes, he did.

10 Q Did Riccardo Corley indicate that Travis Bellamy was
11 with him?

12 A Yes, he did.

13 Q Did Riccardo Corley indicate that Travis Bellamy had a
14 weapon?

15 A Yes, he did.

16 Q Did Riccardo Corley freely and voluntarily admit that
17 they were driving an Explorer?

18 MR. HAZZARD: Your Honor, objection, as we discussed in
19 chambers I would submit that this is an improper collateral
20 attack of a witness and would ask that this line of
21 questioning be struck.

22 THE COURT: I sustain. It's hearsay also.

23 MR. RICHARDSON: Your Honor, he's made specific
24 denials of those statements.

25 THE COURT: And you can cross-examine Mr. Corley on

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1 that, but this officer cannot testify as to what was told to
2 him by a third party. So, I sustain the objection. I direct
3 the jury should disregard the officer's testimony as to what
4 was told to him by Mr. Corley.

5 BY MR. RICHARDSON:

6 Q Without naming names did Riccardo Corley indicate one of
7 the persons with him was to use the ATM card that was stolen?

8 A Yes, he did.

9 Q Did Riccardo Corley indicate that one of the persons
10 with him took the van?

11 A Yes, he did.

12 Q Did Riccardo Corley indicate that one of the persons
13 that was with him hid the van?

14 A Yes, he did.

15 Q At a club?

16 A Yes.

17 Q Did Riccardo Corley indicate that one of the persons
18 involved utilized a key to get in?

19 A Yes, he did.

20 Q Did Riccardo Corley, did Riccardo Corley indicate he did
21 not know one of the suspects?

22 A Yes, he did.

23 Q Did he indicate whether he knew the other one?

24 A Yes, he did.

25 Q Did Riccardo Corley indicate which direction - where,

1 where he, where he was prior to the robbery?

2 A Yes.

3 Q Where, where did he indicate he was prior to the
4 robbery?

5 A He was prior to the robbery as in where he was ---

6 Q Where he left from.

7 MR. HAZZARD: Objection. Calls for hearsay.

8 THE COURT: Yeah, I sustain all this testimony. He
9 can't testify as to what Riccardo Corley told him. That's
10 hearsay.

11 MR. RICHARDSON: Your Honor, Riccardo Corley is -
12 this is introduction of an inconsistent statement.

13 THE COURT: All right, now, you're asking this office
14 what he was told.

15 MR. RICHARDSON: Your Honor, this ---

16 THE COURT: Hold for a second. All right, ladies and
17 gentlemen, I'm going to have to take up a matter of law. I'm
18 going to excuse you back to the jury room for just a moment.

19 (The following takes place outside the presence of the
20 jury.)

21 THE COURT: All right, all right, Mr. Richardson let
22 me hear from you.

23 MR. RICHARDSON: Your Honor, it would be the State's
24 position that basically what Mr. Corley did was came out and
25 made a denial of each and every statement that I'm asking the

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1 sergeant about. The only way to disprove his denial or to
2 prove that he actually did make that statement is through
3 eliciting that from Sergeant Sheets. It's a, it's a - it's
4 inconsistent to his testimony.

5 THE COURT: As I understand the rule, if he - if
6 Corley, Mr. Corley made an inconsistent statement, if it's
7 videotaped, if he hand wrote it, if he signed it or whatever
8 you could use that document to impeach him while he was
9 testifying, if he testified inconsistently. That doesn't give
10 you the right to call the officer to elicit hearsay
11 testimony as to what he was told by another Defendant. That
12 denies the Defendant's right to confront his accuser. If Mr.
13 Corley was on the stand and you asked him that and you have an
14 inconsistent prior statement you could use that statement to
15 impeach Mr. Corley, but you can't use another witness to say,
16 "He told me," because he's not a party to this action.

17 MR. RICHARDSON: The Court's indulgence.

18 THE COURT: All right.

19 MR. RICHARDSON: Your Honor, I beg for a five minute
20 recess just so I can review the rule.

21 THE COURT: All right, we'll take about a five minute,
22 ten minute recess. That's my understanding. Certainly if the
23 officer could testify to something that the Defendant told
24 him, but if you're talking about another State's witness that
25 would be hearsay.

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

2 THE COURT: All right, let's take about a 10 minute
3 break.

4 OFF THE RECORD

5 (On the record.)

6 (The following takes place outside the presence of the
7 jury.)

8 THE COURT: All right, anything before we bring the
9 jury back in?

10 MR. RICHARDSON: Your Honor, it would just be the
11 State's position that under 613(B) that the State would have
12 to prove the inconsistent statement if not through Detective
13 Sheets by the playing of that inconsistent statement
14 inconsistent with the witness's prior testimony. He has
15 denied making each and every one of those statements,
16 basically he's denied making the statement, and in fact, we
17 have a copy of that, copy of the statement has been provided
18 to counsel and the State would just say that under 613(B) tha
19 it would be extrinsic evidence of that statement, the actual
20 CD recording of that statement, Your Honor.

21 THE COURT: Okay, now, if you've got a CD recording c
22 the statement ---

23 MR. RICHARDSON: I do, Your Honor.

24 THE COURT: I think that's different than asking the
25 officer, "What were you told?"

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1 MR. RICHARDSON: Your Honor, and I've got a CD of the
2 statement. I have a law clerk getting the statement right
3 now. The only ---

4 MR. HAZZARD: Your Honor, the statement is not an
5 issue. He admitted making a statement. He then says
6 everything he said on the statement was a lie, but whether a
7 statement was given is not the question and he's talking about
8 extrinsic evidence. Again I submit this is a collateral issue
9 because it's his witness and he then wants to bring in more
10 evidence to state that what the witness said on direct
11 examination is not right. That really is the same as if
12 Detective Sheets makes a statement on cross examination and I
13 say, "Well, now, wait a minute now that ain't what really
14 happened when you went out to BB&T." So, I'm then dragging
15 people from BB&T in here to say, "No, Paul Sheets didn't say
16 that."

17 THE COURT: Yeah, and I don't think Officer Sheets can
18 testify as to what he was told by Riccardo Corley.

19 MR. RICHARDSON: Yes, sir, Your Honor.

20 THE COURT: If you have a signed statement from
21 Riccardo Corley and you can authenticate it, if you have a
22 recorded statement from Riccardo Corley and you can
23 authenticate it, it could be admissible to impeach his prior
24 testimony. Now, let me hear your response to Mr. Hazzard's
25 argument that there is no prior inconsistent testimony, that

1 Mr. Corley admitted to giving a statement to Officer Sheets
2 but he says that he was lying when he gave that prior
3 statement.

4 MR. RICHARDSON: Your Honor, at the end of the direct
5 testimony I asked him specifically, "Did you tell Detective
6 Sheets Travis Bellamy had a weapon," and the answer was no.
7 "Did you tell, did you tell Detective Sheets that Travis
8 Bellamy drove the van away?" His answer was no.

9 THE COURT: But then on cross examination he seemed to
10 indicate that, "Yes, I told him that, but I told him that
11 because it was going to get me a sweeter deal."

12 MR. RICHARDSON: Your Honor, he may have equivocated
13 but he indicated that there was a - on redirect that there is
14 yet another reason that he talked, but we do have his actual
15 statement which would contradict what he testified to on
16 direct.

17 MR. HAZZARD: And therefore, you get into the issue of
18 the equivocation, what they say that they wanted him to say o
19 what they want to prove he did, in fact, say. Now, the fact
20 that he then waffled and said something else and then came
21 back to that doesn't change it. It's not a matter of them
22 needing to impeach his statement. He has said what they said
23 he said.

24 THE COURT: Okay, he did state on direct testimony
25 that he did not tell Officer Sheets A, B, C or whatever. So,

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1 I think if Officer Sheets can authenticate the recording as
2 being the statement given to him then it can be admissible
3 under that situation.

4 MR. RICHARDSON: Your Honor, with the lateness of the
5 hour what I'd like to do out of an abundance of caution
6 because I was attempting to not get into any matters that were
7 not covered on that recording. I can make a copy for the
8 Court if you want to have an in camera, listen to it.

9 THE COURT: No, we're, we're here in the middle of
10 trial.

11 MR. RICHARDSON: Yes, sir.

12 THE COURT: We're going forward with the trial.

13 MR. RICHARDSON: Yes, sir.

14 THE COURT: So.

15 MR. RICHARDSON: If I could play it for Detective
16 Sheets. He's provided the copy but I just want to make sure
17 he can say yes.

18 THE COURT: I mean, when you say he's provided a copy
19 who generated that recording?

20 MR. RICHARDSON: Detective Sheets or North Myrtle
21 Beach Police Department. If he could just listen to see if
22 that's his voice, Your Honor.

23 THE COURT: And he's the one that took the statement?

24 MR. RICHARDSON: He conducted the interview, yes,
25 sir, Your Honor.

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1 THE COURT: All right, I'll let you - I'll let him
2 listen to see if that is the statement that he took or is tha
3 - that is him on the recording.

4 (State's 48 played in open court.)

5 BY MR. RICHARDSON:

6 Q Sergeant Sheets, just tell me when you get to the end of
7 that that is your statement or not.

8 A That's - yeah, I can do it now.

9 Q That's the interview that you ---

10 A That's the interview with Riccardo Corley on the 25th of
11 March, yes.

12 THE COURT: Well, I haven't heard Officer [sic] Corle
13 say anything on there.

14 MR. RICHARDSON: Officer Sheets or Riccardo Corley?

15 THE COURT: I hear Officer Sheets talking but I can't
16 hear Riccardo Corley saying anything on there.

17 MR. RICHARDSON: I'll fast forward to him, Your
18 Honor.

19 (State's Exhibit Number 48 played in open court.)

20 THE COURT: Mr. Richardson, I cannot understand a wor
21 of what is being said on that.

22 (State's Exhibit Number 48 played in open court.)

23 THE COURT: All right, excuse me for a second. Does
24 the quality get any better than that because I have yet to
25 understand. I understand ---

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1 MR. RICHARDSON: Detective Sheets.

2 THE COURT: Detective Sheets repeating what he is
3 saying is being said but I have yet to hear any discernible
4 statement made by Mr. Corley that I could without Officer
5 Sheets' commentary where I could say yes he said this or he
6 said that.

7 MR. RICHARDSON: Detective Sheets specifically asked
8 him one time who had the weapon and Mr. Corley indicates that
9 Travis.

10 THE COURT: He certainly doesn't say it that clearly
11 and I understand Officer Sheets after that goes, "Travis."

12 MR. RICHARDSON: He says, "What about Travis," at
13 least that's the quote I have. I believe the Defense has a
14 court reporter's copy of the statement but, Your Honor, I
15 agree, yes, it's difficult to hear, but there was nothing we
16 could do about that as you can hear Mr. Corley seemed to have
17 somewhat of a speech impediment and has a slight stutter but
18 he did make the statement. He indicated that he did not make
19 those statements on the record. I was trying to do this
20 without it getting into a lot of the extrinsic matters that
21 are in there, and that's why I was asking Detective Sheets,
22 goes down to the extrinsic manner in which I was trying to get
23 the evidence out, just asked those specific questions.

24 MR. HAZZARD: And Your Honor, the problem is going to be
25 he's saying the purpose for putting this tape in is to show

1 that Riccardo Corley made these statements. That is not what
2 that tape is. There's a whole lot of uh, uh, uh, uh, buh
3 [phonetically spelled] and then Paul Sheets says something.
4 So, if the purpose for putting it in is for the purpose of
5 impeaching Riccardo Corley and showing the jury what Riccardo
6 Corley said, that he allegedly says he didn't say I would
7 submit to you this isn't going to tell him that. Also, I
8 would submit that this recording by the very nature of it I
9 would object to it because it does not give a full and
10 complete statement regarding their conversation because even
11 in the copy that's provided by the police Paul Sheets says at
12 the very beginning, "I'll explain the case or anything what
13 happened. You just tell me. You said something about turnin
14 in Travis. I want you to tell the truth. I already pretty
15 much know his involvement." So, obviously they have spoken
16 prior to the tape being turned on.

17 THE COURT: All right, Mr. Richardson, let me ask you
18 about that. Does the recorded statement reflect the
19 conversations?

20 MR. RICHARDSON: Your Honor, I don't think that there
21 was a tape recorder running from the first time Sergeant
22 Sheets got the, got Mr. Corley in from the car or whatever bu
23 that is whenever he entered the room. I assume they were
24 talking down the hall some. We could ask Sergeant Sheets but
25 that is the interview. I don't know what was said in the car

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1 We don't always have every statement that has been made to a
2 Defendant. Your Honor, this goes more to ---

3 THE COURT: Well, yeah, but the question is is we've
4 got to present this jury with something that is reliable that
5 has not been distorted by any party to make it look, to make
6 their case look more credible.

7 MR. RICHARDSON: And certainly Mr. Hazzard could
8 question on cross examination Detective Sheets and any other
9 statements that are made. He can attack this statement, if
10 that is the true and complete statement. There is one bit at
11 the end where he says, "I'm going to show you a picture." I
12 talked to Mr. Hazzard about it just last week. He shows the
13 picture of I believe Willie Eaddy who they thought might have
14 had the black Explorer that's been mentioned.

15 THE COURT: All right, well, what we're going to do
16 let's do this, let's go ahead, bring the jury back in, cut
17 them loose for the evening, give me an opportunity to listen
18 to this disk.

19 MR. RICHARDSON: Yes, sir.

20 THE COURT: Because right now I can't discern anything
21 that's being said on that disk other than Sergeant Sheets
22 recitation of what he is purporting Mr. Corley to say.

23 MR. RICHARDSON: And Your Honor, if I may be so bold
24 I know that Mr. Bailey, who represented Mr. Corley, had the,
25 had this interview transcribed by a court reporter. I believe

1 Mr. Hazzard has a copy of it. I've not received a copy but
2 obviously a court reporter could hear enough to where they
3 could transcribe it. It's a sworn ---

4 THE COURT: Yeah, but that's - if the court reporter
5 is trying to transcribe something that they did not record --

6 MR. RICHARDSON: I would suggest that maybe you could
7 look down to see if that assists you. I don't know.

8 THE COURT: No, I'm going strictly by what is going to
9 be presented to the jury.

10 MR. RICHARDSON: Yes, sir.

11 THE COURT: And if I find that what is trying - what
12 is to be presented to the jury is not admissible for whatever
13 reason then that's what I'm going to base my ruling on.

14 MR. RICHARDSON: Yes, sir, Your Honor.

15 THE COURT: All right, let's go ahead and take this
16 down.

17 MR. RICHARDSON: Your Honor, would you like me to
18 have the disk marked right now if you're going to take it and
19 listen to it?

20 THE COURT: Yeah, I guess we need to go ahead and mark
21 that as ---

22 MR. RICHARDSON: Do you want to mark it as a court
23 exhibit at this time?

24 THE COURT: No, let's mark it, but you're seeking to
25 introduce it.

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1 MR. RICHARDSON: Yes, sir.

2 THE COURT: We'll mark it as a Plaintiff's [sic]
3 Exhibit but I'm going to listen to it before we rule whether
4 it's admissible or not.

5 (State's Exhibit Number 48 [Recording of Riccardo Corley
6 statement] marked for identification.)

7 MR. HAZZARD: So that I am clear, we are stopping in the
8 middle of Detective Sheets direct examination and he will
9 still be under oath when we come back in the morning or we're
10 going to stay ---

11 THE COURT: Well, I mean, do you have anything else
12 you want to ask him? I'm not going to allow this disk in
13 until I've reviewed it.

14 MR. RICHARDSON: I do have further direct, Your
15 Honor.

16 THE COURT: All right, if you want to go ahead and
17 question him on that.

18 MR. RICHARDSON: I didn't know if you wanted to stop
19 at this juncture ---

20 THE COURT: Well, I'll let you go, whatever you want.
21 I mean, if this ---

22 MR. RICHARDSON: We can resume direct in the morning.

23 THE COURT: Okay, what I'm saying is I don't want to
24 ruin the flow of your direct examination if you want to get
25 this disk in before you ask him any other questions or ---

1 MR. RICHARDSON: I would like to do that.

2 THE COURT: Okay, well, let me - we'll go ahead and
3 break for the day. I'll listen to the disk and make a ruling
4 on it.

5 MR. RICHARDSON: Thank you, Your Honor.

6 THE COURT: All right, let's go ahead and take that
7 down.

8 MR. RICHARDSON: Just so I can inform Detective
9 Sheets on the record, I'm not allowed to discuss any part of
10 your testimony and anything that's gone on with me or anybody
11 else.

12 THE COURT: All right, now, this disk is marked as
13 Exhibit Number what?

14 COURT REPORTER: 48.

15 THE COURT: 48. All right, let's go ahead and bring
16 the jury in.

17 (The following takes place in the presence of the
18 jury.)

19 THE COURT: All right, ladies and gentlemen, welcome
20 back. I appreciate your patience. We've had to have some -
21 take up some legal matters outside your presence, and as I
22 told you before, it's not that we're hiding anything from you
23 It's just that we've got to discuss factual issues when we
24 decide these legal matters and we don't want anything that th
25 attorneys or I say as the judge in this case to influence you

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1 in your determination as to the facts because you're to base
2 your decision exclusively on the testimony and evidence.
3 Having said that it is now a quarter till five; and so, it's
4 probably a good time for us to break for the evening. So, I'm
5 going to go ahead and excuse you for the remainder of the day.
6 I'll ask that you please be back in your jury room at 9:15
7 tomorrow morning and we'll try to get started as soon after
8 9:15 as we can, as soon after that as we can. I remind you do
9 not discuss this case with anyone even among yourselves at
10 this point in time. Don't try to conduct any independent
11 investigations or research on your own. Do not discuss what
12 has transpired in the trial of this case with anyone at this
13 point in time. I hope everyone has a good evening and we'll
14 see you back tomorrow morning. Thank you very much.

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

17 THE COURT: All right, anything else before we recess
18 for the day?

19 MR. RICHARDSON: I would just ask that Sergeant
20 Sheets be excused from the stand at this time.

21 THE COURT: Yes, sir, all right, Sergeant Sheets,
22 you're excused from the stand. However, you cannot speak
23 with anyone while you're - during the course of your testimony
24 since you are still in the course of being a witness in this
25 case. Please do not speak with anyone regarding your

1 testimony; okay?

2 A Yes, yes, sir.

3 THE COURT: Thank you very much.

4 MR. RICHARDSON: And Your Honor, I would on the
5 record or just while we're in front of everybody, I will ask
6 that Sergeant Sheets contact Lieutenant Repec just to inform
7 him to be here tomorrow morning.

8 A Yes, sir.

9 MR. RICHARDSON: At nine.

10 THE COURT: All right, anything before we recess for
11 the day?

12 MR. HAZZARD: Nothing on behalf of Defendant Bellamy,
13 Your Honor.

14 THE COURT: All right, I'm assuming you're going to -
15 if this disk is admissible you're going to play it over that
16 recorder?

17 MR. RICHARDSON: Your Honor, I actually have a better
18 set of speakers we just got in. I'll play it on something -
19 I'll have a video to play tomorrow, too.

20 THE COURT: Okay, well, whatever ---

21 MR. RICHARDSON: I'll have the medium up here ready to
22 go.

23 THE COURT: For me, I mean, if I'm going to listen to
24 it I want to listen to it over the same medium that you're
25 going to be - do you want to do that tomorrow morning?

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1 MR. RICHARDSON: I'll fetch the speakers, I'll fetch
2 the speakers right now, Your Honor.

3 THE COURT: Well, how long is this? How long does it
4 take?

5 MR. RICHARDSON: Do you recall? It's only about eight
6 or nine typed pages. I think it's ---

7 MR. HAZZARD: The Court's indulgence, Your Honor.

8 MS. ELDER: If you want us to get it up this evening,
9 Your Honor, we can do that.

10 MR. RICHARDSON: I can get the speakers right now.

11 THE COURT: Well, what I'm saying is however it's
12 going to be or however you purport to present it to the jury
13 is the way I want to hear it.

14 MR. RICHARDSON: Yes, sir, Your Honor.

15 MR. HAZZARD: Okay, it's basically nine single spaced
16 pages but by court reporting standards it's actually 42 pages
17 long.

18 MR. RICHARDSON: Do they indicate a start time and
19 end time on there by any chance?

20 MR. HAZZARD: I don't believe so because it's not a -
21 there's not a stamped, it's not a sealed document.

22 MR. RICHARDSON: Your Honor, I can have it up here
23 tomorrow morning or this evening, however you would like.

24 THE COURT: All right, let's have it set up at nine
25 o'clock. I'll be here at nine o'clock and I'll listen to it

1 then; okay?

2 MR. RICHARDSON: I'll have it up here at nine o'clock,
3 Your Honor.

4 THE COURT: All right.

5 MR. HAZZARD: Also ---

6 THE COURT: I'm going to go ahead and give it back to
7 the court reporter so she can hold on to it till tomorrow
8 morning; all right?

9 MR. RICHARDSON: Your Honor, it may be a point, if it
10 is admissible, Mr. Hazzard may ask for a redaction of a small
11 portion of it where other crimes are discussed; correct?

12 MR. HAZZARD: Correct.

13 MR. RICHARDSON: And the way I've handled that before
14 is I've just tried to mark it on the wave counter as far as
15 times, turn the volumes down during that period of time.

16 THE COURT: All right, we'll - well, let me rule and
17 see if it's admissible or how we're going to handle it first.

18 MR. RICHARDSON: That's what I'm saying if it's
19 admissible.

20 THE COURT: All right, anything else before we break?

21 MR. RICHARDSON: No, sir, Your Honor.

22 MR. HAZZARD: Nothing from the Defense.

23 THE COURT: All right, thank you very much.

24 MR. RICHARDSON: Thank you, Your Honor.

25 OFF THE RECORD

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1 (On the record, August 5, 2009.)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right, what do we need to do at this
5 point in time?

6 MR. RICHARDSON: Your Honor, at this time I believe
7 it'd be, be best to go ahead and play the recorded interview
8 of Riccardo Corley for your determination whether or not it's
9 ---

10 THE COURT: For me to determine if there is - if it
11 can really be understood, okay.

12 MR. RICHARDSON: Yes, sir, and Your Honor, at this
13 time I'd request State's Exhibit 48, that's what I'll be
14 playing.

15 THE COURT: All right.

16 MR. HAZZARD: Okay, Your Honor, I also want to bring to
17 the Court's attention I know that Prosecution and the Court
18 have looked at State versus Samuel Stokes, and the Defense is
19 aware of that case as well, but I do want to bring to the
20 Court's attention pursuant to Rule 613(B) the only way the
21 prior statement can come in is if the declarant of the
22 statement denies making it. Now, as we know in Mr. Corley's
23 testimony there was some wavering back and forth and there
24 were certain statements he admitted and then certain
25 statements he denied. So, the Defense position will be this

1 will not be an in toto publishing to the jury if it gets to
2 that point if the Court finds that it can be so done, but it
3 would have to almost literally be a line by line based on
4 probably a read back from the, from the madam there as far as
5 what he said and what he denied specifically and what he
6 admitted specifically.

7 THE COURT: All right, I don't think we have to
8 analyze it to that extent. I think I need to listen to it and
9 if I am convinced that this statement is inconsistent with his
10 testimony I think it can be used for impeachment purposes.

11 MR. HAZZARD: All right, please note the Defense
12 objection.

13 THE COURT: I know, all right.

14 MR. RICHARDSON: Thank you, Your Honor.

15 (State's Exhibit Number 48 played in open court.)

16 MR. RICHARDSON: That's it for the interview, Judge.

17 THE COURT: All right, all right, I think there is
18 sufficient amount of inconsistencies where I'll allow that to
19 be introduced and played to the jury. However, I am going to
20 instruct the jury that the sole purpose that this is a
21 purported interview between Sergeant Sheets and Riccardo
22 Corley and it's being tendered by the State for the purpose of
23 impeaching Mr. Corley's prior in-court testimony, that the
24 jury can only consider statements made during this interview
25 by Mr. Corley. Any statements made by Sergeant Sheets during

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1 the course of this interview is not evidence of the
2 Defendant's guilt, but is simply his attempt to elicit
3 information from Mr. Corley.

4 MR. RICHARDSON: Certainly, Your Honor.

5 THE COURT: That - see, this - and the problem I have
6 is when Sergeant Sheets says things like, "We know Travis was
7 involved or we know he was there, we know" - well, that's not
8 evidence.

9 MR. RICHARDSON: Certainly.

10 THE COURT: And we don't want the Defendant to be
11 influenced by that. Let me - do you have any arguments on
12 that, Mr. Hazzard?

13 MR. HAZZARD: Yes, sir. Thank you, Your Honor. First
14 of all, under Rule 106 any writing or recording that is
15 submitted to the trier of fact the opposing party has the
16 right to play or introduce the remainder of that. In this
17 case there's no question starting from the beginning where
18 Sergeant Sheets mentions a previous conversation between he
19 and Corley where he says, "You just tell me, you said
20 something about turning in Travis," that is not on the tape.
21 We have no way of presenting that to the jury. As the Court
22 could tell by the playing of the tape itself it stops in the
23 middle of the conversation. There is no conclusion where as
24 normally occurs Sergeant Sheets would say, "Paul Sheets, the
25 date is April 25th, 2007," the time is such and such a time,

1 "interview concludes." They stop literally in the middle of
2 sentence. So, we have no way of knowing what was said after
3 that and we have no way of presenting that to the jury for
4 their consideration. As a result, the jury is left with what
5 appears to be actually a hand-picked portion of a statement
6 that is self serving only to the State and offering no
7 protection to the Defendant. That would be - I mean, it's an
8 actually secondly under 106 what you have is Sergeant Sheets
9 clearly paraphrasing or restating what he is saying that
10 Riccardo Corley purportedly says because there are many, many
11 many places in there where what Riccardo Corley says is
12 completely inaudible and then Sergeant Sheets says, you know,
13 basically a paraphrazation of what he is stating he says.
14 That constitutes a de facto limitation on the defense right t
15 have the jury to consider the recording in its entirety. Rul
16 403 says that any evidence can be excluded on the grounds of
17 confusion or waste of time. I would submit this is extremely
18 confusing to the jury and a waste of time, mainly because
19 there are several places in there that I would submit require
20 redaction. Mr. Corley or Sergeant Sheets says that Mr. Corle
21 says that Travis is known to carry a gun with him everywhere
22 he goes. We would submit that that would be impermissible
23 evidence of bad conduct on the part of the Defendant, with th
24 Defendant not having put in any evidence of good conduct.
25 Sergeant Sheets asks him or Corley says something about a

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1 store robbery, that Travis was involved in a store robbery
2 with a guy from Bucksport. We would submit that would need to
3 be redacted. Sergeant Sheets states that he had talked with
4 Travis one day prior to him speaking with Corley. We would
5 submit that is confusing to the jury because then you get into
6 the issue of the jury wondering, "Well, my goodness what did
7 Travis say to Sergeant Sheets," and obviously Sergeant Sheets
8 unless asked on cross cannot state what Travis said to him.
9 Also, Sergeant Sheets says several times about people in the
10 community, word on the street is that Travis did this,
11 everybody knows that Travis did this, got a mention of Travis
12 by someone else, you know.

13 THE COURT: Well, let me - all right, let me ask you
14 about that, Mr. Richardson. You - there is a lot more audible
15 testimony from Sergeant Sheets during this statement than
16 there is for Mr. Corley. How is the jury not going to be
17 prejudiced by Sergeant Sheets's statements?

18 MR. RICHARDSON: Your Honor, you've already indicated
19 you're going to give a ---

20 THE COURT: Well, and I'm taking that back, I don't
21 know if I'm going to or not because I think Mr. Hazzard makes
22 a good point that Sergeant Sheets's testimony during this
23 interview is a lot more condemning or appears to be a lot more
24 condemning of the Defendant than the benefit to the State from
25 what you can hear Mr. Corley saying.

1 MR. RICHARDSON: Yes, sir, I would submit that I
2 believe that a limine instruction would suffice. I understand
3 your wish to retract it. If I may ---

4 THE COURT: Well, I mean, the question is is will it
5 suffice. I don't know. I mean, they're going to - you can
6 hear Sergeant Sheets plainly and clearly and, I mean, all the
7 way through audibly and he's saying, "We've talked to Travis.
8 We've got Travis's side of the story. We know Travis broke
9 into a store. We know Travis carries a gun everywhere," and
10 you don't hear ---

11 MR. RICHARDSON: Your Honor, I would have no ---

12 THE COURT: --- Mr. Corley say any of that.

13 MR. RICHARDSON: I would have no objection, we have a
14 court reporter's version of it, going through that line by
15 line and attempting a redaction with counsel here.

16 THE COURT: How about that, Mr. Hazzard?

17 MR. HAZZARD: The problem I have with that and the
18 concern that I have with that is that the court reporter's
19 version provided to me by Joshua Bailey is not under seal; and
20 therefore, there's no certification as to its correctness, and
21 regardless of what it says, there is still no question that
22 you can hear the condemning statements of Sergeant Sheets very
23 clearly and the things he says where they are condemning and
24 he's asking questions to Riccardo Corley. You can't even tell
25 what Riccardo Corley's response is, whether it's yes or no.

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1 For instance, he asks them regarding the, he asks him, "Have
2 you done this with Travis before?" To me I couldn't even hear
3 what Corley's response was, whether it was yes or no. He then
4 says, "Was Travis involved in home invasions, in the home
5 invasions that are going on." Again I can't hear what
6 Corley's response is, and I think the jury is going to be very
7 confused and very prejudiced, you know, because they're not
8 going to know what Corley's response is to that.

9 THE COURT: Yeah.

10 MR. RICHARDSON: Your Honor, I marked that down as
11 that occurred at about 26 minutes and 7 seconds. I have no
12 problem stopping the interview at that point. As to any
13 conversation that occurred before this recording or any
14 continuation, that goes to weight not admissibility and Mr.
15 Hazzard is more than capable of cross-examining Detective
16 Sheets on the stand any statements he made. Mr. Hazzard can
17 say, "You were making these statements, not Corley; isn't that
18 a correct statement?"

19 THE COURT: Yeah, but that's - well, I mean, once,
20 once the jury hears Sergeant Sheets say, "We know Travis did
21 this, we know Travis did that," that's going to create a,
22 create a prejudice to the Defendant on that.

23 MR. RICHARDSON: Your Honor, I attempted to go into
24 briefly yesterday eliciting those statements, were these
25 statements made by Riccardo Corley. I was trying to do it as

1 limiting a fashion as possible by just asking those direct
2 questions without having to play the entire statement.

3 THE COURT: Yeah, but you can't ask the officer that.
4 That's hearsay. I mean, the fact of the matter is is you've
5 got, you've got Mr. Corley who's testified as he did.

6 MR. RICHARDSON: Yes, sir.

7 THE COURT: Now, if you had a decipherable prior
8 inconsistent statement it can be used to impeach his
9 testimony. The problem I've got is what you're relying on as
10 his prior inconsistent statements has a lot more inadmissible
11 to it than is admissible for it; and so, I'm hard pressed to
12 decide how the prejudicial effect to this Defendant does not
13 outweigh the probative value of it to the State.

14 MR. RICHARDSON: Your Honor, if I could have a moment
15 I tried to mark by time what statements were made such as I
16 believe it's around five minutes to 5-10, the question was
17 asked who had the weapon, response it was Travis. I ---

18 THE COURT: All right, let's do this. What I'm going
19 to do I'm going to give you a little bit of break.

20 MR. RICHARDSON: I would just submit that I play ---

21 THE COURT: I'm going to give you a little bit of
22 break. I'm going to let you set it up the way you want it se
23 up so that we can come in and you can present another in
24 camera exactly how you want it presented to the jury.

25 MR. RICHARDSON: Yes, sir, Your Honor.

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1 THE COURT: And then I'll make a decision then but I
2 after reconsidering I don't think I'm going to let this whole
3 interview get in because like I say the prejudicial effect to
4 the Defendant is a lot more - it far outweighs the probative
5 value to the state particularly when there's - I'll, I'll
6 agree with you. There are parts where you can hear a
7 response.

8 MR. RICHARDSON: Yes, sir.

9 THE COURT: But I'm going to let you set it up and
10 then we'll come back in and you play me exactly how you want
11 to present it to the jury and I'll make a decision then; okay?

12 MR. RICHARDSON: Thank you, Your Honor.

13 THE COURT: All right, let's take a short recess.

14 MR. RICHARDSON: Thank you.

15 OFF THE RECORD

16 (On the record.)

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

19 THE COURT: Thank you very much. Please be seated.

20 All right, Mr. Richardson, regarding State's Exhibit
21 Number 48 for - now, play it for me exactly how you want it or
22 how you're going to present it to the jury.

23 MR. RICHARDSON: Your Honor, this is how I would
24 intend to present it to the jury. I will begin at the time
25 stamp 5-05 on State's Number 48 and it's my intention to go

1 through time markers 5-48, so, 5-05 to 5-48.

2 (State's Exhibit Number 48 played in open court.)

3 MR. RICHARDSON: That was 5-0 to 5-48, Your Honor.

4 THE COURT: All right, and that's all you're going to
5 present?

6 MR. RICHARDSON: That would - all I'd be presenting
7 on that one issue, Your Honor. I have ---

8 THE COURT: All right, that's what I'm saying.

9 MR. RICHARDSON: Yes, sir;

10 THE COURT: Go through and let me see how we're going
11 to do it.

12 MR. RICHARDSON: Yes, sir.

13 And then I would have minute marker 6-01 and this is at
14 six minutes right now, Your Honor, to 6-15.

15 (State's Exhibit 48 played in open court.)

16 MR. RICHARDSON: That was six minutes to 6-15, Your
17 Honor.

18 THE COURT: All right.

19 MR. RICHARDSON: This is minute eight, I've got
20 marked 8-36 to 9-02.

21 (State's Exhibit 48 played in open court.)

22 MR. RICHARDSON: That was 8-36 to 9-02. This is
23 minute marked 9-26 to 10-04.

24 (State's Exhibit 48 played in open court.)

25 MR. RICHARDSON: Once again, that was 9-26 to 10-04.

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1 The next one begins at 12-08 and ends at 12-24.

2 (State's Exhibit 48 played in open court.)

3 MR. RICHARDSON: Next would be 14-08 to 14-20.

4 (State's Exhibit 48 played in open court.)

5 MR. RICHARDSON: Your Honor, so that we don't get the
6 statement, "So, he had a gun," I'll stop it at 14-19.

7 Next would be 17-08 to 17-40.

8 (State's Exhibit 48 played in open court.)

9 MR. RICHARDSON: And finally, Your Honor, 25-05 to
10 25-17, 25-04, Your Honor.

11 (State's Exhibit 48 played in open court.)

12 MR. RICHARDSON: That would be the presentation of the
13 State, Your Honor.

14 THE COURT: All right, I was marking these down. I
15 think I've got the numbers right. The first, the 5-05 to 5-58
16 I'm going to allow that. 6-01 to 6-15, I'm not going to
17 allow. I can't understand what Corley is saying in that one.

18 MR. RICHARDSON: Yes, sir, Your Honor.

19 THE COURT: 8-36 to 9-02, I'm not going to allow that.
20 There's no mention of the Defendant at all in that. That's a
21 recitation of, "We were in the house," but there's no mention
22 of the Defendant. It's more him stating what he did.
23 Likewise, 9-26 to 10-04 I'm not going to allow that because
24 there's nothing inconsistent with his prior statement. I
25 mean, those, those 8-36 to 9-02 and 9-26 to 10-04 the way I

1 deciphered it is that Mr. Corley was testifying that, yeah, he
2 broke in, yeah, they, and he just referred to they, we and
3 they. He never mentioned Travis's name.

4 MR. RICHARDSON: And Your Honor, if I'm correct at
5 the conclusion of the direct testimony asked Mr. Corley if he
6 committed the burglary and he indicated no.

7 THE COURT: Okay.

8 MR. RICHARDSON: That would indicate his ---

9 THE COURT: Yeah, well, I'm ---

10 MR. RICHARDSON: --- participation which would be in
11 contradiction to his statement.

12 THE COURT: Yeah, I'm not going to allow that in, I
13 mean.

14 MR. RICHARDSON: Yes, sir, Your Honor.

15 THE COURT: All right, 12-08 to 12-24 I will let that
16 in where he's referencing Travis said they had three dogs and
17 Travis went to the back door. 14-08 to 14-20 I'm going to let
18 that in where said the victim told Travis the PIN number. 17
19 08 to 17-40 I'm going to let that in where he said Travis
20 called, called him to come get him. 25-04 to 25-17 I'm not
21 going to let that. I couldn't really understand what was
22 going on in that.

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

24 THE COURT: So, what I will allow in is the 5-05 to
25 5-48, 12-08 to 12-24, the 14-08 to 14-20 and the 17-08 to 17-

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1 40 because I think those are prior inconsistent statements
2 from Mr. Corley's testimony.

3 Mr. Hazzard, anything you want to place on the record or
4 objections in that regard?

5 MR. HAZZARD: Just the objections that have previously
6 been made, Your Honor.

7 THE COURT: Well, and I agree with you that you have
8 the right if you want to play the entire interview you can
9 play the entire interview and I think you are correct. I am
10 limiting the State to putting in 5-05 to 5-48, 12-08 to 12-24,
11 14-08 to 14-20, 17-08 to 17-40. If you think that that -
12 those limitations takes the interview out of context then I
13 think you are entitled to have the whole interview played if
14 you deem it appropriate.

15 MR. HAZZARD: Yes, sir. As previously indicated
16 the problem the Defense has with that is that much of the
17 interview is extremely prejudicial, unintelligible with Paul
18 Sheets basically again making statements that are refuted to
19 be paraphrazations of what Corley allegedly said to the
20 detriment of Mr. Bellamy thus effectively robbing Mr. Bellamy
21 of the right to actually have the entire recording considered
22 in toto by the jury panel.

23 THE COURT: Well, he can have the entire recording
24 considered if he wants to. What I have done is I have limited
25 what I view the recording, I have limited it to what I

1 perceive to be the prior inconsistent statements or the
2 statements that are inconsistent with Mr. Corley's testimony
3 during trial. If the Defendant wants the whole interview
4 played under the rules he's entitled to have the whole
5 interview played.

6 MR. HAZZARD: Okay. Also, Your Honor, with regard to
7 those portions as the Court recalls on yesterday during Mr.
8 Corley's testimony there were several things he admitted,
9 several things he denied. Since this statement is going to be
10 submitted to the jury in a cherry picked fashion, I would
11 object on the grounds that there has been no determination
12 specifically that each of these statements were specifically
13 denied under oath. Some of them I don't think he was
14 specifically asked about because the whole issue was did you
15 give a statement and he admitted he gave a statement, but he
16 said that the statement he gave was a lie. He was also asked
17 about certain things about, "Did you say this? Did you say
18 this? Did you say this?" So, if it's going to be a situation
19 where cherry picked statements are placed in, I think the
20 record needs to be clear that those were specific statements
21 that he specifically denied. Failing that it is an
22 impermissible bolstering of a witness.

23 THE COURT: Okay, all right, I note your objection.
24 I'm going to deny it. I'm going to allow the segments that I
25 have identified to be played to the jury. As I said, if you

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1 during cross-examination or however you want to, if you want
2 to, if the Defense wants to present the whole interview in
3 total I think they're entitled to but these are the parts that
4 I've identified as the prior inconsistent statements, the ones
5 that I recited into the record and I'll allow the State to
6 produce those. All right.

7 MR. RICHARDSON: Thank you, Your Honor. Would you
8 like to take ---

9 THE COURT: Anything before we bring the jury back in?

10 MR. RICHARDSON: Would you like Sergeant Sheets to
11 Resume the stand at this time, Your Honor?

12 THE COURT: Well, do we have any other preliminary
13 matters before we bring the jury back in?

14 MR. HAZZARD: Nothing on behalf of the Defense.

15 THE COURT: Anything on the State?

16 MR. RICHARDSON: No, sir, Your Honor.

17 THE COURT: All right, Sergeant Sheets, if you'd
18 please come forward and retake the stand, let's swear him in
19 again since it's a new day.

20 (Whereupon, Paul Sheets sworn by Clerk.)

21 MR. RICHARDSON: And Your Honor, I don't believe we
22 introduced the item on the record yesterday. We discussed it
23 in camera, the second time that if we can just put it on the
24 record that he has noted this is his interview and enter it at
25 that point so that I may publish it.

1 THE COURT: All right, so, you're tendering it into
2 evidence at this time?

3 MR. RICHARDSON: Yes, sir, I will.

4 THE COURT: All right.

5 MR. RICHARDSON: I will do so on the record when the
6 jury comes out. I just didn't want to have to deliver it over
7 to Ms. Hurley and then ---

8 THE COURT: Well, let's go ahead, you don't have to
9 have the jury in here to tender it into evidence if there's
10 going to be an objection. Is there any objection you want to
11 place on the record outside of the jury's presence?

12 MR. HAZZARD: None that haven't already previously been
13 stated to the Court, Your Honor.

14 THE COURT: All right, all right, so, I'll go ahead
15 and when we get the jury in you can tender it and I'll go
16 ahead and state that it is admitted into evidence. I won't
17 say without objection or over objection of the Defendant since
18 Mr. Hazzard has already stated his objection on the record
19 outside the presence.

20 MR. RICHARDSON: Yes, sir, Your Honor.

21 THE COURT: All right, let's go ahead and bring the
22 jury in.

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

25 THE COURT: Ladies and gentlemen, welcome back. I

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1 hope everyone had a good evening. We are getting ready or we
2 have already resumed part of the trial. I apologize for
3 keeping you back in the jury room so long. I know juries
4 often feel like that they're wasting a lot of time just
5 sitting around and doing nothing but rest assured that the
6 fact that you are here, the fact that you're present, even if
7 you're just sitting in the jury room outside of the courtroom
8 that in and of itself is serving a very important function to
9 the court and I want to thank you for that. I think it will
10 become kind of evident as to why there was a delay. We are
11 now ready to proceed with the State's case. All right, Mr.
12 Richardson.

13 MR. RICHARDSON: Thank you, Your Honor.

14 Your Honor, at this time on the record in front of the
15 jury I'd like to place State's Number 48 into evidence.

16 THE COURT: All right, State's Exhibit Number 48
17 admitted into evidence.

18 (Whereupon, State's Exhibit Number 48 [Recorded Statement
19 of Riccardo Corley] admitted into evidence and appropriately
20 marked.)

21 MR. RICHARDSON: And I believe that the jury was out
22 of view.

23 BY MR. RICHARDSON:

24 Q Sergeant Sheets, you conducted an interview with Riccardo
25 Corley?

1 A Yes, sir.

2 Q Did you record that interview?

3 A Yes, sir.

4 Q And that interview is it contained on State's Exhibit 48?

5 A Yes, sir, it is.

6 MR. RICHARDSON: Your Honor, at this time I'll play
7 the aforementioned portions of the interview.

8 THE COURT: All right, sir.

9 MR. RICHARDSON: Your Honor, first I will play from
10 State's 48 minute marker 15-05 to 15-48.

11 THE COURT: 5-05 to 5-48.

12 MR. RICHARDSON: I'm sorry, Your Honor. It is 5-05 to
13 5-48.

14 THE COURT: All right, sir.

15 (State's Exhibit 48 played in open court.)

16 MR. RICHARDSON: That was 15-05, I mean, 5-05 to 5-
17 48, Your Honor. Next item would be 12-08 to 12-24.

18 (State's Exhibit 48 played in open court.)

19 MR. RICHARDSON: Next would be 14-08 to 14-20.

20 (State's Exhibit 48 played in open court.)

21 MR. RICHARDSON: Your Honor, actually I played 14-08
22 to 14-18 for the record.

23 THE COURT: All right.

24 RICHARDSON: Then it's 17-08 to 17-49, I believe, You
25 Honor. Actually, Your Honor, I've got it right at 17-07.

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1 THE COURT: All right.

2 (State's Exhibit 48 played in open court.)

3 MR. RICHARDSON: That was to 17-41, Your Honor.

4 THE COURT: All right.

5 BY MR. RICHARDSON:

6 Q Detective Sheets, that was portions of the interview you
7 conducted with Riccardo Corley?

8 A Yes, sir, it was.

9 MR. RICHARDSON: Your Honor, I'm now returning
10 State's 48 ---

11 THE COURT: All right.

12 MR. RICHARDSON: --- to Madam Clerk.

13 BY MR. RICHARDSON:

14 Q That last bit we heard about was about the stolen van. Do
15 you know if that stolen van was recovered?

16 A Yes, sir, it was recovered.

17 Q Do you know where it was recovered?

18 A Yes, sir, I do.

19 Q What's the address of where it was recovered?

20 A It was recovered on .

21 Q Where's that located?

22 A It's off of 905.

23 Q Here in Horry County?

24 A Yes, sir.

25 Q Okay, are you familiar with the home address of the

1 Defendant?

2 A Yes, sir, I am.

3 Q And where is that in relation to the
4 Defendant's home?

5 A Traveling by road less than a mile maybe, half a mile to
6 three quarters of a mile.

7 Q Pretty close?

8 A Yes, sir.

9 Q And 200 Old Wilson Road how would you describe that
10 location?

11 A It seemed to be like an abandoned, some kind of a club.
12 It was grown up, a lot of trees around. You can see it from
13 the road but you had to go down a road to observe it. So, a
14 brick, maybe a brick or an old wood brick building.

15 Q Did you - now, you said it was recovered?

16 A Yes, the Horry County recovered it.

17 Q And do you know what happened to that van?

18 A We got information that it was towed back to the county
19 impound.

20 Q And did you or anyone to your knowledge go visit the van

21 A Yes, sir, myself and Detective Owen Lynam from North
22 Myrtle Beach went there I think the next day, it should be
23 like the 24th of March.

24 Q What was the condition of the van when you arrived?

25 A It was a little dusty but seemed to be in good

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1 condition.

2 Q Did you or Detective Lynam do anything to the van?

3 A Yes, we processed it.

4 Q And by processing it educate the jury a little bit.

5 A We just processed it for any latent evidence as
6 fingerprints or anything in the van that we would use to try
7 to identify the person that was driving it.

8 Q And so, you tried to get fingerprints?

9 A Yes, sir, we were there several hours trying to get
10 evidence, yes.

11 Q What kind of training do you have in the attempts to
12 obtain fingerprints?

13 A Well, I'm a crime scene technician trained by South
14 Carolina and been doing it for quite a while.

15 Q Okay, by quite a while could you quantify that, ten
16 years, more?

17 A Became investigator in 1992 and from then on I have been
18 doing crime scenes.

19 Q About 16 years I guess?

20 A Yes, sir.

21 Q Okay, and have you performed this before?

22 A Yes, sir, many times.

23 Q And were you successful in finding any fingerprints in
24 the van?

25 A Yes, sir, we found some latent prints in the vehicle.

1 Q What did you do with those latent prints?

2 A As I - I went back to the PD and I turned them over to
3 my lieutenant who is the AFIS operator for our department.

4 Q Take us through a little bit how these prints were
5 taken. I mean, I'm sure we have seen it on TV how they use
6 the little feather duster or whatever.

7 A Yeah, well, first we, we analyze the van, just look it
8 over before we do anything and we start from one point and
9 make sure we get everything and go through it. We do use a
10 powder and we powdered just about everything on the van
11 outside and inside and we did lift some prints from that.

12 Q And are there any particular areas of interest in - such
13 as a vehicle?

14 A Yes, the door area, anything in the driver's area that
15 could be touched and anything that was left behind by the
16 person driving it.

17 Q Okay, and you said you do get some prints off of it?

18 A Yes, sir, we did.

19 Q And you've been dusting for prints 16 years?

20 A Yes, sir.

21 Q The prints that you get are they always able to be
22 analyzed?

23 A Yes, sir.

24 Q Do they always return results?

25 A No, sir, they don't.

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- 1 Q All right, Detective Sheets, I'm going to show you what
2 has been previously marked for identification State's Number
3 46. Could you tell me what number 46 is?
- 4 A Appears to be a map of a section of Horry County.
- 5 Q And does it appear to be a fair and accurate depiction
6 of Horry County or a portion thereof?
- 7 A Yes, sir, it is.
- 8 Q Okay, and do you see any markings on that map?
- 9 A Yes, sir, I see several, approximately four, five, five
10 markings.
- 11 Q And could you tell us if those markings bear any
12 significance with this case?
- 13 A Yes, sir, all of them do.
- 14 Q Okay, what did - marking, are there any addresses or
15 anything with the markings?
- 16 A Yes, sir, there's one on the bottom here. It's [REDACTED]
17 [REDACTED], which was the incident location.
- 18 Q Okay, and how about at the top?
- 19 A . . . , that was the location where
20 the victim's van was located.
- 21 Q The van was found actually at .
- 22 A Yes, that's, that's a misprint on that. It's yes.
- 23 Q General, general location?
- 24 A Yes.
- 25 Q How about the middle marker?

1 A The middle mark is 2760 Highway 905. That would be the
2 Sun House gas station.

3 Q These two?

4 A I think 2601 Main Street would be the Coastal Federal
5 Bank and 2600 Main Street I think would be the next bank that
6 was at the college. I'm not sure the actual name of that one,
7 would be the Carolina - Conway National excuse me.

8 Q Okay, so, that's where Conway National, Coastal Federal
9 are?

10 A They're really close, yes, sir.

11 Q How about this last one?

12 A Church Street, that would be First Federal in Conway.
13 That would be the last location the card was used.

14 Q Okay, and is this a fair and accurate depiction of those
15 addresses on the map?

16 A Yes, sir, it is.

17 MR. RICHARDSON: Your Honor, at this time the State
18 would seek to introduce number 46 into evidence.

19 THE COURT: All right, any objection?

20 MR. HAZZARD: I haven't seen it, Your Honor. So, I
21 wouldn't know. No objection, Your Honor.

22 THE COURT: All right, State's Exhibit Number 46 is
23 admitted into evidence without objection.

24 (State's Exhibit Number 46 [Aerial Photograph] admitted
25 into evidence and appropriately marked.)

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1 MR. RICHARDSON: Sergeant, come on down off the
2 stand, and may I publish is to the jury, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. RICHARDSON:

5 Q Sergeant, come down off the stand. I want to make sure
6 that the jury can see this.

7 Sergeant Sheets, first of all you said this first
8 address, [REDACTED] that's the Whitlocks' residence?

9 A Yes, sir, that's the Whitlocks' residence.

10 Q Okay, and you said this is ;
11 correct?

12 A Yes, sir.

13 Q That's where the van was found?

14 A Yes, sir.

15 Q Have you done any investigation about distances to that
16 address?

17 A I have and also I think one of the other detectives did,
18 but I did drive it myself, yes, sir.

19 Q Okay, and did you use just one direction of travel or did
20 you use multiple directions of travel?

21 A No, sir, I used two directions. I used off of Water
22 Tower Road down 90 to 22 to 905. I also used coming through
23 from the victim's location to Highway 17 down to 22 down to
24 905 also.

25 Q Okay, and do you know approximately how many miles it is

1 from [REDACTED] to old Wilson Road using Water Tower
2 Road?

3 A I would say approximately 14, 14, 15 miles.

4 Q And what kind of condition is Water Tower Road in?

5 A It's a dirt portion road, it's a dirt road. It's kind
6 of bumpy. It's pretty well kept by the county.

7 Q Kind of a back road?

8 A Yes, sir.

9 Q Everybody see all right? How about the other mode of
10 travel you drove from 3474 I think you said you used 17?

11 A Yes, sir.

12 Q Okay.

13 A From the victims we went down through Barefoot Resort
14 onto 17, took a right to 22, and from 22 we went to Highway 90

15 Q And Highway 90 to Old Wilson Road?

16 A Yes.

17 Q About how many miles was that?

18 A That's a little further, I'll say about 17, 17 and a
19 half miles.

20 Q Did you mark how much - how long it took you to get
21 there?

22 A I did, sir.

23 Q How long did it take you utilizing the Water Tower Road

24 A Water Tower Road was actually shorter time, probably
25 about between 18 to 20 minutes.

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- 1 Q 18 to 20 minutes?
- 2 A Yeah, that's normal speed, it's not going too fast.
- 3 Q Okay, and how about utilizing 17?
- 4 A 17 was a little longer, I would say about 25 to 20, 28
- 5 minutes.
- 6 Q 25 to 28 minutes?
- 7 A That again was doing the speed limit.
- 8 Q If you would just have a seat, resume your seat.
- 9 Was any of the stolen property ever recovered other than
- 10 the van?
- 11 A No, sir.
- 12 Q Let's go back to the ATMs real quick. Subsequent to
- 13 getting or after getting the photographs of the ATM did you
- 14 follow up with any further investigation, forensic, otherwise
- 15 at any of the ATMs?
- 16 A Other than the, other than the video and photos I
- 17 obtained, yes, sir, I did. One of the locations showed the
- 18 person using the card at that time touching the ATM machine.
- 19 So, we did call the bank and tell them to rope it off and shut
- 20 it down so we can come process it.
- 21 Q And which bank was that?
- 22 A That was Coastal Federal.
- 23 Q And Coastal Federal is now ---
- 24 A BB&T.
- 25 Q Okay, and did you personally fingerprint?

1 A Yes, sir, I did, myself and Detective Abercrombie went
2 to that location.

3 Q And once again, let's, let's just - let's go through the
4 science, what you use, what steps you took to fingerprint that
5 ATM.

6 A First we arrived and we photographed the location. We
7 just looked at it to make sure that - to see if we see
8 anything that we could take off before we powdered it to make
9 sure we didn't mess up anything. Then we did process it, took
10 photographs before and after the latent powder was put on the
11 machine.

12 Q And so, how do you - do you pull fingerprints off?

13 A Yeah, we lifted it, the fingerprints off the machine,
14 yes, sir.

15 Q Okay, and what did you - and did you put them on any
16 kind of material that keeps them?

17 A Yes, sir, we do.

18 MR. RICHARDSON: The Court's indulgence.

19 BY MR. RICHARDSON:

20 Q Sergeant Sheets, was there anything that drew your
21 attention to that particular ATM?

22 A Yes, sir, the photographs from the surveillance video.

23 Q What appeared to you in the photograph?

24 A It showed the suspect where he was testing the machine
25 during the transaction he was making.

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1 Q Did he have anything on his hands in the pictures?

2 A No, he didn't.

3 Q Okay, and from your experience with fingerprinting what
4 did that tell you?

5 A Told me the location I needed to look at first when I
6 arrived.

7 Q And you've been doing fingerprints for a while?

8 A Yes, sir.

9 Q Are there particular surfaces or something that are
10 better than others for fingerprinting?

11 A Yes, sir.

12 Q Describe those surfaces.

13 A The surface with a smooth surface on top, so it was real
14 easy to obtain the latent evidence.

15 Q So, it was easier on that?

16 A Yes.

17 MR. RICHARDSON: Your Honor, if I may have these
18 marked.

19 BY MR. RICHARDSON:

20 Q Sergeant, if I could hand to you what's been marked
21 State's 49.

22 MR. RICHARDSON: I'm going to show counsel first.

23 MR. HAZZARD: The Court's indulgence.

24 MR. RICHARDSON: Once again, Your Honor, these are 49
25 through 57 I believe it is.

1 BY MR. RICHARDSON:

2 Q If I could hand you those aforementioned exhibits, 49
3 through 57. Could you take a look at those, please?

4 A Yes, sir.

5 Q Do you recognize those items?

6 A Yes, sir, I do.

7 Q How do you recognize those items?

8 A I recognize them by my marks on the back that I lifted
9 them and the date and time and also the case number that was
10 used.

11 Q And I'm looking at the back of one of these right here.
12 What does it indicate?

13 A It indicates the date that I was there that I took the
14 latent evidence, the case number, the crime, which would have
15 been burglary, the victim's name is Whitlock and the location
16 where I obtained this lift, has the person's name that lifted
17 it and the badge number and a small little diagram of where i
18 was taken from the ATM machine.

19 Q Okay, and what's the purpose of doing all that
20 information?

21 A For this reason that we can go back and can tell where
22 we actually picked it up from and also to help the latent
23 examiner to determine where it was lifted so he has an idea.

24 Q How about number 49?

25 A Okay, yes, like I said earlier we take photos of every

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1 of lifts before we lift them off with the tape just in case it
2 doesn't lift right that we do have a photo that we can
3 actually get to identify it with.

4 Q A photograph you took?

5 A Yes, sir.

6 Q Okay, and these are fair and accurate representations or
7 these are, indeed, the lifts you did and a fair and accurate
8 depiction of where you lifted one from?

9 A Yes, sir.

10 MR. RICHARDSON: Your Honor, at this time the State
11 would seek to introduce 49 through 57.

12 THE COURT: Any objection?

13 MR. HAZZARD: For the record, Your Honor, not really
14 sure the chain of custody has been met. No objection.

15 THE COURT: All right, State's Exhibit Number 49
16 through 57 is admitted into evidence without objection.

17 (State's 49 through 57 [Fingerprint Photographs] admitted
18 into evidence and appropriately marked.)

19 BY MR. RICHARDSON:

20 Q And those exhibits, did you maintain custody of them?

21 A I did, sir.

22 Q And did you ever transfer them to anybody?

23 A Yes, sir, I transferred them to my Lieutenant, Don Repec.

24 Q And what was the purpose of transferring those exhibits
25 to Lieutenant Repec?

1 A So he can put them into the AFIS machine to see if we can
2 get a suspect out of them, get a match.

3 Q And that's the sum total of your investigation?

4 A Excuse me?

5 A Is that the sum total of your investigation from
6 yesterday and today?

7 A Pretty much, yes, sir.

8 Q Sergeant, thank you very much. Please answer any
9 questions that Mr. Hazzard may have?

10 A Yes, sir.

11 THE COURT: All right, Mr. Hazzard.

12 MR. HAZZARD: Thank you, Your Honor.

13 CROSS EXAMINATION

14 BY MR. HAZZARD:

15 Q Good morning, Paul.

16 A Good morning.

17 Q May I call you Paul because we've known each other a long
18 time; right?

19 A Yes, sir, we have.

20 Q All right, now, is it proper for me to refer to you as
21 sergeant or detective? Which is the right one?

22 A It doesn't matter, sir. I'll answer to both of them.

23 Q Okay, now, you've been with North Myrtle Beach for
24 approximately 22 years thereabouts?

25 A Yes, sir.

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1 Q Okay, and that is in law-enforcement; correct?

2 A Yes, sir.

3 Q Okay, all of that time?

4 A Yes, sir. I spent two years in the DEA but it's still
5 in law enforcement, yes, sir.

6 Q Okay, what is the - to your knowledge what is the North
7 Myrtle Beach Police Department policy regarding what charges
8 will be brought against a Defendant in a criminal case?

9 A The policy?

10 Q Yes, sir, if you're investigating a case what determines
11 what charges you bring?

12 A Well, we do - we call the solicitor's office and go over
13 the case with them. So, they do help out a lot with us. So,
14 in this case we did do that.

15 Q So, then, even though, because you're the one who swore
16 out the warrants for Travis's arrest; correct?

17 A I believe so, sir, yes, sir.

18 Q Okay, so, even though you swore out the warrants for
19 Travis's arrest on or about April 25th of 2007, you're saying
20 you're not the person who made the call as to what the charges
21 would be?

22 A I had, yeah, I had an idea what I was going to charge
23 him with but I just double - you know, I made sure with the
24 solicitor's office that those were the right charges, yes,
25 sir.

1 Q Okay, to your recollection - well, first of all let's
2 back up. So, your recollection is that you discussed this
3 case and these charges with someone from the solicitor's
4 office prior to swearing out these warrants.

5 A Yes, sir, we usually do, yes, sir.

6 Q Okay, and you discussed it with them and then as a
7 result of that discussion chose to file charges for
8 kidnapping, burglary first and armed robbery; correct?

9 A Yes, sir.

10 Q Okay, now, when you have that discussion and you made
11 that determination that is normally based on the evidence
12 existing of a crime having been committed; correct?

13 A Evidence as in physical evidence or ---

14 Q What evidence you feel you have, whether it's witness
15 testimony, physical evidence, whatever?

16 A Yeah, the probable cause, yes, sir.

17 Q Yes, sir, okay, so, there's not a situation where you
18 feel that a crime has been committed and you're not going to
19 press charges; correct?

20 A Excuse me? Ask that, ask that question.

21 Q There's not, is, there's not a situation where you
22 investigate a case and do your thorough investigation and say
23 "I believe, I, Detective Paul Sheets, believe that I have
24 sufficient probable cause for a warrant on an offense," and
25 you don't issue that warrant; correct?

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1 A In some cases, yes, sir.

2 Q Okay, and what would be the basis for that? What would
3 cause you not to bring a charge when you feel you have
4 sufficient evidence?

5 A I'm sure - yeah, I'm not sure I'm getting the question
6 right but sometimes we - another charge would be better to put
7 in that place, what certain charges I don't know what you're
8 talking about in reference to that.

9 Q What I'm, what I'm trying to get to and maybe I'm not
10 doing a good job explaining it? So, I apologize.

11 A Well, I am kind of confused with the question.

12 Q Okay, the question is is there ever a situation where
13 you do an investigation and let's say, let's say criminal
14 domestic violence of a high and aggravated nature. You go
15 out. There's a call, claims of a domestic dispute, you go
16 out, you talk with the husband, you talk with the wife, you
17 see some severe bruising on the wife, is there ever a
18 situation in which you feel you have the evidence to bring a
19 charge but for some reason you would not issue a warrant on
20 that charge?

21 A In that case, no, sir, I would charge that person, yes,
22 sir.

23 Q Okay, so, then if you feel that you have evidence that
24 shows that an individual has committed an offense punishable
25 by law in the State of South Carolina you will swear out a

1 warrant; correct?

2 A Yes, sir.

3 Q Okay.

4 A Thank you for clarifying that for me.

5 Q I'm sorry it took me so long. I apologize. So, after
6 investigation all applicable charges are filed?

7 A Yes.

8 Q Okay, now, in your 22 years you have heard of two
9 statutes, one being financial transaction card theft and the
10 other one being financial transaction card fraud; correct?

11 A Yes.

12 Q Okay, if you would tell the jury - well, let me ask you
13 like this. Financial transaction card theft is when someone
14 takes a debit card, credit card or other financial instrument
15 belonging to another; correct?

16 A Uh-huh, yes, sir.

17 Q Okay, and financial transaction card fraud is when
18 someone ---

19 MR. RICHARDSON: Your Honor, he's discussing matters
20 of law at this time which would be in the judge's purview.
21 This witness should be on the stand, I mean, he's on the stand
22 as the investigator in this case.

23 MR. HAZZARD: And this investigator swears out warrants
24 that have to do with a matter of law as a matter of course in
25 his employment.

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1 THE COURT: Well, I think you - okay, I can just - you
2 can ask him why he didn't charge him with certain offenses but
3 don't get into - well, I'll allow you to go ahead and question
4 your witness the way you want to.

5 MR. HAZZARD: Okay, thank you, Your Honor.

6 BY MR. HAZZARD:

7 Q And to your knowledge financial transaction card fraud
8 would be where someone knowingly uses a credit or debit card
9 of another to obtain goods or services; correct?

10 A Yes, sir.

11 Q Okay, now, in this case Travis Bellamy is not charged
12 with either of those two offenses; right?

13 A Yes, sir, he was not.

14 Q Okay, not charged with thievery of a card, not charged
15 with fraudulently using a card; correct?

16 A Sir, he was charged with thieving of it during the
17 burglary, yes, sir, he was.

18 Q Not charged with fraudulently using anyone's ATM card,
19 debit card, credit card, any financial instrument?

20 A No, stealing it, yes, but using it no.

21 Q Okay, so, your thing is if he was charged with the
22 burglary or the armed robbery that that would cover the card.

23 A No, sir, I'm not saying - no, I wouldn't say that.

24 Q All right, let's see. Now, this incident is alleged to
25 have occurred on I believe it's the late night of March 30th,

1 March 20th, the early morning of March 21st of 2007; is that
2 correct?

3 A Yes, sir.

4 Q Okay, and again the arrest warrants were sworn out, I
5 believe, on April 25th of 2007; is that correct?

6 A Yes, sir.

7 Q Okay, you remember that or do you want to see the
8 warrants?

9 A Show it to me, yes, sir.

10 MR. HAZZARD: The Court's indulgence.

11 A Yes, sir.

12 Q All right, so, at this point as I said you've have about
13 a month to investigate the case; correct?

14 A Yes, sir.

15 Q Now, were you the primary detective or how does that wor.
16 in North Myrtle Beach? Do you all assign a primary and
17 secondary or ---

18 A Usually we do, yes, sir.

19 Q Okay, who was the primary on this case?

20 A The primary one was Detective Farmer. He was called to
21 the scene. He was on call that night.

22 Q Okay, now, in looking at some of the documentation in
23 this case I believe that Detective Farmer, that there was a
24 period of time during this investigation where he was
25 unavailable; correct?

Paul Sheets - Cross by Defense

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1 A I think so, sir. I think he took vacation, already, you
2 know.

3 Q Got you. Now, under those circumstances who would it
4 fall to to pick up the ball and run with it so to speak?

5 A This investigation the morning of, I think all the
6 detectives had a little hand in it that morning trying to get
7 things rolling. So ---

8 Q Okay.

9 A --- my duty was at that time the ATM card and also the
10 phone information to try to get that.

11 Q Thank you, sir. Now, when you say all the detectives to
12 your recollection besides you and Detective Farmer who else
13 was involved?

14 A Lieutenant Repec at one point, Detective Abercrombie and
15 Detective Owen Lynam.

16 Q Okay, bear with me one second.

17 A And Detective Dennis, okay.

18 Q I'm sorry, sir. Bear with me one second. I don't write
19 that quick. So, that's Lieutenant Repec, Detective
20 Abercrombie and who else, sir?

21 A Detective Owen Lynam.

22 Q Detective Lynam, okay.

23 A Detective Carrie Pelland.

24 Q Okay, and that's P-E-L-L-A-N-D?

25 A Yes, sir.

1 Q Okay.

2 A And Detective Dennis Pitsinger.

3 Q Okay, P-I-T-S-I-N-G-E-R?

4 A Yes, sir.

5 Q All right, okay, and you indicated that your area in this
6 - so, now we've got Detective Farmer, he's the primary on
7 this?

8 A To start, yes, sir.

9 Q Okay, at the start. Was anyone considered a secondary or
10 was this kind of an all hands on deck, everybody pitch in?

11 A I was the secondary and as soon as he went on vacation I
12 took lead.

13 Q Okay, now, you are considered also to be the case agent
14 in this case?

15 A You could say that, sir, yes, sir.

16 Q Okay, and for the jury's edification the case agent is
17 the officer or lead person from the police department who's
18 responsible for having all the documents, everything having to
19 do with the case; right?

20 A Yes, sir, normally, yes, sir.

21 Q Okay, and that would be you?

22 A Yes, sir.

23 Q All right, now, we'll come back to that in a second. As
24 a detective or actually as a member of law enforcement what is
25 the purpose of writing an incident report?

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1 A The incident report is usually written by the uniform
2 patrol officers at the time of their response to the crime.
3 So, it's to get all the information they could at that time in
4 reference to the case.

5 Q Okay, and so, the uniform - and you were a uniform patrol
6 officer at one point early on years ago back before
7 electricity; right?

8 A Yes, yes, sir.

9 Q Okay, now, during that time as uniform patrol officer
10 then was your responsibility and is their responsibility now
11 to obtain as much information that is relevant and critical to
12 the investigation; correct?

13 A Yes, sir, what they can at the scene, yes, sir.

14 Q Okay, such as description of suspects, height, weight,
15 age, build, things of that nature; correct?

16 A Yes, sir.

17 Q Okay.

18 A If it's available.

19 Q All right, and so, the uniform officer would do an
20 incident report. Now, you as a detective do you write reports
21 as well?

22 A Incident reports?

23 Q Any type of reports or I think you all refer to them as
24 investigative reports; correct?

25 A Yes, sir, I do.

1 Q Okay, so, for you it's an investigative report. Now,
2 what is the purpose of your filing an investigative report?

3 A Just to log the things that I did in reference to the
4 case and any information that's maybe not be on the incident
5 report.

6 Q Okay, and why do you wish to log that information? What
7 is so important about maintaining that information?

8 A Just so I can go back to it and look back at it and also
9 have the information for the solicitor's office and anybody
10 that needs it.

11 Q Okay, and in fact, if something were to happen to you
12 like heaven forbid you were to break your leg or have to take
13 family leave or something like that another detective would be
14 able to look at your investigative reports and kind of pick up
15 the ball easier and move the investigation forward; correct?

16 A Usually that's how it usually works, yes, sir.

17 Q So, you try to make your investigative reports as
18 complete as possible; right?

19 A Usually, yes, sir.

20 Q Well, I mean, would there be a reason why you would not
21 want your investigative report or a situation where you would
22 not want it to be complete and thorough?

23 A I wouldn't think so, sir.

24 Q Okay, so, now, in your investigative reports do you make
25 any mention of the Whitlocks telling you about these

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1 perpetrators breaking in or entering with a key, do you make
2 any mention of them saying any description of height, weight
3 or age of the perpetrators and in your incident reports does
4 it make any mention of the perpetrators allegedly wearing
5 gloves?

6 A In reference to the incident report that the uniform
7 patrol officer did or anything I've done?

8 Q Your - anything that you prepared.

9 A Okay.

10 Q Or quite frankly, anything anyone else prepared I'd like
11 to see that as well, if there's any mention in that regard.

12 A I don't think so, sir, no.

13 Q So, then with your experience and your thorough nature we
14 can presume, therefore, then that this was never mentioned to
15 you; correct?

16 A Mentioned to me?

17 Q Yes, sir.

18 A It was mentioned to me, sir.

19 Q Okay, but it's not in your incident report?

20 A I didn't do that incident report, sir.

21 Q Is it in your investigative report?

22 A Other than reference to the key or the gloves; sir?

23 Q Any of it, all of it.

24 A I think it is in one of my reports I made on the arrest
25 in reference to the gloves, I mean, the key, sir, yes, sir.

1 Q Do you have that report with you today?

2 A I do, sir.

3 Q Okay.

4 MR. HAZZARD: The Court's indulgence, Your Honor.

5 A Yeah, the investigative case report in reference to
6 Riccardo Corley, yes, sir.

7 Q Okay.

8 MR. HAZZARD: The Court's indulgence, Your Honor.

9 BY MR. HAZZARD:

10 Q Can I borrow that from you?

11 A Yes, sir. It'll fall out.

12 Q All right, let's see.

13 A I can show you where it's at if you want me to. You
14 won't have to read the whole thing.

15 Q Okay, please, sir.

16 A It's the last sentence, that last paragraph there, sir.

17 Q Okay.

18 MR. HAZZARD: The Court's indulgence, Your Honor.

19 BY MR. HAZZARD:

20 Q Okay, my question, sir, specifically was does your
21 investigative report or any incident report mention a
22 conversation with Mr. and Mrs. Whitlock in which they gave yo
23 information regarding the alleged entry with a key, the
24 height, weight or age or any other description of the suspect
25 or the fact that the suspects allegedly wore gloves, thus

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1 leaving no fingerprints?

2 A Other than what I wrote here, sir, no, sir, I don't think
3 so.

4 Q Okay, with regard to statements made by the Whitlocks?

5 A No, sir.

6 Q All right, thank you. Now we're on the same page because
7 there's no question obviously we've heard some statements that
8 Mr. Corley made when you talked to him; right?

9 A Statements in reference to what?

10 Q Whatever it is that was played for the jury.

11 A Made a lot of statements, yes, sir.

12 Q Okay, okay, now, did you personally collect any evidence
13 from the Whitlocks' home, sir?

14 A No, sir, I did not.

15 Q Okay, who would have been in charge or responsible for
16 that in this case?

17 A That would be Detective Farmer.

18 Q Okay, and you as the case agent and now the primary agent
19 to your knowledge was any evidence collected from their home?

20 A Other than a photograph, sir, I think it was said
21 earlier, no, sir.

22 Q Okay, so, the rope that was allegedly used to tie them up
23 was not taken into evidence and sent to SLED to see what if
24 anything would be on the rope; correct?

25 A Yes, sir, from previous, yes, no.

1 Q Okay, I believe Ms. Whitlock, you were in the courtroom
2 when Mrs. Whitlock testified; correct?

3 A Yes, sir, I was.

4 Q And when Mr. Whitlock testified?

5 A Yes, sir, I was.

6 Q Okay, do you recall them saying that their floor, their
7 floor of their home was almost completely tiled throughout the
8 home?

9 A Yes, sir.

10 Q Okay, to your knowledge, so, there were no shoeprints?

11 A Sir, I couldn't tell you. I wasn't at the crime scene.

12 Q Oh, so, you didn't go there at all?

13 A No, sir, I did not.

14 Q Okay, okay, I apologize, sir.

15 To your knowledge as the case agent then were any hairs
16 or fibers collected either from the Whitlocks' home or from
17 their van that could be sent to SLED and compared?

18 A There was evidence taken from the van which I - the
19 evidence of fingerprints. Also, with the Whitlocks' home I
20 don't think there was any sent to SLED, no, sir.

21 Q Okay.

22 MR. HAZZARD: The Court's indulgence, Your Honor.

23 BY MR. HAZZARD:

24 Q And I believe yesterday the prosecutor asked you about
25 having spoken with Mr. Corley back in April of '07; is that

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1 correct?

2 A April, at the time of the arrest, the date of his arrest?

3 Q Thereabouts, yes, sir.

4 A Yes, sir.

5 Q Somewhere around in there, and the jury has listened to
6 parts of some statements that Mr. Corley allegedly made;
7 correct, during that conversation?

8 A Yes, sir.

9 Q Okay, now, also during that conversation Mr. Corley
10 mentioned other individuals not named Travis Bellamy; correct?

11 A Yes, sir.

12 Q Okay, in response to your question regarding home
13 invasions; correct?

14 A Yes, sir, later on, yeah, in the interview, yes, sir.

15 MR. RICHARDSON: Your Honor, I believe he's trying to
16 delve into the hearsay, I mean, that got objected on yesterday
17 asked him about what Riccardo Corley said.

18 THE COURT: Okay, I'm going, I'm going to allow it.
19 Go ahead.

20 Q Okay, there's no question that Mr. Corley was facing life
21 plus 50 years; correct?

22 MR. RICHARDSON: Your Honor, defense counsel keeps
23 mentioning the sentence and I believe that's specifically
24 barred. He can say, yes, he's facing a lengthy sentence.

25 MR. HAZZARD: I'm talking about someone who is not the

1 Defendant. I'm talking about a witness that they put on the
2 stand.

3 THE COURT: All right, I'm going to overrule the
4 objection. I'll allow the questioning. Go ahead.

5 BY MR. HAZZARD:

6 Q And is that correct?

7 A Repeat the question.

8 Q There's no question that Mr. Corley, who testified
9 yesterday, was facing life plus 50 years.

10 A That is the penalty, yes, sir.

11 Q Okay, and there's no question that as a result of his
12 discussion with you he received a sentence of 10 years;
13 correct?

14 A From the solicitor's office, yes, sir.

15 Q Okay, and did you have any discussion with the
16 solicitor's office regarding giving assistance and aid to Mr.
17 Corley?

18 A No, sir, I didn't.

19 Q You did not?

20 A No.

21 Q Okay, so, you never talked with them at all about, "Mr.
22 Corley has given this statement that I asked him for, so are
23 you going to give him any help"?

24 A No, sir, I did not.

25 Q All right, thank you. No further questions.

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1 THE COURT: All right, redirect?

2 MR. RICHARDSON: Thank you, Your Honor.

3 REDIRECT EXAMINATION

4 BY MR. RICHARDSON:

5 Q Mr. Hazzard asked you about hairs and fibers.

6 A Yes, sir.

7 Q Do you find hairs and fibers at every crime scene?

8 A Really seldom, sir, we do. We don't find many at all.

9 Q Your crime scenes are they like CSI, you always find
10 stuff?

11 A No, sir, they're not.

12 Q And that warrant, Mr. Hazzard said the warrant was
13 obtained on April 25th, 2007; correct?

14 A Yes, sir.

15 Q And the crime actually occurred on March 21st the early
16 morning hours, 2007.

17 A Yes, sir.

18 Q Why did you wait a month to get the warrant?

19 A After the interview I had with Riccardo Corley I got the
20 warrant.

21 Q Was that in addition to other evidence you had?

22 A Yes, sir.

23 Q Mr. Hazzard asked you about financial transaction card
24 theft and fraud.

25 A Yes, sir, he did.

1 Q Been working the streets for a while.
2 A Yes, sir.
3 Q What's more serious armed robbery or FTC theft?
4 A Armed robbery.
5 Q Kidnapping, FTC theft?
6 A Kidnapping.
7 Q First degree burglary, FTC theft?
8 A Burglary.
9 Q Didn't charge Mr. Bellamy with trespassing either; did
10 you?
11 A No, sir, I didn't.
12 Q Okay.
13 MR. RICHARDSON: Thank you, Your Honor, no further
14 questions.
15 THE COURT: All right, sir, you may step down.
16 A Thank you.
17 THE COURT: You may call your next witness.
18 MR. RICHARDSON: Your Honor, I have four short
19 witnesses. If you want to give the jury a break I can ---
20 THE COURT: All right, we'll go ahead and take a brea
21 now. Ladies and gentlemen, I'm going to excuse you back to
22 the jury room just to take a break so you can stretch your
23 legs, use the restroom, whatever needs to be done. Please do
24 not discuss this case with anyone. It's still premature for
25 deliberations. So, I'll excuse you back to the jury room and

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1 we'll have you out in just a minute. Thank you very much.

2 (The following takes place outside the presence of the
3 jury.)

4 MR. RICHARDSON: Your Honor, I would ask that Sergeant
5 Sheets be excused at this time.

6 THE COURT: Any objection?

7 MR. HAZZARD: No objection whatsoever.

8 THE COURT: All right, Sergeant Sheets, you're free to
9 go. We'll stand in recess for about 10 minutes.

10 MR. RICHARDSON: Thank you, Your Honor.

11 THE COURT: Thank you.

12 OFF THE RECORD

13 (On the record.)

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: All right, anything before we bring the
17 jury back in?

18 MR. RICHARDSON: Nothing from the State, Your Honor.
19 We're prepared to go forward. We'll need the screen down with
20 the next witness. I can just indicate at the appropriate
21 time.

22 THE COURT: All right, anything from the Defense?

23 MR. HAZZARD: I'm sorry, Your Honor, nothing from the
24 Defense.

25 THE COURT: All right, let's bring the jury in.

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: All right, ladies and gentlemen, welcome
4 back. Mr. Richardson, you can call your next witness.

5 MR. RICHARDSON: The State would call Mr. Mazanti.

6 Satish Mazanti was called to the stand, duly sworn by the
7 clerk and testified as follows:

8 THE CLERK: Speak into the microphone, please state
9 your full name and spell your last name.

10 MR. MAZANTI: My name is Satish Mazanti, people call me
11 Cuz, so.

12 THE CLERK: Spell your last name.

13 MR. RICHARDSON: If you'll spell your last name.

14 MR. MAZANTI: Mazanti, Cuz Mazanti.

15 MR. RICHARDSON: If you can spell that?

16 MR. MAZANTI: C-U-Z-M-A-Z-A-N-T-I.

17 THE COURT: I'm sorry. Could you spell your last name
18 again?

19 MR. MAZANTI: M-A-Z-A-N-T-I - Z as ---

20 MR. RICHARDSON: M-A-Z.

21 THE COURT: A -- M-A-Z-A-N-T-I?

22 MR. MAZANTI: N-T-I.

23 THE COURT: All right, and you pronounce that
24 Mazanti?

25 MR. MAZANTI: Mazanti.

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1 THE COURT: Mazanti, all right, thank you, Mr.
2 Mazanti.

3 DIRECT EXAMINATION

4 BY MR. RICHARDSON:

5 Q Mr. Mazanti, now we've got that cleared up. Mr. Mazanti,
6 thank you for coming into court. I'll go ahead and call him
7 this afternoon. Where you working back in March 2007?

8 A At Sun House 7 in Highway 905.

9 Q Sun House Petroleum?

10 A Yes.

11 Q Okay, and what were your responsibilities at that
12 particular location?

13 A Like just make, at that time I'm working in the cashier
14 in the morning shift. So, then somebody ask me to do the
15 tape, just I gave it to them and it's happened in the
16 nighttime I guess.

17 Q A videotape?

18 A Yeah, that's all I know.

19 Q And that's someone from North Myrtle Beach Police
20 Department?

21 A Yeah.

22 Q Okay, and you all had a security system at the time?

23 A Yeah.

24 Q And it recorded people as they drove up to it?

25 A Yeah.

1 Q Mr. Mazanti, I'm going to show you what's been previously
2 marked as State's Exhibit 10 and I believe I've shown them to
3 you earlier. Do you recognize that item?

4 A Yes, sir.

5 Q And it's been introduced into evidence. Does it contain
6 a couple of videos and could you tell us what those videos are
7 of?

8 A Uh-huh.

9 Q What ---

10 THE COURT: All right, I'm sorry to interrupt you.

11 Q You have to ---

12 THE COURT: But we've got a court reporter and we're
13 recording everything. So, you need to answer yes or no, give
14 an oral response; okay?

15 A Okay.

16 THE COURT: Thank you.

17 Q What is the location where these videos were taken?

18 A It's on Highway 905 the Sun House Petroleum number 7.

19 Q Okay, and this is a true and accurate depiction of
20 videos taken from that store?

21 A Yes, sir.

22 Q And your camera equipment, your recording device, does
23 it do anything with regard to the date or time when it
24 records?

25 A Yeah, it will show the time and date.

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1 Q And does that show up at the bottom of the video?

2 A Uh-huh.

3 Q And that ---

4 MR. HAZZARD: Your Honor, I'm going to object to leading
5 absent the proper foundation for such. I mean, I realize he
6 may be having some difficulties but please, Your Honor.

7 THE COURT: All right, I don't think he's gotten too
8 far out of line now but let's hold down the leading. All
9 right, go ahead.

10 Q Mr. Mazanti, this video, have you had the opportunity to
11 view it?

12 A Yes, sir.

13 MR. RICHARDSON: Your Honor, At this time I'd seek to
14 publish this video for the, for the court. It's already been
15 introduced.

16 THE COURT: It's already been introduced into
17 evidence?

18 MR. RICHARDSON: And I've laid the foundation as to
19 this video did come from this store.

20 THE COURT: I don't know that it's been introduced
21 into evidence.

22 MR. RICHARDSON: I introduced the video prior to
23 getting the stills introduced into evidence for ---

24 THE COURT: I think it was just identified. I don't
25 think it was ever introduced.

1 MR. RICHARDSON: At this time I'd seek to introduce
2 the video.

3 THE COURT: All right, Mr. Hazzard.

4 MR. HAZZARD: No objection.

5 THE COURT: All right, State's Exhibit Number 10
6 admitted into evidence without objection and I'll allow you to
7 go ahead and publish it.

8 (State's Exhibit Number Ten [Video] introduced into
9 evidence and appropriately marked.)

10 BY MR. RICHARDSON:

11 Q And the - if there appears a time or date on there could
12 you tell us anything with regard to its accuracy?

13 A Yeah, like when it's the car coming best I can tell
14 that's my store.

15 Q How about the time, how is that time set?

16 A Like it says if it's morning like it start with one, two
17 three end at 24, like it's in the evening like 17, 18, 19 lik
18 that, so.

19 Q Okay, thank you.

20 MR. RICHARDSON: Madam Clerk, if you could drop the
21 screen.

22 Can everyone see all right?

23 (All jurors indicate affirmatively.)

24 MR. RICHARDSON: And at this time I'm going to be
25 playing what is marked on this DVD as JUN 21(1).

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2 (State's Exhibit Number Ten played in open court.)

3 MR. RICHARDSON: If I may stop it and I'll try to
4 enlarge that picture somewhat, Your Honor. I think that cut
5 off part of the screen, Your Honor. I'll resume it to the ---

6 (State's Exhibit Number Ten played in open court.)

7 MR. RICHARDSON: Your Honor, now I'll play what is
8 marked on the DVD as JUNE 21A(1).

9 (State's Exhibit Number Ten played in open court.)

10 BY MR. RICHARDSON:

11 Q Mr. Mazanti, did you catch the time that was at the
12 bottom of that video?

13 A Yeah, it's two o'clock.

14 Q After two o'clock? And that video came from your store?

15 A Yes, sir.

16 MR. RICHARDSON: Your Honor, I have no further
17 questions for Mr. Mazanti at this time.

18 THE COURT: All right, Mr. Hazzard, cross examination?

19 MR. HAZZARD: Thank you, Your Honor.

20 Madam Clerk, could you raise the screen, please?

21 MR. RICHARDSON: Let me get this out of your way, Mr.
22 Hazzard.

23 MR. HAZZARD: No questions for this witness.

24 THE COURT: All right, you may step down.

25 All right, sir, you can call your next witness.

1 MR. RICHARDSON: The State would call Mr. Perry
2 Dalton, and Your Honor, I'd ask that Mr. Mazanti be excused
3 from his subpoena.

4 MR. HAZZARD: Without objection.

5 THE COURT: Any objection?

6 MR. HAZZARD: No objection.

7 THE COURT: All right.

8 MR. RICHARDSON: Thank you, Mr. Mazanti.

9 THE COURT: Thank you, Mr. Mazanti. You may be
10 excused.

11 Perry Dalton was called to the stand, duly sworn by the
12 clerk and testified as follows:

13 THE CLERK: Please state your full name and spell you
14 last name.

15 MR. DALTON: It's Perry Dalton, and the last name is
16 D-A-L-T-O-N.

17 THE COURT: Thank you, sir.

18 DIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Good morning or now really good afternoon, Mr. Dalton.
21 Mr. Dalton, could you please tell this court where you're
22 employed?

23 A BB&T now, back when this happened it was Coastal Federal
24 Bank.

25 Q Back in March of 2007.

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1 A Yes, sir.

2 Q And back in March, specifically around March 21st, 2007,
3 what were your duties?

4 A I was a co-manager for the main branch on 21st Street in
5 Myrtle Beach.

6 Q Okay, did you have any duties associated with security?

7 A Yes, part of monitoring the ATMs is part of operations.

8 Q Okay, and with monitoring, for the security of the ATMS
9 could you tell me about any kind of recording device or
10 anything they have?

11 A Well, every ATM has cameras on them that we can view
12 every transaction that is done internally and externally of
13 the machines.

14 Q And is there any way to specify which ATM is being used?

15 A Well, they're all individually recorded and each ATM has
16 a separate number associated to it.

17 Q And in March 2007 did you ever come into contact with
18 North Myrtle Beach regarding this case?

19 A Well, our security department was notified of suspicious
20 activity of that ATM.

21 Q And with regard to the recording of the ATM what
22 indicators if any with regard to date or time are there on it,
23 the ATM photographs?

24 A Well, on the bottom of it it's going to have the time
25 and the date of the transaction of each transaction when the

1 card is entered in.

2 Q And can you tell us anything with regard to the accuracy
3 of the time that appears on those photographs?

4 A Well, it's - it was - at that time it was the latest
5 technology available to us to use for the ATMs.

6 Q To your knowledge, would the dates and the times be
7 correct on those?

8 A Yes, sir.

9 Q And did you, in fact, provide photographs to North
10 Myrtle Beach?

11 A Yes, sir.

12 Q Okay, and where, where were those taken from?

13 A From the actual ATM.

14 Q Where, where was that ATM located?

15 A In North Myrtle Beach.

16 Q It was located, the ATM was located in North Myrtle
17 Beach?

18 A No, the ATM was in Conway.

19 Q Okay, where exactly in Conway? Do you recall?

20 A Well, I don't - well, like I say, I was at the main
21 beach. I think it was the north Conway. I'm not for sure.

22 MR. HAZZARD: He's saying he thinks. He doesn't know.

23 THE COURT: Okay, overruled. I'll allow him to
24 testify. Go ahead.

25 Q Mr. Dalton, I'm going to show you what's been previousl

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1 marked and entered as State's 14 through 27. If you could
2 take a look at those photographs briefly. Take your time.

3 A (Complies with request.)

4 I don't know the actual street address of it but I know
5 where it's located if that would help you. The Conway
6 National Bank is across the street from it and there's a Food
7 Lion behind it. Like I say I worked at the main branch. So,
8 I really - I don't know the street address of it, but yeah,
9 this was - it was one of the last branches that Coastal
10 Federal had built prior to the merger with BB&T, and on this
11 one here how it validates the actual time the transaction ---

12 Q You say this one here, which exhibit is that?

13 A 23, 23.

14 Q 23 for the court's record.

15 A 23, it actually shows the time on the ATM and then also
16 the tape that is generated from that transaction prints the
17 exact same information for our records internally.

18 Q And that's how you're able to codify which ATM that's
19 from?

20 A Right, correct, and you can match the actual transaction
21 to the actual person at the ATM.

22 Q Okay, and these are photographs that you presented to
23 North Myrtle Beach?

24 A Yes, sir.

25 Q At their request?

1 A Correct.

2 Q I believe you indicated the times would be correct on
3 there?

4 A Yes, sir.

5 MR. RICHARDSON: And Your Honor, I believe they're
6 already into evidence, but once again any deficiencies in the
7 chain I would subject are then cured at this time on 14
8 through 27.

9 THE COURT: All right, they're already, they're
10 already in evidence.

11 BY MR. RICHARDSON:

12 Q And Mr. Dalton, that's the sum total of your involvement
13 in this particular case; correct?

14 A Yes, sir.

15 Q Thank you very much, Mr. Dalton. If you'll answer any
16 questions Mr. Hazzard may have.

17 A All right, thank you.

18 THE COURT: All right, Mr. Hazzard.

19 MR. HAZZARD: No questions for this witness, Your
20 Honor.

21 THE COURT: Thank you very much. You may step down.

22 MR. RICHARDSON: Your Honor, I'd ask that Mr. Dalton
23 be excused from his subpoena.

24 THE COURT: Any objection?

25 MR. HAZZARD: No objection.

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1 THE COURT: All right, you're free to go. Thank you
2 very much.

3 MR. RICHARDSON: The State would call Mr. Brian
4 Huggins.

5 Brian Huggins was called to the stand, duly sworn by the
6 clerk and testified as follows:

7 THE CLERK: State your full name and spell your last
8 name.

9 MR. HUGGINS: Brian Huggins, H-U-G-G-I-N-S.

10 DIRECT EXAMINATION

11 BY MR. RICHARDSON:

12 Q Mr. Huggins, how are you doing this afternoon?

13 A All right, sir.

14 Q Mr. Huggins, where are you employed?

15 A Conway National Bank.

16 Q Okay, and where were you employed back in March of 2007?

17 A Conway National Bank.

18 Q And back in March of 2007 what were your duties at
19 Conway National Bank?

20 A Security officer for the bank ---

21 Q And as part of your duties as security officer were you
22 in charge of security for the ATM?

23 A Yes, sir.

24 Q The ATMs, Conway National has got more than one branch.

25 A Yes, sir.

1 Q About how many ATMs do they have?

2 A 15.

3 Q Fifteen and with regard to the security for those ATMs
4 what type of security measures do you have installed on those
5 ATMs or did you have in March 2007?

6 A We have cameras at each ATM. Some have two cameras,
7 most have two cameras and that is, of course, recorded.

8 Q Were you contacted by North Myrtle Beach Police
9 Department back in - around March 21st, 2007?

10 A Our security department was, yes, sir.

11 Q And did they make a request for some photographs from a
12 particular ATM?

13 A They did.

14 Q Okay, and I'm going to show you what's been marked as
15 State's 28 through 40. If you could take a look at those and
16 take your time please, Mr. Huggins.

17 A (Complies with request.)

18 Q Mr. Huggins, having looked at State's 28 through 40 do
19 you recognize those photographs?

20 A Yes, sir.

21 Q And how do you recognize those photographs?

22 A There is identifying date, time, machine number and eac
23 photograph says North Conway Main which is the label for the
24 camera at what we call our north Conway office.

25 Q And what's the address of that?

Brian Huggins - Direct by State

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1 A 2601 Main Street.

2 Q 2601 North Main Street, is there another bank across
3 from it.

4 A Yes, sir.

5 Q What bank is that?

6 A Now it's BB&T.

7 Q And back in March of 2007 do you know what it was?

8 A It was Coastal Federal.

9 Q And Mr. Huggins, with regard to those time stamps you
10 just indicated could you tell us anything with regard to their
11 accuracy?

12 A That is produced by the DVR, digital video recorder. It
13 has a clock in it. Our employees are instructed to check the
14 time daily. To me I know of no reason it would not be fairly
15 accurate.

16 Q Yes, sir, and those dates should be correct.

17 A Yes, sir.

18 Q And the times should be correct.

19 A Yes, sir.

20 Q Thank you, Mr. Huggins. If you'll answer any questions
21 Mr. Hazzard may have.

22 THE COURT: Mr. Hazzard.

23 MR. HAZZARD: No questions for Mr. Huggins.

24 THE COURT: Thank you very much. You may step down.

25 MR. RICHARDSON: The State would call Ms. Linda

1 Singleton.

2 MS. SINGLETON: It's Wanda.

3 MR. RICHARDSON: Wanda, I'm sorry, Wanda Singleton. :
4 apologize to the Court and Ms. Singleton.

5 MR. HAZZARD: Your Honor, if he so requests I believe

6 ---

7 MR. RICHARDSON: I would like for Mr. Huggins to be
8 excused.

9 THE COURT: All right, Mr. Huggins, you're free to go
10 Thank you very much.

11 A Thank you.

12 MR. RICHARDSON: Thank you very much.

13 Wanda Singleton was called to the stand, duly sworn by
14 the clerk and testified as follows:

15 THE CLERK: Please state your full name and spell you
16 last name.

17 MS. SINGLETON: Wanda Singleton, S-I-N-G-L-E-T-O-N.

18 DIRECT EXAMINATION

19 BY MR. RICHARDSON:

20 Q Ms. Singleton, once again I apologize for calling you
21 Linda instead of Wanda.

22 A Oh, yeah, that's fine; that's fine.

23 Q Ms. Singleton, would you please tell us where you're
24 currently employed?

25 A First Federal.

Wanda Singleton ~ Direct by State

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1 Q How about back in March of 2007?

2 A First Federal.

3 Q And what are your duties - and when you say First

4 Federal, First Federal ---

5 A Of Charleston.

6 Q Is it a bank?

7 A Uh-huh.

8 Q Okay, what are your duties with First Federal?

9 A Deposits, operations.

10 Q And back in March 2007.

11 A Uh-huh, yes, sir.

12 Q As part of your duties were you in charge, did you

13 obtain some photographs for North Myrtle Beach Police

14 Department?

15 A Yes, sir.

16 Q And can you remember where you were asked to obtain the

17 photographs from?

18 A Our in store Wal-Mart, Conway, on Church Street.

19 Q And what type of, is there any type of recording that

20 ATM machine does?

21 A Yes, there's one inside of the camera, I mean, inside of

22 the ATM.

23 Q Okay, takes pictures?

24 A Uh-huh.

25 Q I'm going to show you what's been marked as State's 41,

1 42 and 43, see if you recognize those photographs?

2 A Yes, I do.

3 Q And how do you recognize those photographs?

4 A Because these are the photographs I pulled from North
5 Myrtle Beach with the date and then Wal-Mart Conway is on the
6 bottom.

7 Q Okay, and that's what it's indicated on the bottom? You
8 can tell that's ---

9 A Yes, sir.

10 Q --- the Wal-Mart location?

11 A Right.

12 Q Can you tell us anything with regard to the accuracy of
13 the time or date on there?

14 A Our cameras are supposed to be checked daily also and
15 they are correct.

16 Q So, that date and time should be correct?

17 A Yes, sir.

18 Q And you submitted those pictures to North Myrtle Beach
19 Police Department?

20 A I did.

21 Q Ms. Singleton, thank you for your time. If you'll
22 answer any questions Mr. Hazzard may have.

23 THE COURT: Mr. Hazzard?

24 MR. HAZZARD: No questions for this witness.

25 THE COURT: Thank you very much. You may step down.

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1 MR. RICHARDSON: Thank you.

2 THE COURT: You can call your next witness.

3 MR. RICHARDSON: And Your Honor, I'd ask Ms. Singleton
4 be excused.

5 THE COURT: Any objection?

6 MR. HAZZARD: No objection.

7 THE COURT: All right, Ms. Singleton, you're excused.
8 Thank you very much.

9 Call your next witness.

10 MR. RICHARDSON: Your Honor, at this time it
11 might be a proper point to take a lunch break.

12 THE COURT: Okay.

13 MR. HAZZARD: Your Honor, may we approach?

14 THE COURT: Yeah.

15 (A bench conference was held in the presence but out of
16 the hearing of the jury.)

17 THE COURT: All right, ladies and gentlemen, it's
18 12:40. It's a good time for us to take a lunch break. I'm
19 going to go ahead and excuse you to lunch. I'll ask if you'd
20 please be back at 1:45. That'll give you about an hour and 25
21 minutes to get you something to eat. Please be back in the
22 jury room at a quarter till two or 1:45. I hope everyone has
23 a good lunch. Please do not discuss this case with anyone.
24 Do not conduct any independent investigations. Please do not
25 even discuss it among yourselves at this point in time. I'll

1 see you back at 1:45. Thank you very much.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right, anything before we break?

5 MR. RICHARDSON: Nothing from the State, Your Honor.

6 THE COURT: Anything from?

7 MR. HAZZARD: Nothing from Defense, Your Honor.

8 THE COURT: All right, we'll stand in recess until
9 1:45. Thank you very much.

10 OFF THE RECORD

11 (On the record.)

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

14 THE COURT: All right, Mr. Hazzard, as we discussed
15 for scheduling purposes, the Court will allow you to recall
16 Riccardo Corley is you wish to question him further regarding
17 - since we introduced into evidence portions of his interview
18 with Sergeant Sheets, if you wish to, but for scheduling
19 purposes we need to make arrangements to get him here if you
20 wish to call Riccardo Corley to testify further.

21 MR. HAZZARD: Your Honor, I have discussed the matter
22 with my client and it is my understanding that Mr. Bellamy
23 waives the opportunity to conduct additional cross examinatio
24 on Mr. Corley. I would ask that the Court inquire further
25 with Mr. Bellamy and confirm that.

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1 THE COURT: All right, all right, Mr. Bellamy, I know
2 you've discussed this matter with your attorney and since Mr.
3 Corley testified and he made certain statements which the jury
4 could perceive to be inconsistent with prior statements he
5 made with Sergeant Sheets and those prior statements were
6 played to the jury, I will give you the opportunity if you
7 want to question Mr. Corley further on that matter since those
8 alleged inconsistent statements were played subsequent to his
9 testifying if you wish to call him.

10 Have you had ample opportunity to discuss this matter
11 with your attorney?

12 MR. BELLAMY: Yes, sir, I did.

13 THE COURT: All right, and your attorney advises me
14 that you choose not to recall Mr. Corley; is that correct?

15 MR. BELLAMY: Yes, sir, it is.

16 THE COURT: All right, thank you very much.

17 All right, anything further before we bring the jury in?

18 MR. HAZZARD: Yes, sir, Your Honor there is a subpoena
19 or a non-service affidavit that I would want to have made a
20 Court's exhibit. My client had indicated he wanted to have a
21 young lady by the name of Alexandria Graham subpoenaed to
22 testify and that subpoena was given to the Horry County
23 Sheriff's Department for the purpose of service of process and
24 they have sent back a non-service affidavit indicating that
25 they were unable to find this young lady and serve her, wanted

1 to make that a part of the record to indicate that my office
2 did attempt to access and locate this witness as requested by
3 Mr. Bellamy.

4 THE COURT: All right, we'll make this Court's Exhibit
5 Number what?

6 REPORTER: Nine.

7 THE COURT: Court's Exhibit Number Nine.

8 (Court's Exhibit Number Nine [Affidavit of Non-Service]
9 appropriately marked.)

10 THE COURT: All right, anything further?

11 MR. HAZZARD: Nothing further on behalf of the Defense.

12 MR. RICHARDSON: No, sir, Your Honor.

13 THE COURT: All right, let's bring the jury back in.

14 (The following takes place in the presence of the
15 jury.)

16 THE COURT: Ladies and gentlemen, welcome back. I
17 hope everyone had a good lunch. We're now ready to resume the
18 case of the State versus Travis Detron Bellamy.

19 Mr. Richardson, you can call your next witness.

20 MR. RICHARDSON: Thank you, Your Honor. The State
21 would call Lieutenant Don Repec.

22 Don Repec was called to the stand, duly sworn by the
23 clerk and testified as follows:

24 THE CLERK: State your full name and spell your last
25 name.

Don Repec - Direct by State

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1 MR. REPEC: My name is Don Repec. Repec is spelled R-
2 E-P-E-C.

3 DIRECT EXAMINATION

4 BY MR. RICHARDSON:

5 Q Good afternoon, Lieutenant?

6 A Good afternoon.

7 Q Could you please tell us about your place of employment,
8 where and in what capacity?

9 A I have been employed with the City of North Myrtle Beach
10 Police Department since 1980. I am currently a lieutenant in
11 charge of the detective division.

12 Q And with regard to being a lieutenant with the detective
13 division what are some of your duties that are associated with
14 that position?

15 A Basically I supervise the detective division and I am
16 also an AFIS operator, the Automated Fingerprint
17 Identification System.

18 Q Is there ever a time where you help or assist in
19 investigations?

20 A Correct, yes.

21 Q I want to take you back in time to March of 2007. You
22 were employed with North Myrtle Beach at that time?

23 A Yes.

24 Q The same position?

25 A Yes.

1 Q Did you become involved in the investigation of this
2 case, the burglary from ?

3 A I did.

4 Q During the course of your duties did you have the
5 opportunity to do a time or a distance I'll say study with
6 Detective Farmer regarding distances from the Whitlocks'
7 residence to other locations?

8 A Yes.

9 Q Okay, with regard to, with regard to that study that you
10 did could you take us through that a little bit, what you did,
11 what you and Detective Farmer did?

12 A We basically got in the car and drove some of the routes
13 following, taking into consideration where the crime was
14 committed, what time, the time was reported to have been
15 committed, what times, what times certain evidence showed up
16 at particular businesses that connected the business with the
17 incident, to our crime in North Myrtle Beach, and drove all
18 those routes. Detective Farmer is much more familiar with
19 those roadways than I was. So, he drove and I, I took some
20 notes.

21 Q Did there come a time when you traveled from the
22 Whitlocks' residence to Sun House Petroleum on Highway 905?

23 A We did, yes.

24 Q And I'm going to be asking about time. Would it, would
25 it help you to refresh your recollection if you look at your

Don Repec - Direct by State

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1 notes on that?

2 A I would have to look at the notes. I don't have the
3 times committed to memory.

4 MR. RICHARDSON: Your Honor, I'd ask that the witness
5 be allowed to refresh his recollection.

6 THE COURT: All right.

7 A Okay, from Whitlocks to the Sun House Convenience Store
8 that was your question?

9 Q Yes, sir.

10 A Okay, I've recorded here approximately 25 minutes.

11 Q And that's without making any other stops; correct?

12 A That's correct, sir, and that's driving at a reasonable
13 speed.

14 Q And that's without going to Old Wilson Road first?

15 A Correct.

16 Q Okay, and that will take you approximately 25 minutes to
17 get from the Whitlocks to this Sun House Petroleum?

18 A Driving close to the or near the speed limit, yes.

19 Q And did you do any study with regard to from Sun House
20 Petroleum to the then Coastal Federal Bank in Conway?

21 A We did that and timed that, right, also, and it was
22 approximately eight and one-half minutes.

23 Q And what speeds were you all driving?

24 A Around the speed limit, perhaps a little faster at times
25 or a little slower at other times. We did not do this at the

1 same time the crime occurred. We did it during daylight
2 hours.

3 Q Okay, so, you didn't do this at one, two or three
4 o'clock?

5 A No, we did not, but we didn't run into a lot of traffic,
6 but ---

7 Q Okay, Lieutenant Repec, I'm going to ask you some
8 additional questions now. We've gone into that state. You
9 said that you're an AFIS operator?

10 A Correct.

11 Q And could you tell the Court what AFIS is?

12 A The AFIS, A-F-I-S stands for Automated Fingerprint
13 Identification System.

14 Q And that deals with fingerprint analysis?

15 A Well, it deals with searching databases, that's
16 basically what it does. You submit searches against a
17 database. Since 2005 our department or I have been able to d
18 this both against the South Carolina's database or any other
19 state in the union which is actually the FBI's database.

20 Q With regard to fingerprints ---

21 A Yes.

22 Q --- do you have specialized training with regard to
23 fingerprint identification or analysis?

24 A I do.

25 Q Could you take us through some of your qualifications?

Don Repec - Direct by State

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1 A Beginning the late, the later 1980s as an investigator I
2 submitted fingerprint identifications I had done to the State
3 Law Enforcement Division specifically to the lieutenant or
4 commander of the Latent Print Unit for a number of years and
5 through that process it was determined that I could based on
6 my identification of a print have it confirmed by another
7 person with similar training and obtain arrest warrants,
8 probable cause based on my identification in other words. So,
9 that was, that was done through the 1980s until early 1990s.
10 1997 North Myrtle Beach obtained its first AFIS computer and I
11 was - received training on the software program which is
12 essentially what it is from the same individual who was a
13 lieutenant with SLED and from a former FBI agent who was
14 employed by the company who made the machine. That happened
15 again in 2005 when we got a new machine.

16 MR. HAZZARD: Your Honor.

17 THE COURT: Yes, sir.

18 MR. HAZZARD: I am not completely sure whether this line
19 of questioning is with regard to the bona fides of Lieutenant
20 Repec as an expert. If so, I'll stipulate to the fact that he
21 is imminently qualified with regard to fingerprint analysis.
22 That's no problem.

23 THE COURT: All right.

24 MR. RICHARDSON: Your Honor, I'd just ask he be
25 admitted as an expert in fingerprint analysis and

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1 identification.

2 THE COURT: All right.

3 Ladies and gentlemen of the jury, typically a witness can
4 only testify as to what the witness personally observed, what
5 they saw, what they smelled, what they touched, things of that
6 nature. However, our law does permit that certain people
7 because of education, experience or whatever the case may be,
8 is qualified as an expert in a given field, and I will
9 instruct you on the testimony of an expert witness a little
10 bit later when I charge you on the law, but the basic
11 difference to let you know at this point in time is the only
12 difference really between an expert witness and a lay witness
13 is that an expert in addition to testifying as to what they
14 have personally observed, touched, smelled or whatever the
15 case may be, they're also allowed to render an opinion in the
16 field for which they are qualified as an expert. So, I find
17 that this witness is an expert in the field of fingerprint
18 analysis and identification; therefore, he will be able to
19 render an opinion in that field.

20 All right, Mr. Richardson.

21 MR. RICHARDSON: Thank you, Your Honor.

22 BY MR. RICHARDSON:

23 Q Lieutenant Repec, with regard to this case did you
24 receive any fingerprint evidence specifically from a van?

25 A I did, sir.

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1 Q From whom did you receive that fingerprint evidence?

2 A From one of my detectives. There were several involved,
3 Detective Sheets, Detective or Sergeant Sheets, I'm sorry,
4 Detective Lynam, and all the detectives that Sergeant Sheets
5 mentioned earlier. Actually, they all are from either
6 Sergeant Sheets or Detective Lynam. They both fairly did the
7 crime scene regarding the van.

8 Q And did you perform any analysis - when did you receive
9 those fingerprint lift cards?

10 A The 24th of that month, I believe it is the 24th of March.

11 Q That's 2007?

12 A Yes.

13 Q And you stated that you did perform an analysis on that,
14 on the latent prints that were lifted from the van?

15 A Yes, there were - excuse me, there were a number of
16 lifts, separate lifts that I did analyze.

17 Q And were you able to determine the identity of any
18 person belonging to those latent lifts?

19 A Yes, there were a total of six lifts from that, from a
20 portion within or without of that, or the outside of that
21 vehicle. I was able to identify one lift that I had numbered
22 lift number 14 as being identical with the victim, Mrs.
23 Whitlock. The other lifts were - lacked sufficient ridge
24 detail for analysis and comparison.

25 Q So, they had a total of six lifts that they were able to

1 get from the car?

2 A Correct.

3 Q And only one was identifiable.

4 A Yes.

5 Q And it actually came back to Mrs. Whitlock.

6 A Yes.

7 Q Is that unusual?

8 A No.

9 Q And let's go into the science of fingerprints. How are
10 fingerprints left?

11 A Well, simply put a fingerprint or a latent print, which
12 latent means hidden, basically, a latent print is simply an
13 oily residue, sometimes containing a bit of amino acid which
14 reacts with a chemical, searches for prints, but that's
15 basically what it is, just residue that actually leaves an
16 impression of the dermal ridges on your fingers or hands or
17 feet.

18 Q And can you tell us anything about the uniqueness of
19 fingerprints?

20 A Everybody has unique individual fingerprints. Not even
21 identical twins have the same fingerprint. There have never
22 been two prints that have been the same belonging to two
23 different people.

24 Q And with regard to the leaving of fingerprints you said
25 it's whenever, whenever you touch something you leave oily

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1 residue?

2 A You may or may not. Sometimes you do. Sometimes you
3 don't. It all depends on your own anatomy, your own body
4 chemistry and the particular surface what you're touching and
5 the weather and etcetera, a number of factors, but yes, that's
6 how it's done.

7 Q And when - and if fingerprints are indeed left are they
8 always identifiable?

9 A No, they are not.

10 Q What could cause them to be non-identifiable?

11 A A poor surface; a wet surface; a dirty, nasty surface;
12 someone with dirty, nasty hands; someone with gloved hands;
13 someone with a particular, with some substance on their hands
14 that fills up the space in between the dermal ridges.

15 Q What if any effect would the touching of a fingerprint
16 have, the overlay?

17 A You're talking about there's another one put on top of
18 it?

19 Q Yes, sir.

20 A Perhaps one would wipe out the other and perhaps you
21 would see bits and pieces of both of them, perhaps they're
22 discernable as two separate prints and they may not be.
23 Oftentimes you come up with just a smear that you can't
24 actually analyze or compare.

25 Q And those are reasons why you don't always have

1 identifiable fingerprints; correct?

2 A Some of the reasons, yes.

3 Q Now, and that was the fingerprint evidence you all got
4 from the van; correct?

5 A Correct.

6 Q Did there come a time whenever you received fingerprint
7 evidence, other fingerprint evidence from Sergeant Sheets?

8 A There was.

9 Q And when did you receive that fingerprint evidence?

10 A The 21st I believe it was, it was March in 2007. These
11 were taken the morning, the morning of the crime.

12 Q And I'm going to go - I'm going to show you State's 50
13 through 57. If you would take a look and see if you can
14 identify those.

15 A Yes.

16 Q And how can you identify those?

17 A My writing appears on each one of them, the back of the
18 cards. I've given them a number, particular number for my ow
19 purposes and other writings.

20 Q And what was the purpose of you taking those cards?

21 A Sergeant Sheets submitted these to me and he gave me -
22 gave these to me to submit for an AFIS search and to compare
23 with the suspects we may develop at a later time.

24 Q And you got them directly from Sergeant Sheets?

25 A Yes.

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1 Q What did you do with them upon your receipt?

2 A I examined them. I had no luck with an AFIS search for
3 any of these. So, I saved them until we actually had a viable
4 suspect.

5 Q And can you account for the failure of the AFIS system
6 ---

7 A I've listed, I've listed on here there were two prints
8 from this group that I identified. They were both partial
9 palm prints. In South Carolina the active taking of palm
10 impressions to put on the back of ten print cards, I can't
11 show them the evidence here; can I?

12 Q No.

13 A Okay, back of a fingerprint card, the fingerprint have
14 ten, your ten digits on the fingerprint card provided you have
15 ten fingers. Some cards have the back of the card also has
16 your palm impression on the back of it. Most agencies and
17 seemingly most states do not put palm prints on the back of
18 fingerprint cards or ten prints cards that are submitted to
19 the AFIS database. So, at that time there no actual prints -
20 well, no, the search that I did for the palm impressions came
21 up with negative results. I did not find anybody in the
22 database.

23 Q And with regard to AFIS is it the final step in a
24 fingerprint analysis?

25 A Well, the ---

1 Q Or would it be the final step?

2 A No, the final step is a comparison. I mean, once - if
3 AFIS makes a hit it's still the operator, the examiner who
4 makes the final decision. It determines that it actually is a
5 legitimate hit or a legitimate positive identification.

6 Q So, you're saying AFIS is just to give you this is a
7 possible and you would then have to confirm it by eyeball?

8 A Yeah, on this occasion I had no possibles, no nothing
9 from AFIS. It was no help.

10 Q Okay, and so, what did you do with these prints?

11 A I saved them. I filed them in my file cabinet and left
12 them.

13 MR. RICHARDSON: And Your Honor, at this time I would
14 seek to introduce these into evidence. I believe there was an
15 objection to foundation earlier.

16 THE COURT: All right, and what exhibit number are
17 those?

18 MR. RICHARDSON: That is 50 ---

19 A Through 57.

20 MR. RICHARDSON: --- through 57.

21 THE COURT: All right, Mr. Hazzard?

22 MR. HAZZARD: No objection, Your Honor. The foundation
23 has been laid.

24 THE COURT: All right, State's, State's Exhibits
25 Number 50 through 57 admitted without objection.

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1 (State's Exhibits 50 through 57 [Fingerprint Cards]
2 admitted into evidence and appropriately marked.)

3 MR. RICHARDSON: I'll also ask about 49 real quickly
4 so we can get it into evidence. .

5 A 49 is a photograph of item four, and I don't know which
6 exhibit number that is.

7 Q Item four.

8 A Which is the back here, this one.

9 Q Okay.

10 A It's a photograph.

11 Q Court's, and Your Honor ---

12 A It's a photograph of that.

13 Q And from whom did you receive item 49?

14 A The same person.

15 Q And you've kept custody since?

16 A Yes.

17 MR. RICHARDSON: Once again, Your Honor.

18 THE COURT: All right, Mr. Hazzard, Exhibit 49.

19 MR. HAZZARD: Without objection.

20 THE COURT: All right, State's Exhibit Number 49
21 admitted into evidence without objection.

22 (State's Exhibit Number 49 [Fingerprint Card] admitted
23 into evidence and appropriately marked.)

24 BY MR. RICHARDSON:

25 Q Now, Lieutenant Repec, did there come a time when you did

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1 receive a print to compare?

2 A Palm impressions, yes, there, yes, there did on July 2nd
3 of '07.

4 MR. RICHARDSON: The Court's indulgence.

5 BY MR. RICHARDSON:

6 Q Now, Lieutenant, I'm going to hand to you what I'm now
7 marking - and you said you did receive a print to compare.

8 A Two, yes, sir.

9 Q May I hold them?

10 A These are.

11 Q Lieutenant, State's Number 59 and 60 can you identify
12 those?

13 A Yes, each of these is a palm print, a known inked palm
14 print or fingerprint impression, palm impression that I
15 received from Detective Dennis Pitsinger. One is of the left
16 hand, one is of the right hand. He took these in July 2nd,
17 2007.

18 Q Do you know from whom he did take those?

19 A Travis Bellamy.

20 MR. RICHARDSON: Your Honor, I would like to introduce
21 State's 59 and 60.

22 THE COURT: Any objection?

23 MR. HAZZARD: No objection.

24 THE COURT: All right, State's Exhibits Numbers 59 and
25 60 admitted into evidence without objection.

Don Repec - Direct by State

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1 (State's Exhibit Numbers 59 and 60 [Palm Print] admitted
2 into evidence and appropriately marked.)

3 BY MR. RICHARDSON:

4 Q With regard to State's 59 and 60, palm prints, did you
5 do any analysis comparison with them?

6 A I did.

7 Q And can you describe what analysis or comparison you
8 did?

9 A Looking, comparing all the fingerprint cards that I had
10 given to me from Detective Sheets involving the prints he had
11 I compared every print to the, the first digits of Travis
12 Bellamy with pretty much negative results.

13 Q Now, when you say negative results what do you mean?

14 A Means I could not make an identification.

15 Q Does that mean it wasn't him or ---

16 A It means that I could not make an identification of
17 anyone actually except for Mrs. Whitlock. That's the only
18 identification I did make, but I compared Travis's to what I
19 had and still came up with nothing, with no identification
20 regarding the first joint of each finger. Now, the two
21 impressions we just spoke about the - there were two
22 identifications made on two of those lifts. One was item
23 number four, which was positive for the left hand of Travis
24 Bellamy. It's the portion of the left hand that is here in
25 this area. It's called in, I guess, in fingerprinting

1 language the hypothener area is this part, portino of the
2 hand. The other, the other idenficiations made from another
3 lift which there's a photograph of actually and there's - the
4 lift is the same, the same portion of the same hand. It's
5 actually, it's item number eight which is this area slightly
6 above the area that appeared on item number four. It's right
7 in here, and those identified as Travis Bellamy and no other.
8 It is Travis Bellamy.

9 Q And those, those prints that you're saying are Travis -
10 it's your opinion that Travis Bellamy's were on State's number
11 57 and 56?

12 A Yes, this, this is also - these are like duplicates.
13 It's a photograph of the same thing, but it's, yeah, these
14 two.

15 Q Okay, that's what appears on State's Number 49. Did you
16 prepare any types of charts or anything with regard to the
17 comparison?

18 A I did.

19 Q Let me show you what's now been marked as State's Number
20 58.

21 A Uh-huh.

22 Q Can you identify that?

23 A Yes, I can. It's the latent impression from the crime
24 scene which was item number four. It's State's 58, which is
25 I'll leave the State's part to you. It's item - my item

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1 number four and this is the inked impression, a portion of
2 that from the inked impression card for Travis Bellamy, and
3 what I did, I can show you, I took ---

4 Q You can't publish it yet.

5 A I can't, oh, that's right, won't do that.

6 Q This is the - this is what you did?

7 A Yes, sir, that's what I did.

8 MR. RICHARDSON: Your Honor, I would seek to introduce
9 State's Number 58 and publish it. I don't believe there's any
10 objection.

11 THE COURT: Any objection?

12 MR. HAZZARD: I would want to see it first.

13 THE COURT: All right.

14 MR. HAZZARD: No objection, Your Honor.

15 THE COURT: All right, State's Exhibit Number 58 is
16 admitted into evidence without objection.

17 (State's Exhibit Number 58 [Enlarged Print] admitted into
18 evidence and appropriately marked.)

19 MR. RICHARDSON: And may we publish, Your Honor?

20 THE COURT: Yes.

21 BY MR. RICHARDSON:

22 Q You can turn around now.

23 A Okay, I know that some of you probably can't see this too
24 well but on this side, my right hand, there is a, this is a
25 blown-up rendition of the latent print from the crime scene

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1 that was found on the, I believe it's the ATM machine at the
2 bank. This is a blown-up rendition from this side, a blown-up
3 rendition of the known inked palm impression for Travis
4 Bellamy and I marked with red I think 16 ridge characteristics
5 that are the same in both the inked impression for Travis
6 Bellamy and the latent fingerprint found at the crime scene.

7 MR. RICHARDSON: Your Honor, I'm going to publish it
8 to the jury.

9 THE COURT: All right.

10 MR. RICHARDSON: I'm not going to ask any questions
11 while I'm doing this.

12 BY MR. RICHARDSON:

13 Q Lieutenant Repec, if we could revisit the van. Did you
14 prepare any reports or papers with regard to your analysis?

15 A I did.

16 Q You indicated that you were able to determine one
17 fingerprint, the identity of one fingerprint in the van?

18 A Correct.

19 Q Exactly how do you term the rest of the fingerprints
20 from the van? How do you define them?

21 A In this particular report I have - this was the van I
22 have insufficient ridge detail. I have one positive with the
23 right ring finger for Linda Whitlock and I believe there is
24 one that's a negative.

25 Q And when you say insufficient ridge detail what does

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1 that mean?

2 A It means it lacks a sufficient number of discernible or
3 identifiable ridge characteristics in order to make an
4 identification.

5 Q To anybody?

6 A Yeah, yes.

7 Q And is it unusual to get that kind of a result?

8 A It's not unusual, no.

9 Q In a car or anywhere else?

10 A It happens often.

11 Q And you did - it's your opinion that the ones you were
12 able to identify one palm print; correct, from the ATM?

13 A Two separate lifts but it was the same palm, yes.

14 Q With regard to State's 50 your item one what was your
15 result?

16 A Insufficient ridge detail for analysis and comparison.

17 Q State's 51, your I-2.

18 A Insufficient ridge detail for analysis and comparison.

19 Q And I'll go through these State's 52, 55, 54 and 53
20 which would be your I-3, I-6, 7 and 5, I-3, I-5, I-6, I-7.

21 A Okay, those were all insufficient for analysis,
22 comparison. Remember that I did look at those but was unable
23 to make an identification for anybody is simply what that
24 means.

25 Q And those were your finding with regard to this case?

1 A Yes, yes.

2 Q Thank you, Lieutenant Repec. If you'll answer any
3 questions that Mr. Hazzard may have.

4 THE COURT: All right, Mr. Hazzard.

5 MR. HAZZARD: Yes, sir, the Court's indulgence, Your
6 Honor, please, sir.

7 THE COURT: All right.

8 CROSS EXAMINATION

9 BY MR. HAZZARD:

10 Q How are you doing today, Don?

11 A I'm doing well, sir. How about you?

12 Q I'm good, and I call you that because we've known each
13 other more than 20 years now; right?

14 A I believe you're correct.

15 Q Yeah, time flies, and you say that you've been with
16 North Myrtle since 1980 I think you said?

17 A Yes.

18 Q All right, so, that's 29 years. Okay, let's be very,
19 very clear on this. The two prints that you indicate that yo
20 found for Travis Bellamy they're not at the Whitlocks' home
21 and they're not in the Whitlocks' car; correct?

22 A No, correct.

23 Q They're at the ATM, one of the ATMs out wherever, in
24 Conway or wherever; correct?

25 A Correct.

Don Repec - Cross by Defense

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1 Q Thank you, no further questions.

2 THE COURT: All right. Mr. Richardson, anything on
3 redirect?

4 MR. RICHARDSON: No, sir, Your Honor.

5 THE COURT: All right.

6 MR. RICHARDSON: At this time the State would ask that
7 Lieutenant Repec be excused from his subpoena.

8 THE COURT: Any objection?

9 MR. HAZZARD: No objection.

10 THE COURT: All right, you may step down and you're
11 free to go. Thank you very much.

12 MR. RICHARDSON: Thank you, Lieutenant.

13 THE COURT: All right, the State can call its next
14 witness.

15 MR. RICHARDSON: Your Honor, at this time the State is
16 resting.

17 THE COURT: All right.

18 All right, ladies and gentlemen, the State has presented
19 its case and now it is time procedurally where I will need to
20 take up some matters of law with the attorneys before we
21 proceed further in the case. So, at this point in time I'm
22 going to excuse you back to the jury room and we'll bring you
23 back out very shortly. Thank you very much.

24 I caution you again though it's still premature to begin
25 deliberations. Do not talk about the case. Thank you very

1 much.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right, Mr. Hazzard, that's the close
5 of the Plaintiff's, excuse me, the State's case. Any motions'

6 MR. HAZZARD: Your Honor, at this time the Defense move:
7 for a directed verdict of not guilty. The basis of that
8 motion is that the light presented by the State taken or the
9 evidence presented by the State taken in the light most
10 favorable to the State still does not rise to the level
11 sufficient to submit it to the jury for its consideration.

12 THE COURT: All right, sir, your motion is noted. I'
13 going to deny that.

14 Anything further?

15 MR. HAZZARD: Nothing further on behalf of the Defense
16 at this time, Your Honor.

17 THE COURT: All right, sir.

18 Have you had ample opportunity to speak with your client
19 regarding whether he wishes to testify or present a Defense i
20 this case?

21 MR. HAZZARD: The Court was good enough to give us time
22 to speak on a couple of different issues, but I would submit
23 that I have not had sufficient time to speak with the
24 Defendant on that particular issue of whether he wishes to
25 present a defense and/or whether he wishes to testify. So, I

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1 would ask the Court for approximately 15 to 20 more minutes to
2 confer with my client in that regard.

3 THE COURT: All right, before you confer with him let
4 me go over, go ahead and go over some questions with him
5 regarding his rights.

6 All, Mr. Bellamy, if you'd please stand. Please raise
7 your right hand.

8 (Whereupon, Defendant sworn by Court.)

9 THE COURT: All right, all right, Mr. Bellamy, at this
10 time I'm going to explain to you your right to testify or not
11 testify in this case. If you do not understand anything I say
12 please let me know. If you want me to explain anything in
13 more detail please let me know. Do you understand that?

14 MR. BELLAMY: Yes, sir.

15 THE COURT: All right, we've now reached the stage of
16 the trial where you may present your defense. You have
17 the right to claim the protections given to you by the Fifth
18 Amendment to the Constitution of the United States. That
19 amendment states in part that no person shall be compelled in
20 any criminal case to be a witness against himself. This means
21 that you cannot be required to testify in this case. You have
22 the right to testify on your own behalf; however, no one can
23 make you testify. This is a personal right and no one can
24 waive this right except for you. If you decide to testify
25 you'll be subject to the same rules that govern other

1 witnesses and you may be examined and cross examined on any
2 relevant issue in this case. In addition if you have any
3 convictions involving dishonesty or false statement or for
4 crimes punishable by imprisonment for more than one year and
5 this court determines that the probative value of admitting
6 this evidence outweighs its prejudicial effect to you the
7 solicitor will be able to introduce your record to attack your
8 credibility. If you decide to testify this decision on your
9 part must be freely, voluntarily and intelligently made with
10 knowledge of the protections given to you by the Fifth
11 Amendment and the consequences of your decision to testify.
12 If you decide not to testify I will instruct the jurors that
13 they cannot give the fact that you did not testify any
14 consideration whatsoever and that there is to be absolutely no
15 prejudice to you because you did not testify. It is left
16 entirely up to you whether or not you testify. You may talk
17 with your attorney, your family and friends or anyone else but
18 the final decision will be left entirely up to you. Do you
19 understand what I've explained to you?

20 MR. BELLAMY: Yes, sir, I do.

21 THE COURT: All right, do you have any questions about
22 what I've explained to you?

23 MR. BELLAMY: No, sir, I don't.

24 THE COURT: All right, I'm going to - we're going to
25 go ahead and take about a ten, 15 minute break, let you

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1 discuss this matter with your attorney. If that is not a
2 sufficient amount of time when I contact and you need some
3 additional time you let me know; okay?

4 MR. BELLAMY: Yes, sir.

5 THE COURT: All right, let's stand in recess for about
6 10 minutes. Thank you.

7 OFF THE RECORD

8 (On the record.)

9 (The following takes place outside the presence of the
10 jury.)

11 THE COURT: All right, Mr. Hazzard, have you had ample
12 opportunity to discuss with your client his right to testify
13 and/or present a defense in this case?

14 MR. HAZZARD: I have, Your Honor.

15 THE COURT: All right, and does he wish to testify?

16 MR. HAZZARD: It is my understanding that he does not.
17 I would ask that the Court inquire.

18 THE COURT: All right, all right, Mr. Bellamy, you're
19 still under oath from when I placed you under oath prior to
20 our taking a recess. Have you had ample opportunity to
21 discuss with your attorney your right to testify in this case?

22 MR. BELLAMY: Yes, sir, I did.

23 THE COURT: All right, do you have any questions that
24 you want to ask me or any additional questioning you want to
25 ask your attorney regarding this matter?

1 MR. BELLAMY: No, sir, I don't.

2 THE COURT: All right, and do you wish to testify in
3 this case?

4 MR. BELLAMY: No, sir, I don't.

5 THE COURT: All right, is that decision to not testify
6 or not to testify a voluntary decision on your part?

7 MR. BELLAMY: Yes, sir, it is.

8 THE COURT: All right, thank you very much. All
9 right, you can be seated.

10 Will the - will you be putting up any defense or calling
11 any other witnesses?

12 MR. HAZZARD: At this time the Defense rests.

13 THE COURT: Okay.

14 I guess if we can go ahead and - are we ready to begin
15 closing arguments?

16 MR. RICHARDSON: Your Honor, if I could have about
17 five minutes. I just need to clarify one thing - I just want
18 to make sure I'm correct on one issue of law.

19 THE COURT: All right.

20 MR. RICHARDSON: Okay.

21 THE COURT: Well, I mean, I guess the question is is
22 it's 3:30. We still have closing arguments from the State,
23 closing from the Defense, a charge and deliberations. Do we
24 want to go ahead and go forward?

25 MR. RICHARDSON: Your Honor, I'll leave that within

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1 the discretion of the Court. You may want to inquire of the
2 jury. I don't know. I know other judges have allowed the
3 jury to make that determination before whether or not to
4 finish up or if they want to begin anew in the morning.

5 THE COURT: All right, Mr. Hazzard, your feelings?

6 MR. HAZZARD: The Defense position would be to argue and
7 charge in a continuous fashion, allowing argue, charge and
8 deliberation. We still have a conference with regard to the
9 Court's charge, although I think we've pretty much covered the
10 vast majority of that, but obviously I think we'll want to
11 make sure everything that's going to be in the Court's charge.
12 Then you have the closing arguments, then you have the charge,
13 then we have the deliberations, which could very, very easily
14 take the jury past 5 p.m. So, the Defense position would be
15 that we start everything so that it can go unimpeded in the
16 morning.

17 THE COURT: All right, I think we'll probably do that.
18 We'll just need to let ---

19 MR. RICHARDSON: Without objection from the State,
20 Your Honor.

21 (Scheduling for trial to follow State v. Travis Bellamy
22 discussed.)

23 THE COURT: All right, anything before we bring the
24 jury back in?

25 MR. RICHARDSON: It is the intention of the Defense to

1 rest on the record once they reenter?

2 THE COURT: It doesn't really matter. I'm just going
3 to ---

4 MR. HAZZARD: Yeah, we can - I'll rest on the record.
5 Then you can excuse them.

6 THE COURT: Okay.

7 MR. RICHARDSON: Okay, that'll work.

8 THE COURT: All right.
9 Bring the jury back in.

10 MR. RICHARDSON: And Your Honor, I don't object if h
11 wishes to rest tomorrow morning.

12 (The following takes place in the presence of the
13 jury.)

14 THE COURT: All right, ladies and gentlemen, welcome
15 back. All right, Mr. Hazzard.

16 MR. HAZZARD: I'm sorry, Your Honor. Thank you very
17 much.

18 Your Honor, at this time the Defense rests.

19 THE COURT: All right, thank you very much.

20 All right, ladies and gentlemen, the State has rested
21 their case. The Defense has rested their case. So, that is
22 all the testimony and evidence that you'll be hearing in this
23 trial. Now, procedurally what we've got before we can begin,
24 let you begin your deliberations is we have to go through
25 closing arguments. Then I have to charge you on the law in

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1 the case and then you can begin your deliberations. Well,
2 right now it's about 25 till four, 19 or 24 till four; and so,
3 we're going to be pressing that. That's going to take a
4 little bit of time. So, I'm going to go ahead and excuse you
5 for the remainder of the day, and when we come back tomorrow
6 morning we'll go through the closing arguments on the jury
7 charge and then you can begin your deliberations. So, I'm
8 going to excuse you for the remainder of the day and I ask
9 that you please be back in the jury room at 9:15 tomorrow
10 morning so that we can get started promptly at 9:15. It's
11 still too early to begin your deliberations. Do not talk
12 about this case. Do not conduct any independent
13 investigation. Do not go looking for any news accounts or
14 anything of that nature. It's still early to even begin
15 discussing the case among yourselves. You have not been
16 charged on the law. You have not heard closing arguments and
17 I will direct you when you can begin your deliberations, but I
18 still caution you at this point in time not to discuss this
19 case with anyone even among yourselves. I hope you have a
20 good evening, and we'll see you back at 9:15 tomorrow morning.
21 Thank you very much.

22 (The following takes place outside the presence of the
23 jury.)

24 THE COURT: Anything from the State before we recess?

25 MR. RICHARDSON: Nothing from the State, Your Honor.

1 THE COURT: Anything from the Defense?

2 MR. HAZZARD: Nothing from the Defense, Judge.

3 THE COURT: All right, James is - I've got - already
4 got my charges formulated. He's making a copy for each of you
5 all so you'll have that to look over tonight, so tomorrow
6 morning you can come in if you've got any challenges or
7 anything we can go ahead and put those on the record, all
8 right.

9 MR. RICHARDSON: Very good.

10 THE COURT: I've also prepared a verdict form that I'm
11 going to use that I'll give you a copy of it which just says
12 on the charge of first degree burglary we, the jury, find the
13 Defendant and then they write in the verdict and then the same
14 thing for armed robbery and the same thing for kidnapping
15 rather than handing back the - all right, if you all want to
16 just stick around - well, those are you all's copies to hold
17 on to and like I say James will be bringing you a copy of the
18 charge and you'll be able to go over that tonight; okay?

19 MR. RICHARDSON: Thank you, Your Honor.

20 THE COURT: All right, we'll stand in recess until
21 9:15 tomorrow morning.

22 OFF THE RECORD

23 (On the record, Thursday, August 6, 2009.)

24 (The following takes place outside the presence of the
25 jury.)

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1 THE COURT: All right, anything from the State before
2 we bring the jury in?

3 MR. RICHARDSON: Nothing from the State, Your Honor.

4 THE COURT: Anything from the Defense?

5 MR. HAZZARD: Your Honor, it's my understanding we've
6 discussed requested changes in the jury charge outside the
7 presence of the jury back in the Court's chambers this
8 morning. It's my understanding we are in agreement upon those
9 changes. So, other than that nothing from the Defense.

10 THE COURT: All right.

11 Go ahead and bring the jury in.

12 MR. HAZZARD: Oh, Your Honor, before they bring ---

13 THE COURT: Let's stop them right quick. All right,
14 sir.

15 MR. HAZZARD: At this time, Your Honor, the Defense
16 renews its motion for a directed verdict.

17 THE COURT: All right, your motion is noted; however,
18 I deny the motion.

19 All right, now we can bring the jury in.

20 (The following takes place in the presence of the
21 jury.)

22 THE COURT: All right, ladies and gentlemen, welcome
23 back. I hope everyone had a good evening. We're now ready to
24 resume the trial of this case; however, you have now heard all
25 of the testimony and evidence to be presented in this case and

1 we're at the stage of the trial now where the attorneys will
2 make their closing arguments. Just like their opening
3 statements these closing arguments are not evidence. The
4 closing arguments are simply the attorneys' opinion as to what
5 they feel that the facts have been or what facts have been
6 shown in this case. However, it is not evidence. If at any
7 time any of the attorneys make any statement as to a factual
8 matter that differs from what you find the facts of this case
9 to be you're to disregard the attorneys' statements because as
10 I said these closing arguments are only their opinion as to
11 what they feel the evidence has shown in this case.

12 All right, Mr. Richardson.

13 MR. RICHARDSON: Folks, we began this case we talked
14 to you about nightmares. I think after hearing all the
15 evidence there's no doubt what was inflicted upon the
16 Whitlocks was indeed a nightmare, terror. A lot of times whe
17 you have a nightmare you're wondering what caused it, was it
18 something I watched on TV, some scary movie, was it a Stephen
19 King book I read, was it an old piece of pizza I ate right
20 before I went to sleep, what caused it? In this case we know
21 what caused this nightmare, what inflicted this terror. It's
22 the Defendant, Travis Bellamy. He planned, he schemed and he
23 executed this burglary, kidnapping and armed robbery back on
24 March, in the early morning hours of March 21st, 2007. Today
25 the nightmare must end and the defendant must be held

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1 accountable for his actions. He must be found guilty.

2 In a moment the Judge is going to give you some
3 instructions. You will get a thick stack of charges that you
4 can take back to the jury room because he's going to tell you
5 that you, you are the judges of the facts. You will take all
6 the evidence and you'll weigh it back, back there and you'll
7 decide what it means but he'll tell you that he's the judge of
8 the law. He'll give you the law to apply to those facts and
9 it's through that law and those facts that you will find the
10 Defendant, Travis Detron Bellamy guilty.

11 The Judge is going to talk to you about reasonable doubt.
12 We've all heard that term before I'm sure, whether it's in a
13 book or TV or on radio or in the movies. The State has got to
14 find the Defendant guilty beyond a reasonable doubt but what
15 does that mean? The Judge is going to give you the law on
16 that. He's going to give you the instructions. The Judge
17 will tell you that to find the Defendant guilty, to prove the
18 Defendant guilty the State must give you evidence that leaves
19 you firmly convinced of his guilt, and after weighing the
20 evidence you are firmly convinced of his guilt you must find
21 him guilty. That is what reasonable doubt is and how do we do
22 that? Well, the State does it by giving you the competent,
23 relevant and admissible evidence because that's my job. It's
24 not to put up evidence that will mislead you, cause you to
25 mistake a fact, give you the competent, relevant and

1 admissible evidence to help you render a true and just verdict
2 and that's what I'm asking for today, for you to render a true
3 and just verdict. The Judge will talk to you about the laws
4 of burglary in the first degree. He will tell you that
5 burglary in the first degree occurs when someone enters a
6 dwelling and a dwelling is a building in which someone lives,
7 pretty easy here. It's a home, that that burglary occurs with
8 the intent to commit a crime therein, such as a robbery, and
9 that while doing that entrance that it occurs in the
10 nighttime, here between one and two in the morning, or that
11 someone involved in that burglary is armed or appears to be
12 armed with a deadly weapon. Folks, the Whitlocks told you
13 they saw a pistol, at the very least what appeared to be a
14 pistol. We didn't find a gun but the Whitlocks believed there
15 was one. There was one put in their face, one forced them to
16 give out ATM cards, tell them where certain valuables were.

17 The Judge will talk to you about armed robbery and he'll
18 tell you that armed robbery is the taking of property from
19 another by force, by use of a deadly weapon. Once again, here
20 we have a gun, they're taking ATM cards, cell phones, a van,
21 they're robbing them, and the Judge will talk to you about
22 kidnapping. The Judge will tell you that it's the unlawful
23 detention of another. Folks, there's no question here Mr. and
24 Mrs. Whitlock were tied with a phone cord and rope. They were
25 left, Mrs. Whitlock face down on the floor, Mr. Whitlock hog

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1 tied, hands and feet tied together, not well, but they were
2 tied together. Mrs. Whitlock could not escape for almost
3 five, until almost five minutes after the robbers left, but no
4 doubt they were detained in their home. So, there's no doubt
5 that these crimes occurred, first degree burglary, kidnapping
6 and armed robbery. Who did it? We know what happened. We
7 know where it happened. We know when it happened. We know
8 who it happened to but who did it? Folks, you weigh the
9 evidence to figure that out and all the evidence points to
10 Travis Bellamy.

11 Mrs. Whitlock and Mr. Whitlock took the stand and they
12 told you every detail of the crime. They told you how they
13 awoke to one man on one side of them, one man on the other
14 side of them. They appeared to be black males and the leader
15 was the tallest. You saw Riccardo Corley and you see the
16 Defendant. You know who's taller. Mrs. Whitlock and Mr.
17 Whitlock told you how they were taken from their bed, the dogs
18 are barking, how they were taken into the bathroom and when
19 she tried to escape she was tied up, put on the floor. She
20 told you how the leader, the taller one got the ATM card and
21 how he asked three times, "What's the PIN number," took care
22 to take a piece of paper and write it down so he had it right,
23 forced them to do this at the end of a gun.

24 They told you about how the van was taken, stolen away.
25 Once again, no doubt these crimes took place but who did it.

1 Well, Riccardo Corley, he took the stand. You all saw him.
2 Didn't want to answer the questions. He was evasive. He
3 denied making statements to Sergeant Paul Sheets. I asked
4 him, "Didn't you tell Sergeant Sheets that Travis had a gun."
5 He said no. Well, folks, you all heard his prior inconsistent
6 statement given back April 25th, 2007, a short time after the
7 robbery. He said, "Yeah, I was involved and Travis had the
8 weapon." I asked him, "Didn't you tell Sergeant Sheets that
9 Travis took the van?" He said nope, that's what he told you
10 on the stand, but once again, you heard from that statement
11 that we played Travis had the van. "I went in the truck back
12 the way we came in down the dirt road. The van went down
13 17."

14 Asked about the PIN number, who got the ATM card. He
15 denied that and you heard from that statement who got the PIN
16 number. She gave it to Travis. She gave Travis the PIN
17 number. Folks, that's inconsistent to his testimony.
18 Riccardo Corley has already pled. He told you that, pled
19 guilty to the armed robbery, folks, other charges were
20 dismissed but he pled guilty to his part in this crime. In
21 his prior inconsistent statement you heard about Travis being
22 the one that entered the home first, that he unlocked the
23 door. Folks, you unlock the door you've got to have that key
24 that missing key. How he got it, I don't know. I don't have
25 to prove how he got it, but he unlocked the door and he led

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1 them, told them about the dogs, Mrs. Whitlocks' dogs. Only a
2 person who is involved in the crime could tell you that.
3 Folks, you weigh which statement is correct, and I think
4 you'll do the right thing on that.

5 What other evidence do we have that leads to Travis?
6 Well, Sergeant Sheets took the stand, told you this is a map
7 of the areas in Horry County that they're involved. He told
8 you the victims' house is right here, [REDACTED].
9 The van is found actually at 200 Old Wilson Road, the same
10 location, and I asked him, I said, "Have you driven that route
11 before? Have you driven to 200 Old Wilson Road from the
12 Whitlocks' residence?" Said, "Yes, I used two, two different
13 modes of travel. One I went down the old dirt road," that
14 dirt road you heard about in that statement," Water Tower
15 Road, went back up to Highway 9, 22, to 905 to Old Wilson
16 Road," said he got there in about 15 minutes or so.

17 Said, "How about the other way you went?" He said,
18 "Well, I took it out on 17, got up here on 22, went down 905,
19 back to Old Wilson Road, took me about 20 to 25 minutes."
20 "How far is Old Wilson Road, Sergeant Sheets, from the home of
21 Travis Bellamy?" "Less than a mile, less than a half a mile,"
22 and what did that statement tell you? Where was Travis going
23 to hide the van? Behind the club. Where was it found?
24 Behind the club.

25 I asked Sergeant Sheets, "Where was that ATM card used?"

1 "Well, came down 905 and it was used here at the Sun House
2 Convenience Store." That's quiet a distance right there isn't
3 it, folks? About equal distance from [REDACTED] to Old
4 Wilson Road. So, he's using, the thief is using that ATM
5 card at Sun House Petroleum, get some gas and he comes down to
6 Coastal Federal Bank, now BB&T, gets a little bit of cash out
7 there and then gets declined. Then he goes to Conway National
8 across the street. Maybe it's going to work there, and he's
9 getting frustrated now, not working. So, he tries one more
10 location with that stolen ATM card, First Federal Bank in Wal-
11 Mart right here in Conway. Folks, you check out the times.
12 We've got a video from Sun House Petroleum that black
13 Explorer, that black Explorer, that black truck, drove down
14 Water Tower Road and up to, up to that Red Bluff area, arrive
15 at Sun House Petroleum at 2:26 in the morning. It's important
16 because Mrs. Whitlock told you, "It took me five minutes,
17 maybe less, to get untied and go call 911." That 911 call we
18 found out occurred at 1:48, take five minutes from that and
19 it's 1:43 in the morning when the robbers left, important.
20 The thief arrives here at 2:26 to use the card.

21 Next they travel down to Coastal Federal Bank. Well, we
22 know what time they arrived there, right here on State's
23 Exhibit 15 we see that black Explorer pulling up 2:38 and 48
24 seconds.

25 Look on State's Number 17 and we see that black Explorer

Closing Argument by State

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1 right at the ATM and you can see a little bit of the face
2 there, the man who's got that ATM card. State's 20 he's
3 using the ATM card, 2:42 and zero seconds, what's this he's
4 got in his hand? Could it be that list, that little scrap of
5 paper where he wrote down the ATM number, just like Mrs.
6 Whitlock said? Must be because at 2:44 and eight seconds he's
7 got \$200 out. He must have written it down right, and on
8 State's Number 22 at 2:44 and nine seconds he's got the ill-
9 gotten gains, he's got the cash in his hand. Then he gets
10 declined, and folks, if I can draw your attention back to when
11 he's sitting up by the ATM, what does he leave? What do the
12 thieves leave? A palm print and who's that palm print track
13 back to? Travis Bellamy.

14 Next we go on over to Conway National. It's across the
15 street. Maybe it'll work there. Well, let's get there, 2:49
16 and one second. Well, once again we've got a list here.
17 What's he looking at? Well, maybe I punched a number in
18 wrong, maybe, but it's not working but he's looking at that
19 list, he's looking at the PIN number and for some reason it's
20 not working anymore, maybe he's nervous. Once again on
21 State's 33 still looking at the list trying to push the card
22 in, and finally, folks, the card won't work at Conway
23 National, so, got to get on over to First Federal, takes a
24 little time there, 3:15, who is that using that card? Travis
25 Bellamy. 3:16 he's still there. In each pictures he's

Closing Argument by State

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1 dressed in black. He's got that toboggan and stocking mask up
2 on his head, could it be a mask?

3 Folks, the timeline doesn't lie. By Mrs. Whitlock's
4 statement we know that the robbers left at 1:43, maybe a
5 little bit after. At 1:48 she's calling five minutes after
6 the robbers leave, 911. At 2:26 a black male attempts to use
7 the Whitlocks' ATM card at Sun House Petroleum and he's there
8 till 2:32. That's 43 minutes from the time the robbers leave
9 Now, mind you, they've got to take that van and hide it first
10 drop it off and then get to Sun House Petroleum in that black
11 Explorer, 43 minutes is all the time they had. Then he goes
12 to Coastal Federal, drives that short distance like Lieutenant
13 Repec told you to Coastal Federal, arrives there at 2:38
14 according to the bank clock, uses the Whitlocks' ATM card,
15 gets \$200 out and then he gets declined and who's palm prints
16 is left there? Travis Bellamy. Then that same black male,
17 same dress, same truck goes over to Conway National, and
18 leaves Coastal Federal at 2:47, goes across the street, gets
19 there at 2:48 and he's using the ATM card at Conway National,
20 no luck, got to try one more spot. So, at 3:15 he attempts to
21 use the ATM card there First Federal Bank, Wal-Mart here in
22 Conway. Folks, there's not time for anybody else to use that
23 card but the man who stole it, the man who's using that list
24 that he wrote down at the Whitlocks' residence, the leader of
25 the pack, the man who's planned and schemed this burglary.

Closing Argument by Defense

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1 Where was the van found? About a half a mile, mile to a
2 half a mile from Travis Bellamy's house. Why? Because he
3 drove the van, because he had to stow it away, got to wait it
4 out.

5 Folks, just as plain as this road leads from the last of
6 this crime scene, First Federal, Coastal Federal and Conway
7 National and back up 905 to Sun House Petroleum, to Travis
8 Bellamy's residence, all, all of the evidence points in one
9 direction, laid out for you and it points in one direction to
10 the guilt of Travis Detron Bellamy. Travis Bellamy planned
11 this crime. He led this crime, unlocked the door and got in
12 and he should be found guilty for his crime. He should be
13 found guilty of burglary in the first degree, guilty of armed
14 robbery and guilty of kidnapping for forcibly detaining the
15 Whitlocks. He must be held accountable. This nightmare must
16 end. So, I ask you to return a true and just verdict. You
17 take the evidence to its logical conclusion, the only
18 conclusion, guilty.

19 THE COURT: Mr. Hazzard.

20 MR. HAZZARD: Thank you, Your Honor.

21 Ladies and gentlemen of the jury, good morning. I want
22 to introduce you to Travis Detron Bellamy. That is his name.
23 That is what it says on his birth certificate, but for those
24 involved in the crime he has a different name and that name is
25 fall guy, stooge, someone who can be taken advantage of. It

1 is the oldest trick in the book. The person who steals the
2 transaction card does not use the transaction card. They sell
3 it to someone else because they're trying to put as much
4 distance between themselves and that card as they can. Now,
5 you may question that or have doubts but let's look at the
6 State's evidence that they gave. What did Mr. Whitlock say
7 that the three people who entered his house discussed when
8 they got the ATM card? "Man, cards ain't nothing but trouble,
9 cards will get you caught."

10 Now, the State comes to you saying that this is the
11 kingpin, this is the mastermind behind this. To believe the
12 State's version, ladies and gentlemen, you must believe that
13 Travis Bellamy planned this elaborate scheme, staked out the
14 Whitlocks' home apparently weeks or months in advance so that
15 he would know that the magical key was there and we'll get
16 back to the magical key, that he knew what time they went to
17 bed, that he had the criminal expertise and wherewithal to
18 disable their phone system and then leave his crew in there
19 with almost military procession because remember all the
20 testimony, whether it's from Corley, Mr. Whitlock, Mrs.
21 Whitlock, is that the people who entered their home were in
22 and out in 10 or 15 minutes, but yet this same mastermind who
23 has enough criminal foresight to leave no fingerprints, no
24 hair, no fiber, nothing, to be able to vanish like a ghost in
25 the wind, what does this criminal mastermind then do? He goes

Closing Argument by Defense

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1 to every place in Horry County that has a surveillance system
2 and uses that card. That's what they want you to believe.
3 Does that sound like a mastermind or does that sound like a
4 stooge?

5 Now, a lot was made regarding the issue of fingerprints
6 and gloves and things of that nature. The reason a lot was
7 made of it is this. There is no evidence tying this man to
8 this crime and there's a reason why because he wasn't there.
9 On the one hand he is either savvy enough to enter someone's
10 residence and leave no hint of his existence, no footprints,
11 no hair, no nothing in either their home or their vehicle, but
12 yet on the other hand not smart enough to not use the stolen
13 card. They can't have it both ways, ladies and gentlemen.
14 It's one way or the other. It can't be both.

15 Now, the Whitlocks testified and that was one of the
16 issues that they tried to address, they really did because I
17 brought up the issue of how can there be no fingerprints, and
18 Ms. Whitlock said, "Well, they had on gloves." Now, this was
19 very interesting considering the fact that you heard me ask
20 every officer from North Myrtle Beach who investigated the
21 case and testified about it, "Is there any mention of that in
22 any report that you made note of, took down?" "No." Now,
23 ladies and gentlemen, these are not rookies. Office Kovarsky
24 was the first one to testify. He said he has 15 years
25 experience, Paul Sheets 22 years experience, Don Repec 29

1 years experience, Detective Farmer over 20 years experience.
2 Among all of the officers that worked this case there's well
3 over a hundred years of law enforcement experience. You're
4 going to tell me that no one made note of that? Doesn't make
5 any sense, ladies and gentlemen. So, that's why there are no
6 prints because the fall guy wasn't there. Then this issue of
7 the key comes up because as you heard me ask the very first
8 witness Officer Kovarsky, "Isn't it exceedingly strange and
9 unusual that you have a burglary with no forced entry," and he
10 said, "Yes, that is very strange and unusual." Well, Mr.
11 Whitlock then gets on the stand and says, "Oh, well, but see
12 there was a key outside and that's, that's how they got in,
13 but the only person who knew of the key was the heating and
14 air-conditioning guy, but don't worry I told all of that to
15 Paul Sheets and he went and checked out that heating and air-
16 conditioning guy who had access to that key." Did you hear
17 Paul Sheets say anything about interviewing anyone from any
18 air-conditioning company, talking to any heating and air-
19 conditioning guy, no. What did he say when I asked him is it
20 in any of his incident reports or as the case officer who's i
21 charge of handling all of the reports from all of the officer
22 involved anything about that? What did he tell you? No. Th
23 only mention that he ever had or heard of this key was when h
24 talked with Riccardo Corley and asked him, "Well, did you use
25 a key?" And Corley is going to tell him whatever he wants to

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1 hear because that's what Corley told you on the stand. "I
2 wanted my deal and I had to tell them what they wanted to
3 hear." "He wants a key, yeah, yeah, Travis, the mastermind,
4 must have had a key." "That's fine," and that's the only
5 mention in the entire report or in the entire documentation
6 about any key.

7 When you look at the small details, the other thing is
8 let's look at Mrs. Whitlock's testimony for a second. When
9 she got on the stand what did she say? "Well, I might have
10 left the door unlocked." Now, she's saying she might have
11 left the door unlocked. Mr. Whitlock is saying there was this
12 key that may or may not have been missing. We were never
13 really clear on that. Ladies and gentlemen, let me tell you,
14 if I'm married and in bed asleep with my wife and I wake up to
15 three strangers standing over my bed, trust and believe in two
16 and a half years there's going to be some discussion between
17 her and I regarding how they got into our home without any
18 sign of forced entry. So, you have issues there in that
19 regard, but again, it has to be some way of explaining to put
20 the blame on the fall guy.

21 Now, let's remember how all of this started. All of this
22 started as Sergeant Sheets testified because of Riccardo
23 Corley, no doubt Riccardo Corley was there, absolutely no
24 doubt about that, that Riccardo Corley had the cell phone from
25 Mrs. Whitlock and he used the cell phone. So, it doesn't take

1 any type of great police work to type out a subpoena, fax it
2 to the cell phone company, fax it to the bank, get your
3 information. How long do you figure that took? A day, two
4 days? So, now we're up to March 23rd, maybe March 24th or 25th.
5 okay. So, by then they know Riccardo Corley is involved. Why
6 What did Detective Sheets tell you? "When we got the records
7 back on the cell phone usage we saw that it had been used
8 immediately after the Whitlocks reported this incident. We
9 called the young lady who was called and she told us,
10 'Riccardo Corley called me that morning from this number.'"
11 So, now, Riccardo, though, is in the wind, you know, because
12 it's not, it's not until April 25th that they get hold of him
13 but now, in talking you think, "Well, Travis can just explain
14 what he's doing with that card," and sure he can. The proble
15 is though all he can tell them is what they already know,
16 which is, "I got the card from Riccardo Corley." So, that
17 doesn't move their investigation up any. They're already
18 looking for Riccardo, but isn't it interesting that after thi
19 month of investigation and how many investigators did
20 Detective Sheets say they had on it? He says virtually every
21 detective North Myrtle Beach has worked on this case at one
22 point or another, and these guys are really, really good.
23 They're the best of the best. I mean, like Paul Sheets, you
24 don't go from being a beach patrol officer to being a sergear
25 in charge of all that he's in charge of just by being a nice

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1 guy. They don't believe in social promotion in North Myrtle
2 Beach. I can assure you of that, but all of these people, all
3 of this investigation for a month, there is nothing to tie
4 Travis Bellamy to this because they know he's used the card.
5 They know that, which is why you heard me ask Paul about
6 financial transaction card fraud because I'll tell you right
7 now they got, they got loads of pictures. They got loads of
8 pictures of that, and ladies and gentlemen, there is no
9 statute of limitations in South Carolina. So, I am pretty
10 sure some day soon in this hallowed courthouse Travis Bellamy
11 will face the judge for what he has done in that regard, but
12 using someone's card and holding them at gunpoint are two
13 very, very different things.

14 Now, what also is interesting to me with regard to Travis
15 being the fall guy because remember they're seeking Riccardo
16 Corley and they finally find him on April 25th and what did I
17 ask Paul Sheets, "What was the day you swore out the warrants
18 against Travis Bellamy the fall guy?" "April 25th of 2007,"
19 the day they finally got their hands on Riccardo Corley and
20 the day Riccardo Corley made his deal to save his life because
21 see now with Riccardo Corley the police can get two out of
22 three because, oh, let's not forget the third guy. There's
23 some mysterious third guy. Remember there were three people
24 that entered the Whitlocks' home, but now, Riccardo Corley
25 won't give up the stooge because after all that's what he's

1 here for. He'll give him up but even Riccardo Corley won't
2 give up the people he was really with. Even Riccardo Corley
3 won't give them up. So, that gives you an idea of what kind
4 of bad people we are talking about here, but Paul talks with
5 Riccardo. Riccardo says, "Oh, yeah, yeah, yeah, it was
6 Travis. Travis planned it all. Travis did it all. It was
7 all Travis. Travis came in, told me had the plan and he drove
8 us there," and this is where it gets kind of strange because
9 they got to put everything on the fall guy. So, Travis drove
10 them to the location and then Travis has the gun and then
11 Travis takes the ATM card and then Travis takes the van.
12 Travis takes everything, okay.

13 Now, the problem they've got with that scenario is with
14 all these pictures because in these pictures and the
15 prosecutor is the one that says and claims and swears that
16 this was a bang, bang thing, there wasn't much time between
17 the time the robbery occurred and the time the cards were used
18 and there were barely seconds between all of that according to
19 them, but yet Travis supposedly takes the Whitlocks' van, I
20 guess, I guess, I don't know, I guess he says, you know, "Take
21 my car. You know, just go, you all, you all two just go, just
22 take my car. I want the Whitlocks' van. So, you all take my
23 car," okay, but he supposedly takes the van but yet what's in
24 the pictures? Travis alone in his car, Travis alone in his
25 car going to all these places where there's all this

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1 surveillance. Which makes more sense, that Riccardo Corley
2 who lives in the same neighborhood as Travis Bellamy, oh,
3 yeah, that's really good, you noticed Mr. Richardson spent a
4 lot of time talking about where did Travis Bellamy live. Did
5 you hear him say one time where Riccardo Corley lives, right
6 down the street. So, which makes more sense, that Riccardo
7 Corley and others that he refuses to name committed this
8 offense, drive the van back, drop it off and then you got to
9 get rid of the hot car, you got to sell it to somebody. "Hey,
10 there's Travis. There's my homey at the convenience store.
11 Here man, here, just give me, you know, a couple of dollars
12 for that." Okay, and then there's the fall guy, the stooge
13 who's stupid enough to go and do exactly that in his vehicle
14 or the police version, Travis, I guess, gives them his car,
15 takes the van, drops it off and then I guess he walks the mile
16 back to his house, but oh, wait, remember he doesn't have his
17 car because the other two are gone in his car. They went
18 according to Mr. Richardson, they went the opposite direction.
19 Did the State say anything about them getting back up, meeting
20 back up, anything like that? No. Let's keep our eye on the
21 ball here. So, that's the problem they've got. They can't
22 take that square peg and jamb it into that round hole. As I
23 said, ladies and gentlemen, this young man here is guilty, no
24 question. He is guilty of being one of the most stupid people
25 I have ever met, no question, and he's guilty of having that

1 card and he's guilty of using it, but there will be a day
2 sometime in the very near future when he will answer for that,
3 he will stand before this judge and answer for that, but what
4 he is not guilty of is armed robbery. He is not guilty of
5 kidnapping. He is not guilty of burglary first.

6 Now, this whole case has been weird because there has
7 been something fishy about this the whole time, just things
8 just do not add up, specifically, this may be the only case
9 I've seen in 20 years where there is absolutely no description
10 of the people who allegedly committed the crime, and you may
11 say to yourself, "Well, that's simple enough, they had on
12 masks." Think very carefully of the testimony of Mr.
13 Whitlock. Two of them had on masks. One of them simply had
14 a hood, you know, which I guess was like a hooded jacket or a
15 hooded sweatshirt pulled up tightly around his face, no
16 sunglasses, no bandana, nothing. So, all of this is visible.
17 Yet, even with that, we have no description in two and a half
18 years. You can't tell whether that person looked like Michael
19 Jackson or Morgan Freeman. Come on now, come on now, come on
20 now. There is no forced entry. There are conflicting stories
21 from the two victims as to how entry was obtained and there is
22 no pistol that this man supposedly had.

23 Now, leaving all of that aside because I don't know what
24 Riccardo Corley's somehow involvement or any involvement I
25 don't know where that tie-in is. It's going to take somebody

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1 a lot smarter than me to figure that out as far as how
2 Riccardo Corley even stumbles upon the Whitlocks' residence,
3 how he supposedly knows about the key, how it is that they
4 pick that particular night to do it, you know, I have no idea.
5 I have absolutely no idea, you know. It's going to take
6 somebody a lot smarter than me to decide that and figure that
7 one out, but what I do know that Riccardo Corley did a great
8 job of setting up the fall guy, but if you take the case at
9 face value from the prosecution's viewpoint, yes, this is a
10 tragedy, no question about that, no question about that.
11 Everyone, constitutionally, personally has the right to be
12 safe and secure in their own homes because that's what we work
13 for and if this, in fact, did occur in that fashion then, yes,
14 it is a tragedy but do not compound that tragedy by convicting
15 someone who is not guilty of that offense because if you do
16 that then the people who perpetrated it will go free. There
17 will be no further investigation. They will go free. He's
18 going to face the justice of the court on what he has done
19 with the financial transaction card fraud, no question, but do
20 not let the other two that Riccardo Corley is hiding, don't
21 let them go free on this.

22 Now, Mr. Richardson mentioned reasonable doubt and the
23 Judge is going to explain reasonable doubt to you, and it's
24 going to be defined as a reason that causes, a doubt that
25 causes a reasonable person to hesitate to act. I've always

1 looked at it more along the lines of the actual reasons that
2 cause you to say, "I'm not so sure about this," and when you
3 look back at all of the evidence in this case I think there's
4 going to be a lot that's going to cause you to say, "I'm not
5 so sure about this," you know, because reasonable doubt can be
6 hard to find in this day and age. You may say why. Well,
7 let's look, let's think about it. If you read the paper like
8 I do you regularly see stories about so and so gets convicted,
9 gets X amount of time. Okay, but now in these hallowed halls
10 that I am privileged to work in people are acquitted and found
11 not guilty on a regular basis, just as they are convicted but
12 there are people who are found not guilty on a regular basis,
13 but I don't see that in the paper. Why? Because it's not as
14 sexy a story, but also it doesn't give us as a society the
15 finality that we seek, you know. We want to know that
16 something has been wrapped and concluded. The same with, you
17 know, Dateline NBC or the reality shows that they do on CBS.
18 I don't ever see cases where somebody is found not guilty. I
19 see cases where they start at the beginning and they say there
20 was investigation and the conviction at the end because that's
21 what we want. That's what we want, and that's what we crave
22 as a society, but in this case do not let it end in this
23 fashion with a wrongful conviction because if so then that
24 will be the end and two predators will still be out there.
25 So, let the police do their job and go find the two people wh

Charge

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1 were with Riccardo Corley that night. This man will face his
2 justice in the very near future.

3 When this case began I asked you all collectively as a
4 group of 14 for a favor, and you have had the chance to look
5 at me, size me up as I have had the chance to do with you, and
6 I just must say you have granted my request beyond my wildest
7 dreams.

8 To the Court, the Honorable Benjamin Culbertson, the
9 Prosecutor, Bradley Richardson, ladies and gentlemen of the
10 jury, thank you for your time, thank you for your attention,
11 thank you for the privilege of appearing before you.

12 THE COURT: All right, ladies and gentlemen, you've
13 now heard all of the testimony in this case and all of the
14 evidence to be presented in this case has now been presented
15 and now is the time of the trial when I charge you with the
16 law to be applied in this case. I'll give you a copy of these
17 instructions in written form and during your deliberation you
18 may refer to the instructions to guide your decision-making.
19 However, you must consider the instructions as a whole and not
20 follow some instructions and ignore others and then I'll ask
21 if you would return the written instructions to the Court at
22 the time your verdict is rendered.

23 Now, the indictments in this case charge the Defendant
24 with first degree burglary, kidnapping and armed robbery. I
25 remind you that the fact that the Defendant was arrested,

1 charged and indicted in this case is not evidence in this case
2 and cannot be considered by you as evidence of guilt in this
3 case, nor does it create any presumption or inference of
4 guilt. These documents are simply the formal written
5 instruments which contain the charges made against the
6 Defendant. They are the formal documents by which this case
7 is brought into this court.

8 The indictments in this case allege several different
9 offenses against the Defendant. The charges are first degree
10 burglary, armed robbery and kidnapping. Each indictment
11 charges a separate and distinct offense. You must decide each
12 indictment separately on the evidence and the law applicable
13 to it, uninfluenced by your decision as to any other
14 indictment. The Defendant may be convicted or acquitted on
15 all or any of the offenses charged. You will be asked to
16 write a separate verdict of guilty or not guilty for each
17 indictment.

18 Now, the Defendant has pled not guilty to these
19 indictments. That plea puts the burden on the State to prove
20 the Defendant guilty. A person charged with committing a
21 criminal offense in South Carolina is never required to prove
22 his innocence. I charge you that an important rule of the la
23 is that the Defendant in a criminal trial, no matter what the
24 seriousness of the charge may be, will always be presumed to
25 be innocent of the crime for which the indictment was issued

Charge

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1 unless guilt has been proven by evidence satisfying you of
2 that guilt beyond reasonable doubt. This presumption of
3 innocence does not end when you begin your deliberations, but
4 it accompanies the Defendant throughout the trial unless you
5 reach a verdict of guilt based upon evidence satisfying you of
6 that guilt beyond a reasonable doubt. The presumption of
7 innocence is like a robe of righteousness placed about the
8 shoulders of the Defendant which remains with the Defendant
9 unless it has been stripped from the Defendant by evidence
10 satisfying you of the Defendant's guilt beyond a reasonable
11 doubt. The presumption of innocence is not a mere legal
12 theory. It is not just a legal phrase. It is a substantial
13 right to which every Defendant is entitled unless you the jury
14 are satisfied from the evidence of the Defendant's guilt
15 beyond a reasonable doubt.

16 Now, what is reasonable doubt in the law? A reasonable
17 doubt is the kind of doubt that would cause a reasonable
18 person to hesitate to act. Proof beyond a reasonable doubt is
19 proof that leaves you firmly convinced of the Defendant's
20 guilt. There are very few things in this world that we know
21 with absolute certainty, and in criminal cases the law does
22 not require proof that overcomes every possible doubt. If
23 based on your consideration of the evidence you are firmly
24 convinced that the Defendant is guilty of the crimes with
25 which he has been charged you must find the Defendant guilty.

1 If on the other hand you think there is a real possibility
2 that the Defendant is not guilty you must give the Defendant
3 the benefit of that doubt and find the Defendant not guilty.
4 I remind you that during this trial you and I have certain
5 duties to perform. As the trial judge it is my responsibility
6 to preside over the trial of the case. I also have the duty
7 to rule on the admissibility of the evidence offered during
8 this trial. You are to consider only the competent evidence
9 before you. If there was any testimony ordered stricken from
10 the record in this case during this trial you must disregard
11 that testimony. You are to consider only the testimony which
12 has been presented from the witness stand, any exhibits which
13 have been made a part of the record, and any stipulations of
14 counsel.

15 I have the additional duty to charge you the law
16 applicable to this case. As the presiding judge I am the sole
17 judge of the law in this case and it is your duty as jurors to
18 accept and, excuse me, accept and apply the law as I now state
19 it to you. If you already have an idea as to what the law is
20 or what the law ought to be and your idea differs with what I
21 now tell you the law is you must abandon your idea of what the
22 law is or ought to be because you are sworn to accept the law
23 and apply the law exactly as I state it to you.

24 In every case tried in this court before a jury the jury
25 becomes the sole and exclusive judge of the facts in a case.

Charge

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1 A trial judge cannot intimate, state, comment on or make any
2 statement to a trial jury about the facts in a case. Since
3 you the jury are the sole judge of the facts in this case
4 you're not to infer from what I have said during the progress
5 of this trial in ruling upon the admissibility of evidence or
6 otherwise or anything that I say now during the course of
7 these instructions to you that I have an opinion about the
8 facts in this case. The law does allow me to have an opinion
9 about the facts in this case. This matter is solely for you
10 the jury to determine. As jurors it is your duty to determine
11 the effect, value, weight and truth of the evidence presented
12 during this trial.

13 Now, there are two types of evidence which are generally
14 presented during a trial, direct evidence and circumstantial
15 evidence. Direct evidence is the testimony of a person who
16 claims to have actual knowledge of a fact, such as an
17 eyewitness. It is evidence which immediately establishes the
18 main fact to be proved. Circumstantial evidence is proof of a
19 chain of facts and circumstances indicating the existence of a
20 fact. It is evidence which immediately establishes collateral
21 facts from which the main fact may be inferred.
22 Circumstantial evidence is based on inference and not on
23 personal knowledge or observation. The law makes absolutely
24 no distinction between the weight or value to be given either
25 direct or circumstantial evidence, nor is a greater degree of

1 certainty required of circumstantial evidence than of direct
2 evidence. You should weigh all of the evidence in the case.
3 After weighing all the evidence if you are not convinced of
4 the guilt of the Defendant beyond a reasonable doubt you must
5 find the Defendant not guilty. Necessarily you must determine
6 the credibility of witnesses who have testified in this case.
7 Credibility simply means believability. It becomes your duty
8 as jurors to analyze and to evaluate the evidence and
9 determine which evidence convinces you of its truth. In
10 determining the believability of witnesses who have testified
11 in this case you may believe one witness over several
12 witnesses or several witnesses over one witness. You may
13 believe a part of the testimony of a witness and reject the
14 remaining part of the testimony of the same witness. You may
15 believe the testimony of a witness in its entirety or reject
16 the testimony of a witness in its entirety. You may consider
17 whether any witness has exhibited to you any interest, bias,
18 prejudice or other motive in this case. You must also
19 consider the appearance and manner of the witness while on the
20 witness stand.

21 Now, there's been evidence presented that a witness made
22 prior statements which are not consistent with the witness's
23 present testimony. You may use this evidence to decide
24 whether to believe the witness. You may also use evidence of
25 the earlier contradictory statement to determine the truth of

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1 the statement. It is up to you to decide whether to believe
2 all, part or none of the earlier statement or all, part or
3 none of the testimony given at trial. If a witness is shown
4 to have knowingly testified untruthfully concerning any
5 material matter you may consider this in determining whether
6 to trust the witness's testimony as to other matters. You may
7 reject all testimony of that witness or give all or part of
8 the testimony the weight you think it deserves.

9 The rules of evidence ordinarily do not permit witnesses
10 to testify to opinions or conclusions. An exception to this
11 rule exists for witnesses we call expert witnesses. A witness
12 who by education and experience has become expert in some art,
13 science, profession or calling may state an opinion as to
14 relevant and material matter in which the witness claims to be
15 an expert and may also state the reasons for the opinion. You
16 should consider any expert opinion received into evidence in
17 this case and like any other evidence give it the weight you
18 think it deserves. If you decide that the opinion of an
19 expert witness is not based on sufficient education or
20 experience, or if you conclude that the reasons given in
21 support of the opinion are not sound or that the opinion is
22 outweighed by other evidence, you may disregard the opinion
23 entirely. An expert witness's testimony is to be given no
24 greater weight than that of any other witness simply because
25 the witness is an expert. Further, you are not required to

1 accept an expert's opinion even though it is not contradicted.

2 Now, I instruct and emphasize that the fact that the
3 Defendant did not testify is not a factor to be considered by
4 you in any way in your deliberation and in your consideration
5 on the question of guilt or innocence of the Defendant. It
6 must not be considered by you in any manner whatsoever. A
7 Defendant has the constitutional right to remain silent and
8 the assertion of this right must not be considered by you in
9 your deliberations. I repeat, under your oath you are to draw
10 no conclusion whatsoever from the fact that the Defendant in
11 this case did not testify. The fact that this Defendant did
12 not testify should not even be discussed in the jury room.
13 The burden of proof as I have stated to you is on the State.
14 The Defendant is not required to prove his innocence. The
15 burden of proof remains on the State to prove guilt beyond a
16 reasonable doubt.

17 Now, the Defendant is charged with first-degree burglary.
18 To prove the Defendant guilty of this crime the State must
19 prove, first prove beyond a reasonable doubt that the
20 Defendant entered a dwelling without consent. A dwelling is
21 any building or portion of a building in which a person
22 ordinarily sleeps. In order to prove that the Defendant
23 entered the dwelling the State does not have to show that the
24 Defendant's entire body entered the dwelling. The smallest
25 entry is sufficient. It may be any part of the body such as

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1 a hand or a foot or even an instrument such as a hook or other
2 instrument. In addition the State does not have to prove that
3 force was used to gain entry. If a person enters a building
4 by using deception, artifice, trick or misrepresentation to
5 get consent to enter this is entry without consent. Next, the
6 state must prove beyond a reasonable doubt that the Defendant
7 intended to commit a crime, either a felony or a misdemeanor,
8 at the time of the entry. The mere entry into a dwelling
9 without consent is not burglary. If the intent to commit a
10 crime is formed after entry it is not burglary. On the other
11 hand, if the Defendant intended to commit a crime at the time
12 of entry it is a burglary even if the intent was abandoned
13 after entry. It does not matter that the intended crime was
14 not completed. Intent may be shown by acts and conduct of the
15 Defendant and other circumstances from which you may naturally
16 and reasonably infer intent.

17 Finally, the State must prove beyond a reasonable doubt
18 at least one of the following events: when entering, while in
19 the dwelling or when fleeing the Defendant or an accomplice
20 was armed with a deadly weapon or explosive. A deadly weapon
21 is any article, instrument or substance which is likely to
22 cause death or great bodily harm. Whether an instrument has
23 been used as a deadly weapon depends on the facts and
24 circumstances of each case and a pistol can be a deadly weapon
25 or the State must prove when entering, while in the dwelling

1 or when fleeing the Defendant or an accomplice caused physical
2 injury to anyone not participating in the crime or when
3 entering, while in the dwelling or when fleeing the Defendant
4 or an accomplice used or threatened to use a dangerous object
5 or when entering, while in the dwelling or when fleeing the
6 Defendant or an accomplice displayed what appeared to be a
7 deadly weapon or the Defendant entered or remained in the
8 dwelling in the nighttime. Nighttime is the period between
9 sunset and sunrise during which there is not enough daylight
10 to recognize a person's face except by artificial light or
11 moonlight.

12 The Defendant is also charged with kidnapping. To
13 convict the Defendant of this crime the State must prove
14 beyond a reasonable doubt that the Defendant knowingly and
15 unlawfully seized, confined, inveigled, decoyed, kidnapped,
16 abducted or carried away another person without authority of
17 law. To do a thing unlawfully is to do it willfully against
18 the law. Knowingly means with knowledge, consciously, not
19 accidentally. Seize mean to take hold of suddenly or
20 forcibly. Confine means to limit, restrict or enclose within
21 bounds, imprison or shut or keep in. Inveigle means to lure,
22 entice or lead astray by false representations, promises or
23 other deceitful means. Decoy means to lure by or as if by
24 decoy. A decoy is something to entice a person into a trap.
25 Kidnaps means to remove a person against his will by unlawful

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1 force or by fraud. Abduct means to carry off secretly or by
2 force for an illegal purpose. Carry means to remove. The
3 State does not have to prove that the Defendant did all of
4 these things. Instead if you find beyond a reasonable doubt
5 that the Defendant did any of these things you may find the
6 Defendant guilty of kidnapping. Something done without
7 authority of law is something which the law does not sanction,
8 permit, allow, condone or provide justification for. The
9 kidnapping does not have to be for any personal or monetary
10 gain, for any illegal purpose but may be for any reason
11 whatsoever.

12 The Defendant is also charged with armed robbery. In
13 order to prove this offense the State must first prove beyond
14 a reasonable doubt that the Defendant took personal property
15 from the person or presence of another person. Property is in
16 the presence of a person if it is within the person's reach,
17 inspection, observation or control so that the person could if
18 not overcome with violence or prevented by fear keep
19 possession of the property. The State must also prove beyond
20 a reasonable doubt that the Defendant carried the property
21 away intending to permanently deprive the owner of the
22 property and to keep the property for the Defendant's own use.
23 The slightest removal of the property or the complete
24 possession of the property even for an instant by the
25 Defendant is sufficient to show a taking and carrying away of

1 the property. The taking and carrying away of the property
2 must be done with violence or by putting the owner of the
3 property in fear of violence. Finally, the State must prove
4 beyond a reasonable doubt that the Defendant was armed with a
5 deadly weapon during the robbery. A deadly weapon is any
6 article, instrument or substance which is likely to cause
7 death or great bodily harm. Whether an instrument has been
8 used as a deadly weapon depends on the facts and circumstances
9 of each case.

10 Now, you have heard testimony concerning the penalty a
11 person can serve for the crimes alleged in the indictments.
12 In determining the guilt or innocence of the Defendant you
13 cannot consider any possible penalty for any particular crime.
14 The possible penalty for a crime is not evidence of whether
15 the Defendant committed the crime or did not commit the crime.
16 The punishment for the crime is a matter for me to determine
17 and should never be considered by you in any way whatsoever in
18 arriving at a fair and impartial verdict as to the guilt or
19 innocence of the Defendant.

20 Now, there are two possible verdicts which you may find
21 for each indictment in this case. There's no significance
22 whatsoever in the order in which I state these possible
23 verdicts to you. I simply must state one verdict first and
24 one verdict second. On the crime of first degree burglary the
25 possible verdicts are we the jury find the Defendant guilty o.

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1 we the jury find the Defendant not guilty. On the charge of
2 kidnapping the possible verdicts are we the jury find the
3 Defendant guilty or we the jury find the Defendant not guilty
4 and on the charge of armed robbery the possible verdicts are
5 we the jury find the Defendant guilty or we the jury find the
6 Defendant not guilty.

7 Ladies and gentlemen, your verdict must be unanimous.
8 Mr. Singleton as foreperson when the jury agrees on each
9 verdict you will write the verdict in the appropriate space on
10 the verdict form and then sign your name. After reaching a
11 verdict you will please fill out the verdict form, knock on
12 the jury room door and inform the bailiff that you have
13 reached a verdict, and at that time we will receive you back
14 into the courtroom.

15 Now, at this time I'm going to ask you to go back to the
16 jury room, do not begin your deliberations at this point in
17 time. Now is the part of the trial where I must check with
18 the attorneys to see if they have any challenges or additions
19 to my instructions to you. If there is a challenge or
20 additional instructions I will bring you back out and give you
21 those instructions. If there are no challenges then we will
22 send the evidence back to the jury room with the jury charge,
23 the verdict form and you will be instructed to begin your
24 deliberations. So, I will excuse you back to the jury room
25 but please do not begin your deliberations at this point in

1 time.

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: All right, any challenges or exceptions to
5 the charge by the State?

6 MR. RICHARDSON: None from State.

7 THE COURT: Any by the Defendant?

8 MR. HAZZARD: Nothing from the Defense.

9 THE COURT: All right, let's make sure we've got all
10 of the exhibits together and then we can take them back to the
11 jury room with these charges, the verdict forms and
12 indictments and they can begin their deliberations.

13 (Exhibits reviewed by counsel for State and Defense and
14 approved.)

15 (Alternates enter courtroom.)

16 THE COURT: All right, let me get Mr. Patterson and
17 Ms. is it Busa or Busa?

18 MS. BUSSA: Busa.

19 THE COURT: Busa, if you'd all come around, please.

20 You all get the wonderful privilege of having sat through
21 a whole trial but as alternates you don't get to participate
22 in any of the decision making. It turns out that your
23 services will not be needed. As alternates you are in place
24 only in the event one of the sitting jurors become unable to
25 serve further. You're welcome to stay with us if you want to

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1 find out how it turns out. If not then you're excused to go
2 at this point in time and I want to thank you for your
3 service. It is - I know it's a thankless services but I do
4 want to thank you for being here and I want to thank you for
5 serving as alternate jurors in this case. As I said it's up
6 to you. You can do what you like. If you want to stay you
7 can stay. If you need to go I understand that and you're
8 excused.

9 MR. HAZZARD: Your Honor ---

10 THE COURT: Yes, sir.

11 MR. HAZZARD: --- wanted to catch you before you said
12 they were excused.

13 MR. RICHARDSON: One of the jurors has a medical
14 condition.

15 MR. HAZZARD: We do have a pregnant juror who appears to
16 be pretty far along.

17 THE COURT: Well, see, that's the question we've got.
18 Once they begin their deliberations can we then seat an
19 alternate?

20 MR. RICHARDSON: Yes, sir; yes, sir. If for some
21 reason one becomes ill, they can't deliberate, typically the
22 judges hold them in a separate room.

23 THE COURT: Okay, all right, well, then I'm going to
24 have you all stay with us because of the medical condition of
25 one of them.

1 MR. RICHARDSON: Mr. Hazzard and I both apologize.

2 THE COURT: That's fine. That's fine.

3 (Alternates exit courtroom.)

4 THE COURT: All right, we'll stand in recess while
5 they deliberate. You instructed them to go ahead and begin
6 their deliberations?

7 OFFICER: They wanted a smoke break before they started.

8 THE COURT: Yeah, however they want to do it. If they
9 want to take a little break before they begin deliberations
10 that's fine, but do you all mind if I step back there and tell
11 them that it is all right for them to take a break in
12 deliberations. However, all I'm going to do is caution them
13 that you cannot have deliberations unless everyone is present
14 and rather than, yeah, unless we bring - I don't want to bring
15 them all out here unless you want me to bring them all out
16 here. If you all don't mind I'll just step back in the jury
17 room and instruct them on that. Is that agreeable?

18 MR. HAZZARD: That's agreeable with the Defense.

19 MR. RICHARDSON: Agreeable with the State.

20 THE COURT: All right, thank you very much.

21 (Deliberations begin at 10:35 a.m.)

22 OFF THE RECORD

23 (Question from Jury at 11:48 a.m. Reply from Court sent
24 back to jury at 12:15 p.m.)

25 (On the record.)

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1 (The following takes place outside the presence of the
2 jury.)

3 THE COURT: All right, I don't know if you've already
4 got these written down or if you want to write them down.
5 I've got that you can play the tape from 5:05 to 5:48, from
6 12:08 to 12:24, from 14:08 to 14:20 and from 17:08 to 17:49.

7 MR. RICHARDSON: That's what I have, Your Honor.

8 THE COURT: All right, all right.

9 MR. RICHARDSON: Your Honor, at this time I would
10 retrieve State's Number 48 from Ms. Hurley and I've got it
11 cued up to minute marker 5:05.

12 THE COURT: All right, anything before we bring the
13 jury back in?

14 MR. RICHARDSON: Nothing from the State, Your Honor.

15 MR. HAZZARD: Nothing from the Defense, Your Honor.

16 THE COURT: All right, let's bring the jury in and
17 also bring in the alternates.

18 (The following takes place in the presence of the
19 jury.)

20 THE COURT: All right, ladies and gentlemen, welcome
21 back. I understand as part of your deliberations you'd like
22 to rehear again the tape, what is that Exhibit 48?

23 MR. RICHARDSON: State's 48, Your Honor.

24 THE COURT: Yeah, State's Exhibit 48 and we can
25 accommodate that. Unfortunately we don't have real time

1 transcription. So, we can't provide you with a transcribed
2 statement of what was said. It takes a while to prepare
3 transcripts. However, since this is a recorded medium we can
4 play back the requested information. All right, sir.

5 MR. RICHARDSON: And Your Honor, I can do it one of
6 two ways at the jury's selection. I can put the speakers up
7 on there or I can play it through the microphone, either, or.

8 THE COURT: Well, let's just go - let's just do it
9 this way, just go ahead and play it the way you've got it set
10 up.

11 MR. RICHARDSON: Yes, sir.

12 THE COURT: If anyone - yes, sir.

13 FOREPERSON: Your Honor, there was some discrepancy
14 between the jury on hearing it last time. So, we want to make
15 sure we can hear it.

16 THE COURT: Okay.

17 MR. RICHARDSON: I've got it turned up a little bit
18 louder this time and ---

19 THE COURT: All right, let's play it. If any juror at
20 any time - now, I'm not talking about your ability to
21 understand or decipher what is said. I'm talking about your
22 ability to hear what is played. If you're having trouble
23 hearing what is being played just simply raise your hand and
24 we'll address it at that time; okay? All right, all right,
25 sir.

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1 MR. RICHARDSON: Your Honor, at this time the State
2 will be playing State's Number 48 5:05 to 5:48.

3 THE COURT: All right.

4 (State's Exhibit Number 48 played in open court.)

5 MR. RICHARDSON: That was 5:05 to 5:48, Your Honor.
6 The next will be 12:08 to 12:24.

7 (State's Exhibit Number 48 played in open court.)

8 MR. RICHARDSON: That was 12:08 to 12:24.

9 The next is 14:08 to 14:20, that's 14, 2, zero.

10 (State's Exhibit Number 48 played in open court.)

11 MR. RICHARDSON: That was 14:08 to 14:20, and the next
12 is 17:08 to 17:49. I'm trying to get it right on the minute
13 marker, Your Honor.

14 (State's Exhibit Number 48 played in open court.)

15 MR. RICHARDSON: That was 17:08 to 17:49, Your Honor.

16 THE COURT: Okay.

17 All right, is there any way we turn the volume down a
18 little bit?

19 MR. RICHARDSON: I can, Your Honor, and it may come
20 through clearer if the speakers are up there without going
21 through the microphone.

22 THE COURT: Do you all want to play it back at a lower
23 volume or ---

24 JUROR: Yes.

25 THE COURT: All right, how long will it take you to

1 | rewind it and play it back at a lower volume because there was
2 | a lot of ---

3 | MR. RICHARDSON: There's a lot of hiss.

4 | THE COURT: --- hiss and interference and I don't know
5 | if it'll help or not, but rather than interrupt the initial
6 | presentation let's do it one more time but do it at a lower
7 | volume.

8 | MR. RICHARDSON: Yes, sir, Your Honor.

9 | I'm doing it at a little more than half the volume that
10 | we used before.

11 | Once again this is 5:05 to 5:48.

12 | (State's Exhibit Number 48 played in open court.)

13 | MR. RICHARDSON: Next will be 12:08 to 12:24.

14 | (State's Exhibit Number 48 played in open court.)

15 | MR. RICHARDSON: Next would be 14:08 to 14:20.

16 | (State's Exhibit Number 48 played in open court.)

17 | MR. RICHARDSON: And then 17:08 to 17:49.

18 | (State's Exhibit Number 48 played in open court.)

19 | THE COURT: All right, all right, ladies and
20 | gentlemen, I'm going to ask that you return to the jury room
21 | to resume your deliberations. Now, before or as an added
22 | instruction we've ordered lunch for you. When lunch comes if
23 | you want to continue and deliberate during your meal, you're
24 | authorized, you can do that. If you want to stop your
25 | deliberations while you eat you can do that, whichever you

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1 feel more comfortable doing. However, just as I previously
2 advised you if you're going to deliberate it's going to
3 require everyone's presence in the jury room during courses of
4 deliberation. In other words, some of you cannot continue
5 your deliberations over a meal and the others not continue.
6 So, it needs to be a joint decision as to whether or not you
7 want to deliberate during your lunch or not deliberate during
8 your lunch.

9 All right, I'll excuse you back to your jury room. You
10 can resume your deliberations at this point in time.
11 Likewise, Mr. Patterson and Ms. Bussa, if you'd resume to the
12 room where you are at this time. Thank you very much.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: Anything before we recess?

16 MR. RICHARDSON: Nothing from the State, Your Honor.

17 MR. HAZZARD: Nothing from the Defense.

18 THE COURT: All right, we'll stand in recess.

19 OFF THE RECORD

20 (On the record, question from jury at 2:00 p.m.)

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: All right, I've received another request
24 from the jury or a question. It says, "Your Honor, we as the
25 jury would like clarification on law that applies to armed

1 robbery. We would really like for you to come to the jury
2 room for questions we have about this. Thank you, jury."

3 I think what I am going to do is I'm going to write on
4 here that, "If you have a specific question regarding the law
5 that applies to armed robbery please write your question out.
6 When you ask for clarification all I can do is recharge you on
7 the law for armed robbery as has been provided to you in
8 written form and that all questions and clarifications from
9 the jury must be made in open court; and therefore, I can't
10 come to the jury room and speak with them in private." How
11 does that sound?

12 MR. RICHARDSON: No objection from the State, Your
13 Honor.

14 THE COURT: Any from the Defense?

15 MR. HAZZARD: None from the Defense, Judge.

16 THE COURT: All right, let me write this out.

17 All right, what I've written or my response states, "If
18 you have specific questions regarding law that applies to
19 armed robbery please write your specific questions on a sheet
20 of paper and give to the bailiff. When you request
21 'clarification' I can recharge the law on armed robbery as
22 stated in open court and as provided to you in my written
23 instructions. All questions and/or requests from the jury
24 must be addressed in open court. Therefore I cannot address
25 your questions in the jury room," and then I signed my name.

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1 Does that sound sufficient?

2 MR. RICHARDSON: Yes, sir, Your Honor.

3 MR. HAZZARD: No objection on behalf of Defense.

4 THE COURT: All right, let's mark this Court's Exhibit
5 11, and if we can take it back and just let us know if they
6 have any additional questions or if they want to come out
7 here. All right, thank you very much. We'll stand in recess.

8 OFF THE RECORD

9 (On the record, note from jury at 2:35 p.m.)

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

12 THE COURT: All right, I'm going to need to give an
13 Allen charge. I got a note from the jury. It says, "We are
14 undecided on the charges for burglary and armed robbery
15 charges for the jury as a whole. We have come to a conclusion
16 for the kidnapping charge to the Defendant. After thorough
17 deliberation we have not come to a unanimous decision. How do
18 we proceed?" So, you want me to read it back?

19 MR. RICHARDSON: You're saying they have come to a
20 decision on two charges but not on one, Your Honor, or ---

21 THE COURT: It says, "We are undecided on the charges
22 for burglary and armed robbery" ---

23 MR. RICHARDSON: Okay.

24 THE COURT: --- "charges for the jury as a whole. We
25 have come to a conclusion for the kidnapping charge to the

1 Defendant. After thorough deliberation we have not come to a
2 unanimous decision. How do we proceed?" Now, whether that
3 means they've reached a decision on the kidnapping I don't
4 know. It says they've come to a conclusion, so. All I know
5 to do is to bring them out, give them the Allen charge and
6 send them back in.

7 MR. RICHARDSON: Yes, sir, Your Honor.

8 THE COURT: All right, all right, let's mark this
9 State's Exhibit, I mean, Court's Exhibit 12.

10 All right, anything before we bring them back in for the
11 Allen charge?

12 MR. RICHARDSON: Nothing from the State, Your Honor.

13 MR. HAZZARD: Nothing on behalf of the Defendant.

14 THE COURT: All right, let's bring the jury in.
15 Likewise, let's bring the alternates in.

16 MR. HAZZARD: Your Honor, at this point the Defense,
17 since we're so far along in the deliberations, the Defense
18 would not object if one or both of the alternates are excused

19 THE COURT: Okay, I think I'm going to have to either
20 excuse both or - both or none just because of the way we're
21 supposed to sit alternates. We'll address that in just a
22 minute.

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

25 THE COURT: All right, ladies and gentlemen of the

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1 jury, I wanted to bring you back out to give you some
2 additional charge or an additional charge because I don't want
3 you to be discouraged or think that this is an uncommon
4 occurrence. It's not. You've stated that you've been unable
5 to agree on a verdict in this case and as I instructed you
6 earlier the verdict of the jury must be unanimous. Now, when
7 a matter is in dispute it isn't always easy for two people to
8 agree. So, when 12 people must agree it becomes even more
9 difficult and we all understand that. In most cases absolute
10 certainty cannot be reached or expected. However, you have a
11 duty to make every reasonable effort to reach a unanimous
12 verdict. In doing this you should consult with one another,
13 express your own views, listen to the opinions of your fellow
14 jurors, tell each other how you feel and why you feel that
15 way, discuss your differences with open minds. Although the
16 verdict of the jury must be unanimous every one of you has the
17 right to your own opinion. The verdict you agree to must be
18 your own verdict, the result of your own convictions, and you
19 should not give up your firmly held beliefs merely to be in
20 agreement with your fellow jurors. The majority should
21 consider the minority's position and the minority should
22 consider the majority's position. You should carefully
23 consider and respect the opinions of each other and reevaluate
24 your position for reasonableness, correctness and
25 impartiality. You must lay aside all outside matters and

1 reexamine the questions before you based on the law and
2 evidence in this case. If you do not agree on a verdict in
3 this case I must declare a mistrial. In that case it does not
4 mean that anybody wins. It just means that at some future
5 time I will try this case with some other jury sitting where
6 you now sit. The same participants will come and the same
7 lawyers will ask basically the same questions and get
8 basically the same answers and we'll go through the whole
9 process again. You were selected in the same manner and from
10 the same source as any future jury will be and there is no
11 reason for me to suppose that the case will ever be submitted
12 to 12 more intelligent, impartial, conscientious and competent
13 jurors than you or that more or clearer evidence will be
14 produced on one side or the other at any future trial. I
15 therefore ask you to return to your deliberations with the
16 hope that you can arrive at a verdict in this case. All
17 right, so, I'm going to give you a little bit more time to go
18 back and to continue your deliberations to see if you can
19 reach a unanimous verdict in this case. Thank you very much.

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: All right, any challenges or additions
23 from the State?

24 MR. RICHARDSON: No, sir, Your Honor.

25 THE COURT: Any from the Defense?

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1 MR. HAZZARD: Your Honor, perhaps the version of the
2 Allen charge has changed over the years, but it seems I recall
3 that the Allen charge used to say that the jury was to keep in
4 mind that the Defendant was to be given the benefit of every
5 reasonable doubt.

6 THE COURT: Okay, that's, that's not in the charge
7 that we have now. I'll look back and see how that's addressed
8 in earlier charges, but I did not see that in this charge.

9 MR. HAZZARD: And for the purposes of the record please
10 note the objection. I'm requesting that addition be made.

11 THE COURT: All right, I note it.

12 MR. RICHARDSON: And the State would object to that
13 addition.

14 THE COURT: I understand. I understand.

15 All right, if they come back - well, hopefully they'll
16 reach a verdict, but let's assume for the sake of argument
17 they reach a verdict as to one charge and not the others. Do
18 we bring them in and take that one verdict?

19 MR. RICHARDSON: Yes, sir, I believe that is the
20 proper method. Ms. Elder has gone through ---

21 THE COURT: And then, and then declare a mistrial on
22 the other verdict or the other indictment or indictments ---

23 MR. RICHARDSON: The other two charges, yes, sir.

24 THE COURT: --- that they did not reach a verdict on?

25 MR. RICHARDSON: That's my understanding, yes, sir,

1 Your Honor.

2 THE COURT: All right, now, procedurally I guess we
3 would bring them in and ask them about the verdict they've
4 reached.

5 MR. RICHARDSON: Yes, sir, I believe that they would
6 ---

7 THE COURT: Yeah, because I'll need to get some
8 verification from them as to what they have reached a verdict
9 on and then depending if it's not guilty so be it. If it's
10 guilty and you want to poll the jury we poll the jury and then
11 only after we have a unanimous verdict one way or the other
12 then I will address the mistrial on the other indictments.
13 Does that sound right?

14 MR. RICHARDSON: Yes, sir, Your Honor.

15 MR. HAZZARD: Yes, sir.

16 THE COURT: Okay, all right, let's stand in recess.
17 Thank you very much.

18 OFF THE RECORD

19 (On the record. Verdict reached at 3:43 p.m.)

20 (The following takes place outside the presence of the
21 jury.)

22 THE COURT: All right, I understand the jury has
23 reached a verdict. Is that correct? All right, I believe
24 they told me.

25 First let's go ahead and bring in the alternates, just

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1 the alternates so I can excuse them.

2 (Alternates enter courtroom and are excused by Court.)

3 THE COURT: All right, anything before we bring in the
4 jury?

5 MR. RICHARDSON: Nothing from the State, Your Honor.

6 THE COURT: Anything from the Defense?

7 MR. HAZZARD: Nothing from the Defense.

8 THE COURT: All right, let's bring the jury in.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: All right, Mr. Singleton, has the jury
12 reach a verdict on each indictment?

13 MR. SINGLETON: Yes, we have, Your Honor.

14 THE COURT: All right, have you completed your verdict
15 form?

16 MR. SINGLETON: Yes, sir.

17 THE COURT: All right, if you'd please give it to the
18 Clerk.

19 (Complies with request and Court reviews verdict form.)

20 THE COURT: All right, ask the Clerk to please publish
21 the verdict.

22 THE CLERK: State of South versus Travis Detron
23 Bellamy, indictment 2007-GS-26-3930, 2007-GS-26-3931, 2007-GS-
24 26-3932, on the charge of first degree burglary we, the jury,
25 find the Defendant guilty. On the charge of kidnapping, we,

1 the jury, find the Defendant not guilty. On the charge of
2 armed robbery we, the jury, find the Defendant guilty, August
3 the 5th, 2009, Brandon Singleton, foreperson.

4 Ladies and gentlemen of the jury, if this your verdict so
5 signify by raising your right hand.

6 (All jurors raise right hand.)

7 THE COURT: All right, let the record reflect that all
8 jurors raised their right hand.

9 Any polling of the jury by the Defense?

10 MR. HAZZARD: Your Honor, the Defense requests
11 individual polling of the jurors with regard to the verdict
12 form.

13 THE COURT: All right, ladies and gentlemen of the
14 jury, the Defense has requested a polling of the jury which
15 means that the Clerk will call your names out individually and
16 ask you questions regarding this verdict. So, if you'd please
17 respond to the questioning by the clerk.

18 THE CLERK: When I call your name please stand I'll
19 ask you two questions and then you may be seated.

20 324, Brandon Singleton.

21 Is this your verdict?

22 MR. SINGLETON: Yes, it is.

23 THE CLERK: Is it still your verdict?

24 MR. SINGELTON: Yes, it is.

25 THE CLERK: Thank you.

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1 261, Barbara Millsaps.
2 Is this your verdict?
3 MS. MILLSAPS: Yes.
4 THE CLERK: Is it still your verdict?
5 MS. MILLSAPS: Yes.
6 THE CLERK: Thank you.
7 48, Meredith Canady.
8 Is this your verdict?
9 MS. CANADY: Yes.
10 THE CLERK: Is it still your verdict?
11 MS. CANADY: Yes.
12 THE CLERK: Thank you.
13 258, Marian Milleman.
14 Is this your verdict?
15 MS. MILLEMAN: Yes.
16 THE CLERK: Is it still your verdict?
17 MS. MILLEMAN: Yes.
18 THE CLERK: Thank you.
19 297, John Radu.
20 Is this your verdict?
21 MR. RADU: Yes.
22 THE CLERK: Is it still your verdict?
23 MR. RADU: Yes.
24 THE CLERK: Thank you.
25 308, Jenifer Ridde1.

1 Is this your verdict?
2 MS. RIDDEI: Yes.
3 THE CLERK: Is it still your verdict?
4 MS. RIDDEI: Yes.
5 THE CLERK: Thank you.
6 116, Kirsten Gartner.
7 Is this your verdict?
8 MS. GARTNER: Yes.
9 THE CLERK: Is it still your verdict?
10 MS. GARTNER: Yes.
11 THE CLERK: Thank you.
12 166, Elizabeth Hirschman.
13 Is this your verdict?
14 MS. HIRSCHMAN: Yes.
15 THE CLERK: Is it still your verdict?
16 MS. HIRSCHMAN: Yes.
17 THE CLERK: Thank you.
18 392, Shante Young.
19 Is this your verdict?
20 MS. YOUNG: Yes.
21 THE CLERK: Is it still your verdict?
22 MS. YOUNG: Yes.
23 THE CLERK: Thank you.
24 210, Tanya Kimber.
25 Is this your verdict?

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1 MS. KIMBER: Yes.
2 THE CLERK: Is it still your verdict?
3 MS. KIMBER: Yes.
4 THE CLERK: Thank you.
5 320, Nirupa Shah.
6 Is this your verdict?
7 MS. SHAH: Yes.
8 THE CLERK: Is it still your verdict?
9 MS. SHAH Yes.
10 THE CLERK: Thank you.
11 353, Sommer Todd.
12 Is this your verdict?
13 MS. TODD: Yes.
14 THE CLERK: Is it still your verdict?
15 MS. TODD: Yes.
16 THE CLERK: Thank you.
17 THE COURT: All right, ladies and gentlemen of the
18 jury, I want to thank you for your service. I know it was not
19 an easy job for you to preside in this case and listen to the
20 testimony and evidence and to deliberate but I do thank you
21 for your service, not only on my own behalf but on behalf of
22 the judicial system and on behalf of the citizens of Horry
23 County I want to thank you for your service during this trial
24 and for this week. Now, this concludes your services for not
25 only this trial but it concludes your services for the

1 remainder of the week. You're at liberty to stay if you'd
2 like at this point in time or if you wish to be excused you
3 can be excused at this time. Thank you very much. All right,
4 anyone that wants to go can go ahead and go.

5 (Jury exits.)

6 THE COURT: All right, do we have a sentencing sheet?

7 MR. RICHARDSON: Your Honor, I'm having those
8 sentencing sheets printed at this time.

9 THE COURT: Okay.
10 Any post-trial motions?

11 MR. HAZZARD: Yes, sir, Your Honor. The Defense would
12 move to set aside the verdict based upon the form that the
13 verdict takes. My understanding is that the jury has found
14 the Defendant not guilty of kidnapping, yet guilty of burglary
15 first and armed robbery. The evidence as presented would
16 indicate the testimony and evidence presented was that the
17 perpetrators did all three, that there was a, that there was a
18 burglary first, there was a kidnapping and then subsequently
19 the victims were robbed. It would almost seem as if this were
20 a hand of one hand of all or a conspiracy scenario where a
21 determination has been made that the Defendant was not present
22 and did not authorize the kidnapping but had arranged for in
23 advance the burglary first and the armed robbery. As the
24 Court knows the hand of one is the hand of all was not charged
25 in this case. The issue of conspiracy was not raised in this

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1 and is not sufficiently before the jury for their
2 consideration. Based on the inconsistency that is patently
3 evidenced we would, evident in this verdict we would request
4 that the verdict be set aside.

5 THE COURT: All right, your motion is noted. I'm
6 going to deny it. I don't see it as inconsistent. All right,
7 any other motions?

8 MR. HAZZARD: None on behalf of the Defense at this
9 time.

10 THE COURT: All right.

11 MR. RICHARDSON: Your Honor, I'd ask just for a brief
12 two minutes to make sure those sheets are coming up; okay?

13 THE COURT: All right.

14 MR. RICHARDSON: Begging the Court's indulgence. I'm
15 going to step back here to a computer station.

16 THE COURT: All right.

17 MR. RICHARDSON: The State is prepared to go forward
18 with sentencing at this time, Your Honor.

19 THE COURT: All right, Mr. Hazzard, any reason why we
20 should not impose sentence at this time?

21 MR. HAZZARD: No, sir, Your Honor.

22 THE COURT: All right, any mitigating circumstances on
23 behalf of the Defendant?

24 MR. HAZZARD: Thank you, Your Honor.

25 Your Honor, Travis is 23 years old, having been born on

1 [REDACTED] [REDACTED] [REDACTED], here in South Carolina. He has less than a
2 10th grade education in Loris High School. He had just started
3 the 10th grade when he left school. The reason Travis left
4 school in the 10th grade is because he has a pretty fairly
5 severe learning disability, Your Honor. He has been in the
6 resource classes from an early age and I know at some point
7 the Court will ask whether he has had mental evaluations. He
8 has had many mental evaluations. He has, he has a moderate to
9 slightly better than moderate learning disability that's
10 somewhat akin to dyslexia. There's just something that
11 doesn't fire up there when it comes to book learning, Your
12 Honor. So, yes, he's been to Waccamaw Mental Health many
13 times. He's been evaluated both with regard to mental acuity
14 and with regard to his paranormal or his normal state of mind.

15 His mother's name is Evelyn Bellamy and she is a
16 housekeeper and a nanny at the beach and his father's name is
17 James Bellamy and he owns a carpet and tile company. Travis
18 has throughout his life from the time he left school worked
19 for his father in the carpet and tile business as basically an
20 assistant. He is - he works very hard at what he does, Judge.

21 We simply ask that the Court grant whatever mercy it may
22 deem appropriate in this case.

23 THE COURT: All right, does anybody want to speak on
24 Mr. Bellamy's behalf?

25 All right, Mr. Bellamy, anything you'd like to say?

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1 MR. BELLAMY: I'd just like to ask the Court to have
2 mercy upon me and upon my three kids so I can get back home to
3 them as soon as possible.

4 THE COURT: All right, all right, the victims or
5 anybody on the victims' behalf wish to say anything?

6 MR. RICHARDSON: Your Honor, the - Mr. and Mrs.
7 Whitlock prepared a victims' impact statement about a year
8 ago. I believe it was during the course of a bond hearing.
9 They've asked that I revisit that and read that to the Court.

10 THE COURT: All right.

11 MR. RICHARDSON: They didn't wish to personally
12 address and then I'll go into a few aggravating circumstances.

13 "On November 21st, 2006, I had a total hip replacement on
14 my right hip. Approximately 10 to 14 days prior to the
15 robbery we had an annual checkup on our heat pump from Strand
16 Cooling, Incorporated, in North Myrtle Beach. On the night of
17 March 19th, 2007, I had been sitting in my Carolina room
18 watching TV. My husband had already retired for the night.
19 The blinds were open and I could be seen clearly from outside.
20 Between 11:30 and 12 midnight I went to bed. Shortly after
21 going to bed my husband awoke me, and I saw one man wearing a
22 ski mask on my husband's side of the bed with a chrome pistol
23 pointed at him, another man on my side of the bed holding a
24 long barrel gun pointed at me. I began to scream. My three
25 dogs started to bark. I was told to be quiet and stop the

1 dogs from barking. There was a third man in the house putting
2 the blinds down and shutting curtains. He was totally
3 ransacking the house. The man at my husband's side wanted him
4 to show them everything, where my pocketbook was and the man
5 on my side of the bed put me in the bathroom with the two dogs
6 and held a gun on me. During the whole time the third man was
7 going through every drawer, uncovered the birds, removed the
8 couch cushions, taking pictures off the wall. At one point
9 the man watching me left the door of the bathroom and I tried
10 to run out of the door and was stopped. At that point I was
11 made to lie on the floor and my hands were tied behind my
12 back. My feet were tied together. My husband was hog tied on
13 the couch in the living room. The man in charge kept asking
14 my husband where our safe was hidden. He replied that we
15 didn't have a safe, that we were poor people and he asked him
16 not to hurt me because I had recently had hip surgery.

17 The man asked a series of times, 'If I take that mirror
18 off the wall and find a safe can I shoot you?' My husband
19 replied each time yes. 'If I take that picture off the wall
20 and find a safe can I shoot you, if I find a safe in the
21 garage can I shoot you,' the same reply yes. The mirror and
22 the pictures were taken off the wall. The third man continued
23 through the house going through every dresser drawer where he
24 found my jewelry that contained all my expensive jewelry, a
25 list provided for your office. He pushed the collection of

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1 NASCAR material from the computer cabinet which contained a
2 large amount of glass and you could hear glass breaking. The
3 man in charge told them not to take credit cards but he wanted
4 my debit card and he asked me three times to repeat my PIN
5 number to him and each time I repeated the same number to him.
6 He asked how much could be withdrawn. I said \$500. He also
7 had found a key in the hall closet and asked me what it was
8 for. I honestly didn't know what it was and he kept telling
9 me, telling the both of us not to look at them. Later it was
10 determined the key was to the safe storage box that he had in
11 his hand that only contained important papers. He said the
12 two of them were going to the ATM to make a withdrawal and if
13 the PIN didn't work they were going to come back and kill
14 them. It suddenly got quiet and I asked my husband if he
15 thought they were gone and he said he didn't know. I was able
16 to get my feet and tried the phone but they had ripped the
17 phones out of the wall and taken my cell phone. So I ran to
18 the house, had to go to three different houses before I could
19 arouse the neighbor to open the door. She called the police.
20 It was only after my return to the house that I realized my
21 van had been stolen. The police arrived and because they had
22 worn gloves there were no fingerprints. There were no prints
23 and they thought that we had left the door unlocked. I didn't
24 even know which door they had come through. We were so
25 blindsided that we didn't know what had hit us and the police

1 said they had never had a home invasion in North Myrtle Beach
2 before. My neighbor brought me a telephone cord to use and as
3 we sat through the rest of the night and for daylight to come
4 made a call to Suncom to cancel my phone service. The next
5 morning my husband noticed that the disconnect box at the back
6 of the house was open. A key had been placed there in case we
7 got locked out without a key and that key was missing and that
8 is how they got in the house. We dismissed the possibility
9 that the heat pump personnel had anything to do with as he
10 seemed really nice and had actually sat down after the
11 inspection and drank two beers on company time after his last
12 inspection. The police officer theorized that he probably
13 didn't have anything to do with either since Detective Sheets
14 lives in Barefoot and he said that it's the policy of Centex
15 to leave a key there when houses were being built so
16 contractors could come and go as they needed. The key had
17 been there for approximately three years. Should have left
18 the phone service on but the police were able to get the
19 records from Suncom and they traced a phone call to a woman in
20 North Carolina and she finally gave up Riccardo Corley's name
21 Corley turned himself in, said that he was at the house with
22 Travis Bellamy and that all he got out of it was a cell phone
23 My van was found three days later in Conway. The police
24 processed the van but was unable to recover any fingerprints.
25 Your Honor, this is indeed a heinous act. Certainly the

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1 punishment for burglary in the first degree is 15 years to
2 life and I would submit to the Court that that lower limit,
3 15 years, well, that's, that's meant for if a first degree
4 burglary occurs in an unoccupied home, the people that live at
5 the home are out. That's not the case here. This is a true
6 home invasion, which the Whitlocks were tied up in their house
7 as their house was being ransacked. They had guns pulled on
8 them. Their lives were threatened. They were asked for the
9 PIN number for the card and they were told quite plainly, "If
10 this doesn't work we're coming back to kill you." Once again,
11 they had every reason to believe that those robbers would come
12 back and kill them. They had left them there tied up
13 supposedly where they wouldn't be able to get away, Your
14 Honor. This is a very serious crime, as recognized by the
15 State, this being one of the most serious crimes. There are
16 only three crimes in this state that carry the possibility of
17 life and first and foremost is murder, criminal sexual conduct
18 with a minor in the first degree and first degree burglary.
19 This is a particularly heinous act, Your Honor, and all the
20 evidence points to one man leading the charge and that would
21 be Travis Bellamy. How he knew about the key, I don't know,
22 but we do know he was there, Your Honor. He was using the
23 card 43 minutes after it was stolen after he had dumped the
24 van some 20 to 25 minutes away. Then he had time to travel 10
25 to 15 minutes down the road to the Petroleum Store, Sun House

1 Petroleum to get gas, and he was trying to use that card.
2 Yes, he was right, credit cards will get you. I guess he
3 didn't think about the fact that that ATM card, that camera
4 would get you, too. We saw on the Sun House Petroleum video.
5 He tried to hide himself. Obviously the card quit working.
6 He got frustrated because you could see the frustration on
7 those pictures. He hid himself at the first location. At the
8 second location he hid himself pretty well. The third
9 location you're starting to see a little bit more of him. By
10 the time it doesn't work for the final time he's using it he's
11 just full on in the camera frustrated. He's committed this
12 heinous act and he's got the van that's parked a half a mile
13 from his house and an ATM card that doesn't work anymore.
14 Your Honor, he needs to be punished.

15 THE COURT: All right, any prior record?

16 MR. RICHARDSON: Your Honor, he does have a 2006
17 conviction for receiving stolen goods for which he received
18 probation. He violated that probation and was actually on the
19 run when the U.S. Marshals caught him for this.

20 THE COURT: All right.

21 MR. RICHARDSON: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 All right, Mr. Bellamy, you have been found guilty by a
24 jury of your peers of the crime of armed robbery and burglary
25 in the first degree. On the charge of armed robbery the

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1 sentence of the Court is that you be confined to the State
2 Department of Corrections for 30 years. On the charge of
3 burglary in the first degree the sentence of the Court is that
4 you be confined to the State Department of Corrections for
5 life.

6 Thank you very much. Take him into custody.

7 MR. RICHARDSON: Thank you, Your Honor.

8 THE COURT: All right, if everyone please remain
9 seated while the jury is excused. That concludes the
10 sentencing and everything with regard to this case. Thank you
11 very much and you are excused and I thank you again for your
12 service.

13 MR. RICHARDSON: Thank you, Your Honor.

14 THE COURT: Thank you.

15 All right, anything else?

16 MR. RICHARDSON: Nothing from the State, Your Honor.

17 THE COURT: Anything from the Defense at this time?

18 MR. HAZZARD: Nothing from the Defense at this time.

19 THE COURT: All right.

20 (Adjourned.)

21

22

23

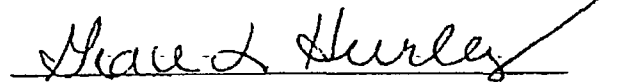
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25

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of The State versus Travis Detron Bellamy, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on August 3 through 6, 2009.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Grace L. Hurley, CVR-CM

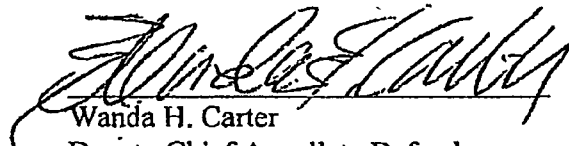
Official Reporter

December 23, 2009.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

June 16th, 2010



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ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TRAVIS BELLAMY,

APPELLANT

FINAL ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

The trial judge erred in giving an unconstitutionally coercive Allen instruction by threatening to declare a mistrial if the jury remained deadlocked in the case.

STATEMENT OF THE CASE

Appellant Travis Detron Bellamy was convicted of first degree burglary and armed robbery during the August 2009 term of the Horry County General Sessions Court before the Honorable Benjamin H. Culbertson, Judge. Appellant was sentenced to imprisonment for a period of thirty years on the armed robbery conviction and life imprisonment on the burglary conviction.

Appellant appealed. This petition follows.

ARGUMENT

The trial judge erred in giving an unconstitutionally coercive *Allen*¹ instruction by threatening to declare a mistrial if the jury remained deadlocked in the case.

At trial, Robert and Linda Whitlock testified that shortly after midnight on the morning of March 21, 2007, three males entered their home and took jewelry, cash money, an ATM card and PIN number, a cellular phone, and the key to their van, which the perpetrators ultimately drove off in as they fled. The Whitlocks' described the male perpetrators as three black males who were wearing masks and gloves and black clothing. R. p. 98, line 18 – p. 111, line 11; R. p. 120, line 7 – p. 128, line 25.

On March 30, 2007, police apprehended Ricardo Corley upon the suspicion that he was one of the male perpetrators in the case. Corley was tracked via a telephone call he made to his girlfriend from the Whitlocks' stolen cellular phone. Thereafter, Corley gave a statement, the contents of which were revealed during his (Corley's) testimony at trial. According to Corley's statement, it was appellant who was armed with a gun and drove the perpetrators to the Whitlocks' residence, and it was appellant who entered in the home first, got the ATM card and PIN number, drove the Whitlock van away from the scene, and then went to several ATMs to withdraw money. R. p. 173, line 12 – p. 177, line 4; R. p. 184, line 1 – p. 192, line 5.

Appellant did not testify at trial and no defense witnesses testified in the case. There was no confession or statement given by appellant, and the only forensic evidence presented in the case was a palm print from an ATM machine that allegedly matched appellant's print. R. p. 306, line 1 – p. 325, line. 1.

¹ Allen v. United States, 164 U.S. 492 (1896).

During jury deliberations, the jury became deadlocked. (R. p. 380, lines 12 – 18). As a result, the trial judge gave an Allen charge. The defense objected to the Allen charge. The Allen charge given in the case at bar was coercive and therefore unconstitutional because the trial judge instructed the jurors that “if [they did] not agree on a verdict, [then he] “must” declare a mistrial. R. p. 383, lines 2 – 3. This was coercive because the declaration of a mistrial with respect to a deadlocked jury is a permissive option as opposed to a mandatory requirement. The declaration of a mistrial is optional to the extent that a trial judge “may” declare a mistrial in the event of a deadlocked jury after the issuance of an Allen charge. See State v. Thomas, 159 N.C. App. 468, 583 S.E.2d 427 (2003), where the court held that a trial judge “may” declare a mistrial in the event of a deadlocked jury in an Allen situation. See also State v. Kelly, 372 S.C. 167, 641 S.E.2d 468 (2007), where the court held that the trial judge did not err in sending the deadlocked jury back for further deliberation per the Allen charge rather than declare a mistrial in the case.

As a rule, the typical judicial mechanism for encouraging an indecisive jury to render a verdict is the Allen charge, which instructs the jurors to approach the evidence with an open mind and consider the opinions of the other jurors. State v. Robinson, 360 S.C. 187, 600 S.E.2d 100 (2004). However, the trial judge has a duty to urge, not coerce, a jury to reach a verdict. See Dawson v. State, 352 S.C. 15, 572 S.E.2d 445 (2002), where the court reversed based on the trial judge’s coercive Allen charge to the lone “hold out” juror questioning her civil service by implying that she was stubbornly insisting that the other eleven jurors must change their minds. Other coercive Allen charges have been condemned as well. For example, an inquiry into the jury’s numerical

division was deemed coercive in connection with the Allen charge in the case of State v. Middleton, 218 S.C. 452, 63 S.E.2d 163 (1951); Lowenfield v. Phelps, 484 U.S. 231 (1988).

In the instant case, the portion of the Allen charge that included a warning of the mandatory declaration of a mistrial as a consequence of the jurors not agreeing on a verdict was indeed coercive. Note that there is no mention of consequences in the Allen charge from the Supreme Court case of Allen v. United States², supra in the event a jury that remained deadlocked.

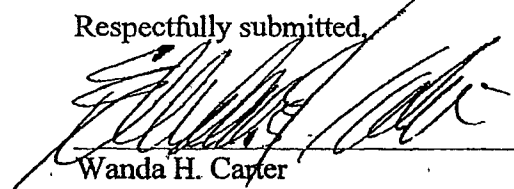
The coercive Allen charge in the instant case deprived the jury of a fair jury verdict and a fair trial, all of which are rights guaranteed under the Sixth and Fourteenth Amendments to the United States Constitution and article 1 § 3 and § 14 of the South Carolina State Constitution.

² In a large proportion of cases absolute certainty could not be expected; that, although the verdict must be the verdict of each individual jurors, and not a mere acquiescence in the conclusion of his fellows, yet they should examine the question submitted with candor, and with a proper regard and deference to the opinions of each other; that it was their duty to decide the case if they could conscientiously do so; that they should listen, with a disposition to be convinced, to each other's arguments, that, if much the larger number were for conviction, a dissenting juror should consider whether his doubt was a reasonable one which made no impression upon the minds of so many men, equally honest, equally intelligent with himself. If, upon the other hand, the majority were for acquittal, the minority ought to ask themselves whether they might not

CONCLUSION

Based on the foregoing argument, appellant's convictions should be reversed and his case remanded to the Horry County General Sessions Court for a new trial.

Respectfully submitted,


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

July 6, 2010

reasonably doubt the correctness of a judgment which was not concurred in by the majority. 164 U.S. at 491-492

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

 Appeal from Horry County

 Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

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TRAVIS BELLAMY,

APPELLANT

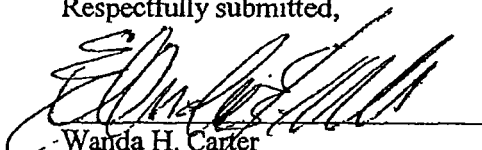
 PETITION TO BE RELIEVED AS COUNSEL

Counsel for Travis Bellamy states:

1. She is Deputy Chief Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Benjamin H. Culbertson, which was held on August 6, 2009, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

WHEREFORE, she asks the Court to relieve her as counsel for Travis Bellamy.

Respectfully submitted,

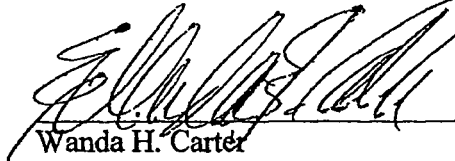

 Wanda H. Carter
 Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

July 6, 2010


Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1343

Attorney for Appellant

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Horry County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

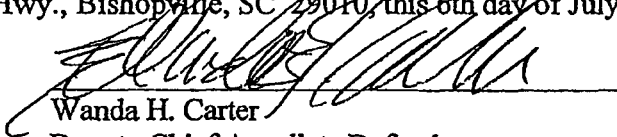
V.

TRAVIS BELLAMY,

APPELLANT

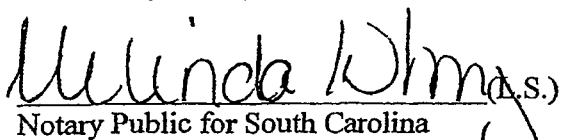
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Final Anders Brief of Appellant in the above referenced case has been served upon Salley W. Elliott, Esquire, Assistant Deputy Attorney General, Office of the Attorney General, Rembert Dennis Building, 1000 Assembly Street, Rm. 519, Columbia, SC 29201; and the Final Anders Brief and Record on Appeal have been served upon Travis Bellamy, #323612 at Lee Correctional Institution, 990 Wisacky Hwy., Bishopville, SC 29010, this 6th day of July, 2010.


Wanda H. Carter
Deputy Chief Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 6th day of July, 2010.


Melinda Whmy (L.S.)
Notary Public for South Carolina

My Commission Expires: October 30, 2018.

(4)

FORM 5

STATE OF SOUTH CAROLINA)

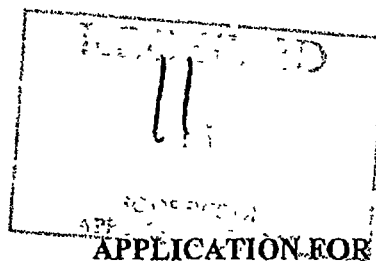
County of Horry)

IN THE COURT OF COMMON PLEAS

Travis D. Bellamy #308612
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)



5644

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Litcher Correctional Inst. P.O. Box 225
Ridgelyville South Carolina 29472
2. Name and location of Court which imposed sentence Horry County
Court House General Session.
3. Name(s) of co-defendant(s) (if any) _____
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 07-68-26-3930 - Burglary First Degree

- (b) 07-66-26-3931 - Kidnapping
 (c) 07-66-26-3932 - Armed Robbery

5. The date upon which sentence was imposed and the terms of the sentence:

- (a) December 23, 2009
 (b) Armed Robbery 30 years
 (c) Burglary 1st Degree - life Sentence

6. Check whether a finding of guilty was made:

- (a) after a plea of guilty _____
 (b) after a plea of not guilty Plea of Not Guilty
 (c) after a plea of nolo contendere _____

7. Did you appeal from the judgment of conviction or the imposition of sentence?

YES

8. If you answered "yes" to (7), list:

(a) the name of each Court to which you appealed:

i. South Carolina Court of Appeals

ii. _____

iii. _____

(b) the result in each such Court to which you appealed:

i. Appeal Dismissed

ii. _____

iii. _____

(c) the date of each such result:

i. May 19, 2011

ii. _____

iii. _____

(d) if known, citations of any written opinion or orders entered pursuant to such results:

i. Unpublished Opinion NO. 2011-UP-221

ii. Submitted May 1, 2011 - Filed May 18, 2011

iii. _____

9. If you answered "no" to (7), state your reasons for not so appealing:

(a) N/A

- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Due Process of Law Violation
- (c) _____

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) Counsel failed to adequately investigate the case
- (b) Judge erred in giving an unconstitutionally coercive Allen instruction
- (c) With threatening remarks to the jury

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? N/A

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

- (a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

- (b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____

iv.

(c) the disposition thereof:

i.

ii.

iii.

iv.

N/A

(d) the date of each such disposition:

i.

ii.

iii.

iv.

N/A

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

N/A

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

N/D

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

ii.

iii.

N/A

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

N/A

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Just standing my remedy
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? _____
 (b) your trial, if any? Yes
 (c) your sentencing? Yes
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? Yes
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? _____

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. MR. Ronald Hazzard Esq
 ii. MS. Wanda H. Carter. South Carolina Commission
on indigent Defense. P.O. Box 11589
 iii. Columbia, S.C. 29211-1589

(b) the proceedings at which each such attorney represented you:

i. MR. Ronald Hazzard - Trial
 ii. MS. Wanda H. Carter. Appeals.
 iii. _____

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5644

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Travis D. Bellamy, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Travis D. Bellamy
Applicant

SWORN or affirmed to and subscribed before me this

5th day of July, 2011.

Sybra Jones
Notary Public

My Commission Expires: 1/24/2018

11-5 AM 10:29
 CLERK OF COURT

19. State clearly the relief you seek in filing this application: 11 5644

A New Trial

20. Are you now under sentence from any other court that you have not challenged?

NO

Revised 3/2003

STATE OF SOUTH CAROLINA)

County of

Horry

VERIFICATION

I, THOMAS D. Bellamy, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Thomas D. Bellamy

SWORN to and subscribed before me this 5th day of July, 2011.

Gyrlina Jones (L.S.)
Notary Public

My Commission Expires:

1/24/2011

#328612
MR. Travis D. Bellamy
Cooper unit B-16
Lieber Prison Inst.
P.O. BOX 205
Ridgely S.C. 29472

431
July 5, 2011

11

5644

MS. Melanie Huggins
Clerk of Court
1301 2nd Avenue
Conway, S.C. 29526

CLERK OF COURT
MELANIE HUGGINS-WARD
JUL 5 2011
AM 10:29

RE: P.C.R.A.

Dear Clerk of Court as You can see I have included in this letter my application for Post Conviction Relief. I am requesting that this Court please file, clock it, and docket it and make a stamped copy certified and please forward a copy back to me for my personal records. I further request that you please also along with filing my application appoint me an attorney to represent me on my Post Conviction relief. I want to thank you in advance for assisting me in my time of need. Please comply A.S. A.P.

Respectfully Submitted
Travis D. Bellamy
Travis Bellamy

STATE OF SOUTH CAROLINA
IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY

C/A No: 2011-CP-26-5644

Travis D. Bellamy, 323612 Applicant,

vs.

State of South Carolina Respondent.

AMENDED POST CONVICTION RELIEF
APPLICATION PURSUANT TO RULE 15 SCRCP

QUESTION-1

(1). Was Counsel ineffective for failing to perform any pretrial investigation, both factual and legal? And as a result Applicant's right to Effective Assistance of Counsel as Guaranteed by the Sixth & Fourteenth Amendment to the United States Constitution and Article 1 § 14 of South Carolina Constitution to Due Process of Law, was violated? ✓

FACTS

On or about August 3-6, 2009 Applicant was convened, a jury was selected and the jury found Applicant guilty and the Honorable Benjamin H. Culbertson sentenced Applicant to 30 yrs. ✓ for armed robbery and life imprisonment for first degree burglary, concurrent sentences. Off of the advice of counsel Applicant did not testify and the Applicant / defense rested.

Counsel was ineffective for failing to perform any pretrial investigation, both factual and legal and at the evidentiary hearing through testimony. Witnesses and probative evidence / exhibits Applicant will show the Court that counsel was ineffective and as a result Applicant was prejudiced and his right to Effective Assistance of Counsel as guaranteed by the Sixth and Fourteenth Amendment to the United States Constitution; and Article 1 § 14 of the South Carolina Constitution to Due Process was violated.

DISCUSSION

The Sixth Amendment to the United State Constitution provides that in all criminal prosecutions, the accused shall enjoy the right to have Effective Assistance of Counsel for his defense. U.S. Const. Amend. VI. the right to effective assistance of counsel means to the right to "Effective Assistance Of Counsel" see: Cuyler vs. Sullivan, 446 U.S. 335, 344, 352 (1980); also see: U.S. vs. Morrison, 449 U.S. 361, 366 (1981); Tollett vs. Henderson, 411 U.S. 258, 266-68. At the heart of effective representation is the independent duty to investigate and prepare. Goodwin vs. Balkcom, 684 F.2d 794, 805 (11th.Cir.), cert. denied--U.S.--103 Sup.Ct. 1798.

Therefore, permissible trial strategy can never include the "failure" to conduct reasonably substantial investigation of the case. The test formulated in Strickland vs. Washington, 466 U.S. 668 (1984), for determining whether counsel has rendered Constitutionally ineffective assistance reflects this concern. In STRICKLAND, the Court identified two components to any ineffective assistance of counsel claim. (1). deficient performance; and (2). prejudice. Under that decision, a criminal defendant alleging prejudice must show that counsels' errors were serious enough to deprive the defendant of a fair trial. Strickland vs. Washington, 466 U.S. 687, also see: Kimmelman vs. Morrison, 477 U.S. 365, 374 (the essence of ineffective assistance of counsel claim is that counsel's unprofessional errors so upset the adversarial balance between the defense and prosecution that the proceeding was rendered unfair and the conviction suspect).

Preparation and investigation "must be more than perfunctory." Counsel has a affirmative duty to conduct an appropriate investigation, both factual and legal. Coles vs. Peyton, 389 F.2d 224, 226 (4th.Cir) cert. denied 393 U.S. 849 (1968). The failure to ascertain and investigate possible defenses as often resulted in finding that the defendant was denied adequate representation, see: Goodwin vs. Swensen, 287 F. Supp. 166, 176-86 (W.D.M.O. 1968).

The primary input of the attorney to his clients case is the professional expertise. Even in a simple criminal case meticulous investigation and thoughtful legal analysis will often reveal a panolpy of issues to which the defendant, a layman will be oblivious. Garland vs. Cox, 472 F.2d 875, 879 (4th.Cir.).

The notion that defense counsel must obtain information that the state has and will use against the defendant is not simple a matter of common sense. The American Bar Association standards for criminal justice, prosecution and defense function describes the obligation in terms no one could misunderstand in circumstances of a case like this one. "It is the duty of the lawyer to conduct prompt investgation of the circumstances of the case and explore all avenues leading to facts relevant to the merits of the case and the penalty in the event of conviction.

The investigation should always include efforts to secure information in the possession of the prosecutor and law enforcement authorities. See: ABA for Criminal Justice 4-4.1 (2nd. ed. 1988 Supp.) The failure to investigate and research and prepare is equivalent to no representation at all, See: Brubaker vs. Dickson, 310 F2d. 30, accord Williams vs. Beto, 354 F.2d 698, and Brooks vs. Texas, 381, F2d. 619.

QUESTION - 2

(2). WAS TRIAL COUNSEL INEFFECTIVE FOR FAILING TO SERVE "NOTICE OF ALIBI" PURSUANT TO S.C.Crim.P. Rule 5(e)(1) SINCE APPLICANT'S SOLE DEFENSE WAS THAT OF "ALIBI" AND AS A RESULT APPLICANT'S RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AS GUARANTEED BY THE SIXTH & FOURTEENTH AMENDMENT TO THE U.S. STATES CONSTITUTION AND ARTICLE 1 & 14 OF SOUTH CAROLINA CONSTITUTION TO DUE PROCESS OF LAW WAS VIOLATED?; AS WELL AS APPLICANT'S RIGHT TO A COMPLETE DEFENSE.

It is elementary in this State a defendant is entitled to a complete defense, see: Rule 5(e)(1) S.C.Crim.P. States in part:

(e) Notice of Alibi

(1) Notice of Alibi by defendant. Upon written request of the prosecution stating the time, date, and place at which the alleged offense occurred, the defendant shall serve within ten days or at such time the court may direct, upon a prosecution a written notice of his intention to offer a alibi defense. The notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

FACTS

Defense attorney argued the following colloquy in his closing argument to the jury, see: (Tr.Pg.348 L.7-8)

- (7). made of it is there, There is no evidence tying this man to
(8). this crime and there's a reason why because he wasn't there.

Here attorney argues that the Applicant was not there. This being said is clear counsel should have requested for a Alibi Defense Instruction and should have given notice of alibi prior to trial.

Applicant submits through testimony; witnesses; affidavits; and probative evidence / Exhibits Applicant will show the court that counsel was ineffective and as a result Applicant was prejudiced and his right to effective assistance of counsel as guaranteed by the Sixth & Fourteenth Amendment to the United States Constitution; and Article 1 § 14 of the South Carolina Constitution to Due Process was violated as well Applicant's right to a complete defense.

DISCUSSION

SEE: Riddle vs. State, 308 S.C. 361, 418 S.E.2d 308 (1992), (failure to request an alibi instruction was ineffective assistance of counsel, where sole theory of defense was alibi; relief granted).

SEE: State vs. Robbins, 275 S.C. 373, 271 S.E.2d 319 (1980) Counsel's rejection of the charge at trial constitutes inadequate legal representation.

The prejudice of this error was compounded by the following,

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF HORRY	)	
	)	C/A No: <u>2011-CP-26-5644</u>
Travis D. Bellamy, 323612	)	
Applicant,	)	MOTION TO ADDRESS ALL ISSUES
	)	
VS.	)	PRESENTED PURSUANT TO S.C.
	)	CODE Ann. § 17-27-80
	)	
STATE OF SOUTH CAROLINA	)	
Respondent.	)	

Applicant Travis D. Bellamy, by and through record hereby moves respectfully and asks this Honorable Court to direct the Attorney General's Office to address [all] issues presented, pursuant to S.C. Code ANN § 17-27-80, as decided by the S.C. Supreme Court in Pruitt vs. State, 423 S.E.2d 127.

That each and every issues presented be addressed at any PCR hearing that is held according to Bryson vs. State, 493 S.E.2d 500 (1997).

Applicant further asks that each and every issue raised herein be addressed by the Court, at P.C.R. hearing that is held and that this court direct that all issues be addressed in Order issued by this Court.

For the requested, Applicant respectfully prays.

Respectfully Submitted,

/s/ Travis D. Bellamy

Travis D. Bellamy, 323612

Travis Bellamy, #323612
Lieber Corr. Inst. A-B-4
P.O. Box 205
Ridgeville, S.C. 29472

439

August 6, 2012

Paul Archer, Esquire
Attorney at Law
233 Muirfield Drive
Pawleys Island, S.C.
29585

RE: P.C.R. C/A No. 2011-CP-26-5644 Request for
the following witnesses to be called at the P.C.R. hearing
on August 27, 2012 at 9:30

Dear Mr. Archer,

I have the following witnesses I want to be
Subpoena at my P.C.R. Hearing they are my Alibi
witnesses Counsel failed to call in my behalf.
If you dont have these witnesses present then
we want beable to go forward with my case.
Furthermore, you need to come to the prison and
sit down and talk to me concerning my case if
you cant I'm advising you to tell the court and
be relieved as my P.C.R. Counsel. I will be
going into court unprepared. I look forward to
(1.)

hearing from you. My witnesses has already contacted you and you told them that they couldn't do no affidavit and you cant subpoena them. That is not correct. You cant even win a P.C.R. if you fail to call your witnesses and present evidence / Affidavits. Thank you and God Bless.

- 1.) Willie Bellamy - Conway S.C.
- 2.) Tressa Tierney - ~~0000000000~~ Little River S.C. 29566
- 3.) Andrew Stephen Vereen - Longs S.C.

151 Travis Bellamy
Travis Bellamy
Applicant

SWORN TO AND SUBSCRIBED before me

On This — day of —, 2012

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Notary Public for South Carolina

MY COMMISSION EXPIRES —

PERSONAL SWORN AFFIDAVIT

Please state your full name: Tressa Calandra Tierney

Please state your age: 32

Please state your address: [REDACTED] Little River SC 29566

How long have you resided at this address: 5 yrs

Do you know Travis Bellamy, if yes please state how: Yes

Riccardo Carley

Have you ever spoken to or been interviewed by Mr. Ronald Hazzard

Esquire: No, however I did go by his office 2 or 3 times regarding this matter
but did not speak to him

If yes please state in detail any conversation and the content of that conversation: _____

Do you have any information concerning the case of Travis Bellamy that may be imperative and important that you wish to share: Yes

the night that the crime took place Travis was home with his daughters, me, my niece + his uncle who he was staying with on 905. We had a cookout + ate then cleaned up I don't remember the exact time, but I know it was kind of late. Riccardo came by the house + told Travis I have your money but it's on my girlfriends bankcard so he gave the card + pin number to Travis + told → over

Have you ever been contacted by the Solicitor's Office or any investigators concerning any of the facts that you have just listed: No

Jesse J

Sworn Before me 7/21/12
Carol Ann Houser

Information continued...

him to go get the money. being the ATM wasn't far away from the house. There was always something going on at the house so Riccardo Travis he needed the card back that night and he could go get the. Travis left alone + Riccardo + the 2 guys he had with him stayed outside where everyone hangs out at. Travis left and was gone abt 10-15 minutes. When Travis came back he told Riccardo the card did not work and he needed his money, then they had a falling out at it.

If your answer was yes, please list any names and agencies to the best of your abilities, whether it may have been from Ronald Hazzard, the Solicitor's Office or the Sheriff's Department: _____

Is there any other information you may have that may be important to Travis Bellamy, if so please list in detail: I spoke with Riccardo and he told me he was going to put some shit on Travis because of the falling out about the money. Also after the crime took place people kept coming around telling us that Riccardo was telling every body that Travis was the one. Why haven't you come forward with this information until now? I was scared when it first happened and when I thought of coming forward I spoke with the solicitor & was told I can't get in trouble somehow & I left it alone because that scared me even more.

If you would have been called as witness to Travis Bellamy's trial would you have testified under oath to the facts listed in the sworn affidavit: Yes I would have but I was out of town

Will you testify in any future hearings, trials etc, to the information you have listed herein: Yes

Have you ever been convicted of felony: No

If yes, please list the crime and year to the best of your ability: _____

Do you believe you are an honest person: Yes, truly

I the Affiant further sayeth naught!

[Signature]

dated 7/12/12, 2011

I Am,

/s/

[Signature]

print your name: Tressa Tierney

444 her info continued...

that did the crime that was showing all over the t.v.,

As a matter of fact the girl I use to hangout with through mutual friends used to mess with Riccardo, which is how I met him, also told me Riccardo told me Riccardo did it with 2 of her cousins from North Carolina, and that she knew Travis had nothing to with it. I tried to get in touch with her but I can't find her because I don't know her full name.

Would I have been a witness continued...

during the trial and I didn't know he was trying to get in touch with me.

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

Travis D. Bellamy, # 323612,

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTEENTH JUDICIAL CIRCUIT

2011-CP-26-5644

RETURN
(Attorney Appointment Requested)

Respondent, making its Return to the Application for post-conviction relief filed July 5, 2011, by Travis D. Bellamy, would respectfully show this Court:

I. – Procedural History

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. The Applicant was indicted in September 2007 for first-degree burglary (2007-GS-26-3930), kidnapping (2007-GS-26-3931), and armed robbery (2007-GS-26-3932). He was represented by Ronald W. Hazzard, Esquire. On August 3-6, 2009, the Applicant was tried before the Honorable Benjamin H. Culbertson. The jury found the Applicant guilty of first-degree burglary and armed robbery, but not guilty of kidnapping. Judge Culbertson sentenced the Applicant to 30 years for armed robbery and life imprisonment for first-degree burglary. The sentences were to run concurrently. A notice of appeal was timely filed, and Wanda H. Carter, Esquire, represented the Applicant on appeal. The South Carolina Court of Appeals affirmed the conviction on May 18, 2011 (2011-UP-221). The case was remitted to the circuit court on June 3, 2011.

Incorporated herein by reference are the records of the Horry County Clerk of Court regarding the convictions, the trial transcript, and the direct appeal records. The Applicant's

records from the Department of Corrections will be forwarded upon receipt. Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II. – Allegations and Relief Sought

In his Application, Mr. Bellamy alleges that his custody is unlawful for the following reason(s):

- (1) Ineffective assistance of counsel – counsel failed to adequately investigate the case; and
- (2) Due process of law violation – judge erred in giving an unconstitutionally coercive Allen instruction with threatening remarks to the jury, and the judge constructively amended the indictment during trial.

The Applicant states he is seeking a new trial.

III. – Ineffective Assistance of Counsel

The Applicant first alleges that he received ineffective assistance of counsel. In a post-conviction relief action, the applicant bears the burden of proving his or her allegations by a preponderance of the evidence. Stalk v. State, 375 S.C. 289, 297, 652 S.E.2d 402, 405 (Ct. App. 2007) (citations omitted); Rule 71.1(e), SCRPC. “Where ineffective assistance of counsel is alleged as a ground for relief, the applicant must prove that ‘counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result.’” Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007) (citing Strickland v. Washington, 466 U.S. 668, 669 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985)). The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Id.

A two-pronged test is used to evaluate allegations of ineffective assistance of counsel. Dalton v. State, 654 S.E.2d 870, 873 (Ct. App. 2007). “In order to prove that counsel was ineffective, a PCR applicant must show that: (1) counsel’s performance was deficient; and (2)

there is a reasonable probability that, but for counsel's errors, the result of the trial would have been different.” Smith v. State, 375 S.C. 507, 515, 654 S.E.2d 523, 527-28 (2007) (citations omitted). “A reasonable probability is a probability sufficient to undermine confidence in the outcome of the trial.” Id. (citations omitted). “Furthermore, when a defendant's conviction is challenged, ‘the question is whether there is a reasonable probability that, absent the errors, the fact finder would have had a reasonable doubt respecting guilt. Id. (citations omitted). “There is a strong presumption that counsel rendered adequate assistance and exercised reasonable professional judgment in making all significant decisions in the case.” Id. (citations omitted). The applicant must overcome this strong presumption in order to obtain relief. Stalk, supra (citation omitted).

Respondent submits that the Applicant will not be able to meet his burden of proof regarding his claim of ineffective assistance of counsel. However, because the allegations may raise questions of fact that the record does not conclusively refute, Respondent requests an evidentiary hearing to fully resolve any issues. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV. – Allegations of Trial Court Error

The Applicant’s second allegation relates to errors committed by the trial judge. Respondent submits that allegations of trial court error are not cognizable in PCR. Roscoe v. State, 345 S.C. 16, 546 S.E.2d 417 (2001). “PCR is not a substitute for appeal or a place for asserting errors for the first time which could have been reviewed on direct appeal.” Humbert v. State, 345 S.C. 332, 338, 548 S.E.2d 862, 866 (2001) (citation omitted). Nor is the PCR court a place for re-asserting direct appeal issues. See Drayton v. Evatt, 312 S.C. 4, 8, 430 S.E.2d 517, 519 (1993). Further, claims already raised to the appellate court are barred by the doctrines of

res judicata and/or collateral estoppel. See Pye v. Aycock, 325 S.C. 426, 432-33, 480 S.E.2d 455, 458-59 (1997). Accordingly, Respondent moves for dismissal of all allegations of trial court error pursuant to S.C. Code Ann. § 17-27-70(c).

V.

Each and every allegation, claim, or statement contained within the Application not expressly admitted, qualified, or explained is DENIED.

VI.

WHEREFORE, having made its Return, the Respondent requests that counsel be appointed and an evidentiary hearing held on the issue of ineffective assistance of counsel.

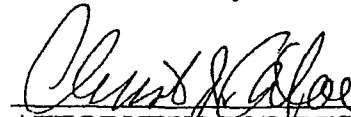
Respectfully submitted,

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August 4, 2011

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS

2011-CP-26-05412

Travis Bellamy,

)

)

vs.

)

TRANSCRIPT OF RECORD

)

State of South Carolina.

)

)

August 27, 2012

Conway, South Carolina

BEFORE:

The Honorable, Thomas A. Russo

APPEARANCES:

BY: T. Andrew Johnson, Sr., Esq.

Attorney for State of South Carolina

BY: Paul Archer, Esq.

Attorney for Brian Powell

Brenda R. Babb

Circuit Court Reporter

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Ronald W. Hazzard, Esq.				
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Mr. Bellamy - Direct Examination by Mr. Archer

3

1 Mr. Johnson: Your Honor, this is 2011-CP-26-
2 5644, Travis T. Bellamy. He was indicted for first degree
3 murder, kidnapping, armed robbery. He was tried before
4 Judge Benjamin Culbertson August 3 through 6, 2009. The
5 jury found him guilty of first degree burglary, armed
6 robbery, not the kidnapping. His sentence was thirty years
7 for the armed robbery, life imprisonment for the first
8 degree burglary. He was represented by Mr. Ronald Hazzard.
9 He filed his PCR July 5th, 2011, and he's represented today
10 by Mr. Paul Archer and at this time I would ask Mr. Archer
11 to put the Applicant's claims on the record.

12 The Court: All right, Mr. Archer, I'll be happy
13 to hear from you, sir.

14 Mr. Archer: Yes, sir.

15 Travis Bellamy

16 being first duly sworn, testified as follows:

17 Direct Examination

18 By Mr. Archer:

19 Q Now, Mr. Bellamy, you're the Applicant here
20 today; is that correct?

21 A Yes, sir.

22 Q And you're claiming ineffective assistance
23 of counsel; is that correct?

24 A Yes, sir.

25 Q And did I explain to you that what you have

Mr. Bellamy - Direct Examination by Mr. Archer

4

1 to do is convince Judge Russo that because of your
2 attorney's mistakes that the jury in all likelihood with
3 have found you not guilty; is that correct?

4 A Yes, sir.

5 Q All right, let's go through just the
6 preliminary stuff to get this out of the way. You were
7 offered a plea offer; is that correct?

8 A Yes, sir.

9 Q And what was that plea offer?

10 A Fifteen years.

11 Q And you did not take it, correct?

12 A No, sir.

13 Q Now this was a home invasion with a
14 codefendant; is that correct?

15 A Yes, sir.

16 Q And do you remember what the codefendant's
17 plea offer was?

18 A 10 years.

19 Q And he took that offer, correct?

20 A Yes, sir, to testify on me.

21 Q All right, so the codefendant got 10 years
22 on a plea offer and you were offered fifteen?

23 A Yes, sir.

24 Q Is that correct?

25 A Yes, sir.

Mr. Bellamy - Direct Examination by Mr. Archer

5

1 Q You went to trial and you were found guilty
2 and you got life without parole?

3 A Yes, sir.

4 Q How old were you at the time that you were
5 sentenced to life without parole?

6 A Twenty-three, twenty-two, twenty-three,
7 somewhere around that.

8 Q Did you have any kind of a violent record
9 or anything?

10 A I had no record.

11 Q Had no record, at the sentencing on page
12 400 of the transcript I'd just like to call your attention
13 --

14 Mr. Archer: This is going to be my big argument
15 anyway, Your Honor.

16 Q (Continuing) On page 400 there is a, after
17 you got life without parole the Judge asked your defense
18 attorney is there anything from the defense and he said,
19 no, sir, or no or nothing; is that correct the way you
20 remember it?

21 A Yes, sir, my correct.

22 Q All right, at that time he never brought up
23 the fact that you had a plea offer of fifteen years,
24 correct?

25 A No, sir.

Mr. Bellamy - Direct Examination by Mr. Archer

6

1 Q He never brought up the fact that maybe the
2 trial judge was punishing you for going to trial?

3 A No, sir, he didn't.

4 Q Did he bring up the fact that the
5 codefendant got ten years and you're getting life without
6 parole?

7 A No, sir.

8 Q Did he bring up the fact that some
9 murderers get thirty years or forty years, they don't even
10 get life without parole?

11 A No, sir.

12 Q Did you feel that you were punished for
13 exercising your constitutional rights for a trial?

14 A Yes, sir, I do.

15 Q So to summarize it you were twenty-three,
16 no record, plea offer fifteen years, and you got life
17 without parole?

18 A Yes, sir.

19 Q Because you went to trial?

20 A Yes, sir.

21 Q All right, did you, did you also when you
22 were discussing your case with your defense attorney did
23 you bring up the fact that you had an alibi witness?

24 A Yes, sir, I brung up the fact I had a
25 couple of alibi witnesses at that moment. I went over with

Mr. Bellamy - Direct Examination by Mr. Archer

7

1 Ron Hazzard at the moment and he knew about the alibi
2 witnesses but he ain't placed it on the record. The only
3 one he placed on the record is the one I dismissed; he
4 didn't place on the record that we was waiting on the alibi
5 witnesses. He didn't place none of that on the record; we
6 just went on with trial.

7 Q So you went to trial without an alibi
8 witness?

9 A Yes, sir.

10 Q What's her name?

11 A Ms., Trusso.

12 Q She's here today, correct?

13 A Yes, sir.

14 Q In your opinion that would have been an
15 important witness for the jury to hear, correct?

16 A Yes, sir.

17 Q Is there anything else that you would like
18 to tell the Court as far as ineffective assistance of
19 counsel?

20 A I mean like I said at that moment that
21 should have been brung to the attention of the Court about
22 the witnesses that I did have and had them under subpoena
23 but that wasn't brung to the Court and other issues behind
24 how the Judge let the Solicitor pull certain things out
25 from what the codefendant said. That should have been like

Mr. Bellamy - Direct Examination by Mr. Archer

8

1 really addressed on a serious note but it wasn't.

2 Q Let me ask you a question in this home
3 invasion, let's give a little facts, was anybody hurt in
4 this?

5 A No, sir, it wasn't from my intentions.

6 Q All right, and then basically what it was
7 it was they went into a house and I think it was the Dunes,
8 is that where it was, you went into a house, we're saying
9 you had an alibi so obviously you're saying you're not
10 guilty but what I'm saying is the facts that were brought
11 out it was a home invasion, it was a robbery of a, of an
12 ATM card?

13 A From the facts that were brought out they
14 say it was a home invasion. They say someone got robbed or
15 something like that and they implicated me because of a
16 possession of a card that I had.

17 Q Of an ATM card?

18 A Yes, sir.

19 Q That was the only evidence against you?

20 A Yes, sir, and from what the codefendant was
21 saying which the codefendant got on the stand and told the
22 Judge and the Solicitor that everything he did say about me
23 was a lie and that I didn't have anything to do with it.

24 Q All right, do you recall from the testimony
25 the fact that the two people who were in the house they

Mr. Bellamy - Direct Examination by Mr. Archer

9

1 actually had masks on, right, there was no identification?

2 A They said it was three people but they only
3 locked two people up but they said it was three people.

4 Q All right, but the, but the victims never
5 identified you, did they?

6 A No, they got on the stand and they said
7 they didn't, and they couldn't identify me as being the one
8 going in their house.

9 Q So the only reason that you were even
10 arrested is because you had some sort of possession of a,
11 of an ATM card?

12 A Yes, a ATM card that was given to me by the
13 two people that I know had something to do with it.

14 Q All right, so the sole evidence against you
15 was the fact that you had an ATM card, you weren't
16 identified at the scene and nobody was injured at the
17 scene; you were offered fifteen years, you didn't take it,
18 correct?

19 A Yes, sir.

20 Q Why didn't you take it?

21 A Cause I ain't had nothing to do with that.

22 Q So the jury finds you guilty and the Judge
23 gives you life without parole?

24 A Yes, sir.

25 Q Does that basically summarize your

Mr. Bellamy - Cross Examination by Mr. Johnson

10

1 situation?

2 A Yes, sir.

3 Mr. Archer: I have no further questions.

4 The Court: All right, Mr. Johnson?

5 Mr. Johnson: Your Honor, we, we're going to
6 make an objection to the issue of the alibi witness because
7 it's not alleged in Mr., it's not alleged in the initial
8 application. He simply alleged ineffective assistance of
9 counsel and due process violation and there was no mention
10 of a alibi witness, so, I'd like to ask him questions about
11 that but I want to reserve my objection.

12 The Court: All right, hold on, that poses an
13 issue. If you object to that line of testimony then I
14 would order it stricken if I agree with your objection, but
15 then you want to ask him questions about it which kind of
16 opens the door back up.

17 Mr. Johnson: To simplify matters, Your Honor,
18 we would just move to strike that entire line of questions
19 and answers.

20 The Court: With regards to the alibi witness?

21 Mr. Johnson: Yes, sir.

22 The Court: All right, I'm going to grant that
23 based on it's not part of his application for relief, so
24 that portion would be struck, stricken from the record.

25 Mr. Johnson: Beg the Court's indulgence for a

Mr. Bellamy - Cross Examination by Mr. Johnson

11

1 moment?

2 The Court: Yes, sir.

3 Mr. Archer: Your Honor, may I just say one
4 thing that's, she's here today but you're basing it because
5 it wasn't on the application?

6 The Court: Correct, correct, and I'm basing it

7 ---

8 Mr. Archer: Not that she's not here?

9 The Court: Exactly, exactly, just that the
10 State was not given any notice of that as being ---

11 Mr. Archer: I understand that, we just found
12 about this alibi witness only a week ago, I think.

13 The Court: Sure, I understand.

14 Mr. Archer: I'd like to put that on the record,
15 too. I don't want them to think that I've had this
16 information all along cause I would have amended the
17 application.

18 The Court: Yes, sir.

19 Mr. Archer: I did not have this information.

20 The Court: Okay, all right.

21 **Cross Examination**

22 **By Mr. Johnson:**

23 Q Sir, how many times did you have occasion
24 to meet with your attorney?

25 A One.

Mr. Bellamy - Cross Examination by Mr. Johnson

12

1 Q Sir?

2 A One.

3 Q Just one time, what did you discuss in that
4 meeting?

5 The Court: You're talking about his, Mr.
6 Hazzard, right?

7 Mr. Johnson: Yes, sir.

8 The Applicant: (Continuing)

9 A Are you talking about Mr. Hazzard?

10 Q Yes, sir.

11 A Oh, I spoke with him ample of times.

12 Q I'm sorry?

13 A Ample of times I spoke with him.

14 Q Well would it be maybe more than five?

15 A It may be more than five.

16 Q Maybe somewhere between five and ten; would
17 that be fair?

18 A I ain't pushing at ten, maybe more to five
19 or more.

20 Q All right, what kinds of things did you
21 discuss?

22 A I mean Mr. Hazzard wasn't on my case that
23 long for us to discuss many things. At the beginning of my
24 case I was issued Paul Hazzard the same lawyer that my
25 codefendant had and I done wrote Paul Hazzard and told him

Mr. Bellamy - Cross Examination by Mr. Johnson

13

1 everything about my case, I mean to say Paul ---

2 Mr. Archer: Taylor.

3 The Applicant: (Continuing)

4 A --- Taylor and done wrote him and told him
5 everything about my case when he was appointed to my
6 codefendant as well, so I didn't have Ron Hazzard at first
7 and now after Paul Taylor know everything about me he
8 represented my codefendant he let me go so James Galmore
9 picked me up. James Galmore didn't really want to do my
10 case from how me and him was discussing it so I put in
11 paperwork to get rid of him and get a new lawyer. They
12 granted it and the first time, no, the first time James
13 Galmore was saying he would do the case then after they let
14 that go he came back and said he didn't want to do the case
15 so I put in another one and that's when I got Ron Hazzard
16 and I went to trial. This took up like, what, twenty-seven
17 months before I got into trial sitting in the county jail,
18 Ron Hazzard was only my lawyer probably for like maybe
19 three months.

20 Q All right, at some point during Mr.
21 Hazzard's representation you were offered fifteen years; is
22 this right?

23 A Yes, sir.

24 Q And you countered with an offer of twelve
25 years?

Mr. Bellamy - Cross Examination by Mr. Johnson

14

1 A Say that again?

2 Q Didn't you counter that you would asked for
3 12 years, plead to twelve years but fifteen was too long?

4 A Yes, sir.

5 Q So you were agreeable to doing twelve years
6 for this crime; is that right?

7 A I was agreeing to doing away with it.

8 Q Yes, sir, but the question is in order to
9 do away with it you were going to be happy with twelve
10 years?

11 A That's doing away with it, that's better
12 than doing fifteen or either life.

13 Q All right, but they didn't offer you twelve
14 and the State proceeded to trial?

15 A Yes, sir.

16 Q All right, now after the jury came back
17 with the verdict and you received your sentence what
18 discussion did you have with Mr. Hazzard?

19 A I don't remember having no discussions with
20 him.

21 Q All right, was there a request for the
22 Court to reconsider the sentence?

23 A I can't remember.

24 Q You don't remember that?

25 A No, I can't remember.

Mr. Bellamy - Redirect Examination by Mr. Archer

15

1 Q Did you ask Mr. Hazzard to do that?

2 A I don't, like I said I can't remember my
3 head was going, they just took my life away, I can't
4 remember what I was thinking.

5 Q You mentioned that you felt you were
6 punished for going to trial, I hope not to mischaracterize
7 your testimony; is that what you said a little earlier?

8 A Yes, sir.

9 Q All right, would you tell us why you think
10 that is?

11 A I mean because if I would have, if you, if
12 they was willing to give me fifteen years and I went to
13 trial to try to prove my innocence and end up being life
14 with thirteen years that show to say that I was punished
15 for going to trial. If they was willing to give me fifteen
16 years but I wanted to plead my case and ended up getting
17 thirty with life that's punishment.

18 Q Let me take you to the point in your trial
19 where the jury has just come back with their verdict but
20 before the time when you're sentenced and this is the time
21 when the Solicitor tells the Court all about your case; do
22 you remember that?

23 A I remember somewhat of it.

24 Q And this is during the sentencing phase
25 when the lawyer for the State gets up and talks and then

Mr. Bellamy - Redirect Examination by Mr. Archer

16

1 your lawyer gets up and says something in mitigation; do
2 you remember that?

3 A Somewhat, I remember some of it.

4 Q All right, do you think that this was part
5 of the reason why you could have received the time that
6 you, that you did?

7 A No, sir, not really because I mean it's
8 still punishment for life when knowing I heard and I ain't
9 had anything to with the crime from the start but talking
10 of the crime no one got hurt, no one got killed or none of
11 that I still ended up with life or thirty years at a young
12 age with kids to raise.

13 Q Yes, sir, and you're not here saying today
14 that the sentence is an illegal sentence?

15 A No, I mean from the record the sentence is
16 legal, I mean it's a legal sentence. The time carried from
17 10 to life or something like that, it carried that.

18 Mr. Johnson: No further questions for this
19 witness, Your Honor.

20 The Court: Anything on redirect, Mr. Archer?

21 **Redirect Examination**

22 **By Mr. Archer:**

23 Q Knowing the facts, this is the transcript
24 again, the co-defendant who pled and got tens years he did
25 basically what you did, correct, if it's assuming that you

Mr. Hazzard - Direct Examination by Mr. Johnson

17

1 did it, there's a little conflict here because you're
2 saying you didn't do it but let's assume you did do it, the
3 codefendant basically one wasn't more implicated than the
4 other, correct, he did the same thing you did?

5 A Yeah, it was the same.

6 Q And he got the ten years?

7 A Yes, sir.

8 Q So obviously the Solicitor was happy with
9 that, wouldn't you say that's true?

10 A Yes, sir, I mean the Solicitor basically
11 said he asked the codefendant you're here today you know
12 who got you the ten years, correct, and the Solicitor
13 basically told him I give you the ten years to say that
14 this man did that.

15 Q All right, so in other words if, if the
16 Solicitor had a slam dunk facing all the rest of you he
17 wouldn't have even offered anybody ten years, fifteen
18 years, correct?

19 A Yes, sir.

20 Q But the problem is you didn't take it and
21 you went to trial and you got life without parole?

22 A Yes, sir.

23 Mr. Archer: All right, thank you.

24 The Court: Thank you very much, sir, Mr.

25 Bellamy, you may step down. Mr. Archer, anything further,

Mr. Hazzard - Direct Examination by Mr. Johnson

18

1 sir?

2 Mr. Archer: No, sir.

3 The Court: All right, Mr. Johnson?

4 Mr. Johnson: I'm going to call Mr. Ronald
5 Hazzard.

6 The Court: All right, Mr. Hazzard, please come
7 around and be sworn, sir.

8 Ronald W. Hazzard, Esq.

9 being first duly sworn, testified as follows:

10 Direct Examination

11 By Mr. Johnson:

12 Q Mr. Hazzard, would you start by giving the
13 Court a brief history of your experience as a lawyer, also
14 tell us how you came to represent the applicant in this
15 case?

16 A A brief history of my experience as a
17 lawyer?

18 Q Yes, sir.

19 A Been a member of the bar, I was, I was
20 sworn into practice of law back in 1988, quite some time
21 ago. I have been engaged in the practice of criminal law
22 during that time. I have represented individuals charged
23 with everything from speeding tickets to murder during that
24 time. In this particular case the incident date was
25 alleged to have been March 12th of 2007. I believe Mr.

Mr. Hazzard - Direct Examination by Mr. Johnson

19

1 Bellamy was arrested July 1st or July 2nd of 2007. As Mr.
2 Bellamy testified at some point, excuse me, James Galmore
3 of the public defender's office was appointed to represent
4 him and he apparently had some conflicts with Mr. Galmore
5 and so his case was given over to me as of March 27th of
6 2009, so Mr. Bellamy is correct I was appointed to
7 represent him on March 27th of '09 and the case went to
8 trial beginning August 3rd of 2009. I'm currently employed
9 with the public defender office at this time; I am chief
10 public defender for Georgetown County.

11 Q Do you recall your meetings with the
12 applicant, how many meetings did you have, how long did
13 they last, things of that nature?

14 A Mr. Bellamy and I talked quite a bit during
15 the time that I represented him both in person and over the
16 phone. Let's see, we have a data base and we enter notes
17 in the data base and I try to keep my fairly
18 contemporaneous with what occurs, so in no particular
19 order, July 6th of 2009 telephone conference with Mr.
20 Bellamy; June 30th, 2009, telephone conference with Mr.
21 Bellamy; June 23rd, 2009, meeting with Mr. Bellamy at J.
22 Reuben Long Detention Center; June 16th, and this is
23 obviously going back in time, June 16th, 2009, telephone
24 conference with Mr. Bellamy; June 15th telephone
25 conference; May 27th telephone conference; May 20th

Mr. Hazzard - Direct Examination by Mr. Johnson

20

1 telephone conference; May 19th met with Mr. Bellamy here at
2 the, at the courthouse because we did a motion for a speedy
3 trial or in the alternative to have a bond set in this case
4 and that was on May 19. Met with him at the detention
5 center on May 13th of 2009; telephone conference with him
6 on May 4th of 2009; met with him in the detention center on
7 April 19th, 2009; met with him in the detention center on
8 March 30th of 2009, met with him in the detention center on
9 March 26th of 2009.

10 Q Do you remember making a motion for
11 discovery under Brady v. Maryland or Rule 5 motion?

12 A Yes, sir, our office automatically makes
13 those motions on behalf of any and all defendants we
14 represent. That motion is made before I ever see the file.
15 There is a Rule 5 and a Brady motion.

16 Q And did you get a response?

17 A Yes, sir.

18 Q And did you go over the response with Mr.
19 Bellamy?

20 A Yes, sir, it is our pattern and practice to
21 provide defendants with all their discovery so that they
22 can review it at their leisure at the detention center and
23 part of visiting the clients at the detention is so that we
24 can over the discovery with them.

25 Q Do you remember discussing Mr. Bellamy's

Mr. Hazzard - Direct Examination by Mr. Johnson

21

1 version of the facts?

2 A Yes, sir, several times.

3 Q And what did he tell you?

4 A The one thing about Mr. Bellamy's version
5 of the facts and never changed was that he said that he did
6 not commit the act in question, that he did not take part
7 in the home invasion. What changed over time was the alibi
8 witnesses and whether someone was with him or not and who
9 the person was who was with him, that changed several
10 times.

11 Q All right, and did you discuss with Mr.
12 Bellamy potential the range of sentencing that he was
13 facing?

14 A Yes, sir.

15 Q And at some point you heard my questioning
16 of Mr. Bellamy earlier at some point an offer was made for
17 10 years?

18 A That is correct.

19 Q And did Mr. Bellamy come back with a
20 counter offer?

21 A During the course of my representation of
22 him Mr. Bellamy made several counter offers to Senior
23 Solicitor Brad Richardson. Prior to trial Mr. Bellamy had
24 indicated that he would accept a plea somewhere in the
25 seven to eight year range. As we got closer to trial he

Mr. Hazzard - Direct Examination by Mr. Johnson

22

1 indicated at some point that he might take twelve. As late
2 as the middle of the trial during the State's case in chief
3 he offered ten and, he. being Mr. Bellamy, said I will take
4 ten years at this point, and Senior Solicitor Richardson
5 said no fifteen is still the offer, but what I will place
6 on the record is that normally once the trial begins all
7 offers are withdrawn so even halfway through the trial the
8 State made it known that they would still allow him to
9 plead to the fifteen years.

10 Q And you carried this offer to him?

11 A Mr. Bellamy and I were seated at our
12 counsel table, Mr. Richardson was at his counsel table. It
13 was during a break in the trial so actually Mr. Bellamy and
14 Mr. Richardson spoke directly.

15 Q And what do you remember being his
16 response, Mr. Bellamy's response?

17 A His response was I want ten and Mr.
18 Richardson said no fifteen and Mr. Bellamy said no deal.

19 Q Okay, so there was no further discussion
20 about the negotiation?

21 A No, sir, not after that point halfway
22 through the trial.

23 Q Now when you and Mr. Bellamy heard the
24 sentence of the Court what discussions, if any, did you
25 have with him about something that could be done about that

Mr. Hazzard - Direct Examination by Mr. Johnson

23

1 sentence?

2 A I do not have a direct recollection but I
3 have no doubt that he and I spoke in lockup and that I, any
4 time I client is found guilty first of all in the phase it
5 was discussed is even though the Judge tells you you have a
6 right to appeal I always tell them as well that they have
7 the right to appeal that our office will file the appeal
8 for them, that our office will not actually handle the
9 appeal but that normally goes to the Office of Appellate
10 Defense, but if the client tells me I want to file an
11 appeal, and in this case obviously there's got to be an
12 appeal. The guy has no reason not to file an appeal
13 because he received a life sentence, so when you cut to the
14 chase on that and say we'll file an appeal on your behalf
15 and there also would have been some discussion in the
16 lockup regarding a motion to reconsider the sentence.

17 Q Okay, so there was discussion not a motion
18 to reconsider, was this in fact done?

19 A The motion to reconsider, yes, it was.

20 Q And what were the results to that, that
21 hearing?

22 A There was a hearing before Judge
23 Culbertson. Judge Culbertson denied the motion to
24 reconsider the sentence.

25 Q Do you feel that you had the ability during

Mr. Hazzard - Cross Examination by Mr. Archer

24

1 that hearing to adequately argue your position that perhaps
2 it was excessive or somehow unfair in light of the
3 codefendant's sentence?

4 A Yes, I had the ability to argue what I
5 wanted to argue which was in light of the fact that Mr.
6 Bellamy was being offered fifteen years prior to trial and
7 even as late as halfway through the trial, the fact that
8 the codefendant received a ten-year sentence that it seemed
9 a bit much to, well a great deal much to give him a
10 sentence of life without the possibility of parole.

11 Q And I assume the response was that there
12 was no change in the sentence?

13 A What Judge Culbertson said, and I've never
14 forgotten these words, was basically based on the facts of
15 the case and the heinous nature of the crime if you're not
16 going to give somebody life for this who would you ever
17 give life to.

18 Q All right, and getting back to the appeal,
19 in fact there was an appeal, the South Carolina Court of
20 Appeals, I think your office may have initiated this with a
21 notice of intent to appeal?

22 A Yes, sir.

23 Q Was this taken up by Appellate Defense?

24 A It would have had to have been, yes, sir.

25 Q All right, and then this was the Court of

Mr. Hazzard - Cross Examination by Mr. Archer

25

1 Appeals affirmed the conviction and the case was remitted
2 to about June 3rd, 2011; do you follow up on when the
3 remitter is back to the circuit court?

4 A No, sir.

5 Mr. Johnson: All right, Your Honor, I think
6 that is all that I have for Mr. Hazzard.

7 The Court: All right, Mr. Archer?

8 Cross Examination

9 By Mr. Archer:

10 Q How are you, Mr. Hazzard?

11 A I'm fine, Mr. Archer.

12 Q Good?

13 A Thank you for asking.

14 Q Were you shocked at that sentence when the
15 Judge handed it down?

16 A Yes, sir.

17 Q On page 400 when the Judge said is anything
18 further from the defense you said, no, sir, and yet you
19 were shocked by this, correct?

20 A Yes, sir, and I think more likely than not
21 my thought was, you know, get your thoughts together
22 actually file a motion to reconsider and go from there.

23 Q Do you think the Judge one of the reasons,
24 we don't know what's in the Judge's mind, but one of the
25 victims testified at how traumatized she was and she was

Mr. Hazzard - Cross Examination by Mr. Archer

26

1 hysterical and the whole thing, did you find that crime any
2 different than anybody else's, of course emotionally you
3 are traumatized, but was anybody physically hurt?

4 A No one was physically injured. I think
5 with regard to the facts of the case hooded males break
6 into a home with guns, bind people with duct tape in their
7 garage, repeatedly threaten to kill them if they do not
8 provide the, all their money and their, their credit or
9 debit card information, then the fact I believe there was
10 some testimony they were told by one of the perpetrators if
11 the, if the pin number given was not correct that they
12 would cone back and kill them anyway, so it seems like that
13 may have, that testimony may have resonated with Judge
14 Culbertson.

15 Q But that's all talk, correct, he didn't
16 come back and kill them, did he?

17 A No, sir, he did not, you're right.

18 Q And as far as the heinous nature of a crime
19 they weren't physically injured, emotionally they're
20 injured, no doubt about it?

21 A Yes, sir.

22 Q They weren't murdered?

23 A No, sir.

24 Q And if you rob somebody in a home invasion
25 this is typical of a home invasion, that's what they do,

Mr. Hazzard - Cross Examination by Mr. Archer

27

1 don't they, they come in with guns and they take your
2 credit cards, correct?

3 A They come and take whatever of value it is
4 that they came to take, I would assume, yes, sir.

5 Q I'm not, I'm not, I'm not saying that this
6 is, I'm not justifying what was done, but this is kind of a
7 garden variety home invasion, that's what home invasion is?

8 A Yes, sir, you're absolutely right.

9 Q And nobody is killed?

10 A No, sir, nobody is killed.

11 Q Have you ever seen, I'm sorry, have you
12 ever seen anybody get life without parole who has no record
13 at the age of twenty-three spend the next fifty years in
14 prison; have you ever seen that before?

15 A Not that I can recall, sir.

16 Q All right ---

17 The Court: I hate to interrupt, but just to
18 correct the record, he had a prior conviction. He was on
19 probation and got his probation revoked, so --

20 Mr. Archer: I was just listening to what he
21 said, I was not aware of it.

22 The Court: Okay, it's in the record,

23 Mr. Archer: Okay, I'm sorry, I didn't ---

24 The Court: But I, point well taken cause there
25 is just I think ---

Mr. Hazzard - Redirect Examination by Mr. Johnson 28

1 Mr. Archer: It wasn't a violent crime, I think,
2 that was my argument.

3 The Court: No, it was like a breach of trust
4 receiving stolen goods, yeah.

5 Mr. Archer: I'm sorry.

6 The Court: But anyway --

7 Mr. Archer: I should have, I think I did say a
8 violent record and I think that should be more correct, not
9 that he doesn't have a record, he doesn't have a violent
10 record.

11 The Court: Sure, sure.

12 Mr. Archer: Okay.

13 The Witness: (Continuing)

14 A Maybe I started to answer your question.
15 No one was injured, no one got pistol whipped or injured in
16 any way shape or form, and it would be as home invasions go
17 about as mild as they get other than the threats of
18 possible harm but no physical injury whatsoever that I'm
19 aware of to anyone.

20 Q Just in hindsight wouldn't you think it
21 would be a good idea at that time to call all this to the
22 attention of Judge Culbertson especially since you said
23 nothing and it was almost like you agreed with it? I mean
24 you should have been outraged at that sentence, correct?

25 A Well first of all I don't appreciate that

Mr. Hazzard - Redirect Examination by Mr. Johnson 29

1 characterization at all; I did not agree with it at all.

2 Q But you didn't say a word?

3 A That is correct, if that's what the
4 transcript says then I did not.

5 Mr. Archer: Okay, I have no further questions.

6 Redirect Examination

7 By Mr. Johnson:

8 Q Immediately after the sentencing is not the
9 proper time to follow your 59(e), is it?

10 A No, sir.

11 Q And you got, you got your client there with
12 you, the Court has just handed out a sentence and how often
13 at that point do you have questions from the Court anything
14 further?

15 A Oh, that always happens, they always say
16 anything further, but it's not all, immediately after the
17 sentencing is not necessarily the time you want to address
18 the motion to reconsider the sentence. You want the
19 opportunity to marshall whatever argument you're going to
20 make because once you make that motion and once the Judge
21 rules on that motion you're not going to have another
22 chance with it, but you do have a couple of days after the
23 sentencing to go ahead and put your, put your motion
24 together to talk with your client and make sure you're
25 covering everything and then address the Court in a formal

1 hearing as opposed to addressing the Court immediately
2 after the Judge has, has passed a sentence that he or she
3 obviously feels is just and fair because they just passed
4 it.

5 Q And in this case as you sat and heard the
6 sentence did the Judge say in fact that something to the
7 affect that if anyone deserves a life sentence it would be
8 this defendant or something of that nature?

9 A You mean at the time of sentencing?

10 Q Yes, sir.

11 A I do not recall that, I don't know if he
12 did. During the motion to reconsider he said if I'm going
13 to give, if anybody is going to get life or if life is what
14 is allowed for this type of a crime, if I'm not going to
15 give life for this fact situation since it is a possible
16 punishment then who would I ever or what situation would I
17 ever give life, when you break into someone's home in the
18 middle of the night, scare them to death, tie them up,
19 threaten to kill them, his basically position, Judge
20 Culbertson's basic position, as I recall, was, you know,
21 life is a possible penalty and as it is a possible penalty
22 if I'm not going to give it on this I don't know when I
23 ever would.

24 Q So sometime between, well sometime after
25 the sentencing a 59(e) was filed; is this correct?

Mr. Hazzard - Redirect Examination by Mr. Johnson 31

1 A A motion to reconsider.

2 Q And a motion to reconsider, and you had
3 time to collect your thoughts, right?

4 A Yes, sir.

5 Q You had time to potentially speak with Mr.
6 Bellamy?

7 A Yes, sir.

8 Q And collaborate with him in terms of coming
9 up with a reasonable strategy for this motion to
10 reconsider?

11 A Yes, sir.

12 Q And with regard to your perception of what
13 is reasonable trial strategy would you have done it any
14 other way?

15 A No, sir, I would not.

16 Mr. Johnson: Thank you.

17 The Court: All right, thank you very much, sir,
18 you may step down. Anything further from the State?

19 Mr. Johnson: Nothing further, Your Honor.

20 The Court: All right, would ya'll like to make
21 closing remarks before I rule?

22 Mr. Archer: Yes, sir, Your Honor, I have no
23 legal argument; it's a legal sentence. I cannot produce
24 any cases to show that what the Judge did was against the
25 law, but I think sometimes the Court just has to do what is

1 right and I think in this instance when somebody is offered
2 a fifteen year plea and they go to trial and a codefendant
3 is offered ten years and takes the ten years this man
4 doesn't take it, he doesn't have a violent record, and if
5 he gets, he's exercising his constitutional right to a
6 trial, there's absolutely no reason why he would ever get
7 life without parole and it's just been my experience of
8 just doing probably five or six hundred PCR's and I read
9 murder transcripts all the time, in Horry County you get
10 thirty years, thirty-five years. You don't even see
11 murderers get life without parole unless they have some
12 kind of violent background. Now I'm not arguing the law;
13 the Judge had every right to do that. All I'm arguing is
14 that we're here today and sometimes I think the Court just
15 has to right the wrong and I think it's very wrong for this
16 man to have gotten life without parole and I'm not arguing
17 this legally. I'm just asking the Court to do the right
18 thing and to vacate this. I think this is a very unfair
19 sentence especially since anybody was injured. Counsel
20 even admitted it was garden variety home invasion which I'm
21 not minimizing. I'm sure that woman was traumatized. If
22 somebody put a gun at my head I, that would be the worse
23 thing in the world but I'd be alive and that woman was
24 alive also, so there's a lot of women who are dead and,
25 and, and, of course, they got the ultimate crime and that

1 murderer may have only gotten 30 years so I think that
2 Judge Culbertson for some reason, I don't know why, but his
3 emotions got the better of him for some reason, maybe
4 batches this woman was hysterical at the sentencing or
5 whatever but I think he was a little bit out of order and
6 I'd just like to see that this is corrected.

7 The Court: Mr. Johnson?

8 Mr. Johnson: Your Honor, in this PCR as in all
9 PCR's parties and the Court is constrained by the body of
10 law that's developed around post conviction relief and in
11 this case and many of the cases I see the sentence itself
12 is not a basis for post conviction relief. The, the issue
13 that's cognizable under our statute in this case is
14 ineffective assistance of counsel and so for, so for the
15 applicant to succeed with the argument that his sentence
16 was excessive he would necessarily have to prove that it
17 was excessive by virtue of ineffective assistance of
18 counsel and so even if the Court believes that the
19 disparity between the codefendant sentence and the
20 applicant's sentence is something to be considered then the
21 Court would also necessarily have to find that the reason
22 is that counsel was ineffective and in this case counsel
23 testified that he did everything that was reasonable for
24 him to do. He did file a motion to reconsider; he argued
25 this case. It would have been an error to immediately ask

1 the Court to reconsider after the sentencing and I think
2 that it probably would have been ineffective assistance of
3 counsel if he had done what Mr. Archer proposes and that's
4 to immediately object to the sentence. He let the Court
5 cool off, if you will; he collected his thoughts. He filed
6 a written well thought out motion; he came and argued and
7 still was unsuccessful.

8 We also have a case State v. Dozier which is
9 directly on point that disparity between the sentencing of
10 defendant and codefendant does not establish ineffective
11 assistance of counsel.

12 Finally, Your Honor, the applicant if the
13 applicant has issue with his sentence that's more
14 appropriately addressed in the Court of Appeals and that
15 has already been done. The Court of Appeals affirmed, so
16 there's no ineffective assistance and the State would ask
17 the Court to deny and dismiss the case.

18 The Court: All right, looking through the
19 record, you know, I'm not going to ever sit here and try to
20 second guess or at least state what is on another Judge's
21 mind when they sentence. I will say I think during the
22 sentencing the victims were not even present. I think
23 there was a letter that was read into the record, so it
24 certainly wasn't driven by some victim being hysterical in
25 the courtroom, but, you know, the thing is there is some,

1 you know, I didn't hear the case, I didn't hear the facts
2 of the case, but, Mr. Archer, your position is that a wrong
3 has been done here and we need to right that wrong and the
4 truth be known is I don't have any authority and for me to
5 grant this application simply based on disagreeing with the
6 sentence I'd be violating the law, I'd be wrong. I don't
7 believe I have any authority to grant an application simply
8 on that path.

9 Here's the thing that's being, that's being kind
10 of missed. There were negotiations between Mr. Bellamy and
11 the State regarding a sentence but those are negotiations
12 between the State and a defendant. Those aren't
13 negotiations between the Court and to take the position
14 that he was offered 15 and he went to trial and was
15 convicted and got life that he's clearly being punished for
16 going to trial. I would agree with you if the Court said
17 if you, if you plead I'll give you 15, but if you go to
18 trial I'm going to give you life. That's clearly punishing
19 somebody. The Court wasn't a party to those negotiations
20 so those negotiations in all candor are really irrelevant.
21 The Court heard the case as the jury did, imposed the
22 sentence that was within the law, within the legal limits
23 of the law, and to grant the application because I may
24 think that the Judge was too harsh would be clearly an
25 injustice so I'm going to respectfully deny the

1 application, dismiss the application because I don't think
2 there's any legal basis to grant it.

3 End of requested transcript- - - -
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CERTIFICATE OF REPORTER

I, the undersigned Brenda R. Babb, official court reporter the South Carolina Court Administration, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all proceedings had and evidence introduced in the hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Horry County, South Carolina.

I do further certify that I am neither kin, counsel nor interest to any party hereto.

November 20, 2012

Brenda R. Babb

Brenda R. Babb, CVR-MASTER
OFFICIAL REPORTER

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)
Travis D. Bellamy, 323612)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
2011-CP-26-5644

HORRY COUNTY
12 SEP 10 PM 2:02
MELANIE J. JENNINGS-WARD
CLERK OF COURT

ORDER OF DISMISSAL

This matter comes before the Court by way of an Application for Post-Conviction Relief filed July 5, 2011. Respondent made its Return on August 4, 2011. The Court convened an evidentiary hearing into the matter on August 27th, 2012, at the Horry County Courthouse. The Applicant was present at the hearing and was represented by Paul Archer, Esquire. Tyson Andrew Johnson, Sr., Esquire of the South Carolina Attorney General's Office represented Respondent.

At the hearing, the Applicant testified on his own behalf. Also testifying was Ronald W. Hazzard, Esquire. This Court had before it the PCR Application, the State's Return, the records of the Clerk of Court, the transcript, and the Applicant's records from the South Carolina Department of Corrections.

PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to convictions from Horry County. The Applicant was indicted in September 2007 for first-degree burglary (2007-GS-26-3930), kidnapping (2007-GS-26-3931), and armed robbery (2007-GS-26-

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S.C. SUPREME COURT

3932). He was represented by Ronald W. Hazzard, Esquire.

On August 3-6, 2009, Applicant was tried before the Honorable Benjamin H. Culbertson. The jury found the Applicant guilty of first-degree burglary and armed robbery, but not guilty of kidnapping. Judge Culbertson sentenced the Applicant to 30 years for armed robbery and life imprisonment for first-degree burglary. The sentences were to run concurrently. A notice of appeal was timely filed, and Wanda H. Carter, Esquire, represented the Applicant on appeal. The South Carolina Court of Appeals affirmed the conviction on May 18, 2011 (2011-UP-221). The case was remitted to the circuit court on June 3, 2011.

Allegations

In his application for post-conviction relief the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel – counsel failed to adequately investigate the case; and
2. Due process of law violation – Judge erred in giving an unconstitutionally coercive Allen instruction with threatening remarks to the jury, and the judge constructively amended the indictment during trial.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility and weigh their testimony accordingly. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. '17-27-80.

Ineffective Assistance of Counsel

In a PCR action, "[t]he burden of proof is on the applicant to prove his allegations by a preponderance of the evidence." Frasier v. State, 351 S.C. 385, 389, 570 S.E.2d 172, 174 (2002) (citing Rule 71.1(e), SCRCP). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, Id. The Applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

First, Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625 (citing Strickland, supra). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland).

Failure to object to sentence

Applicant testified his counsel was ineffective because he failed to object to what Applicant felt was an excessive sentence, and that as a person with no substantial prior record, he felt he was punished for going to trial. Applicant testified that his co-defendant received a ten year plea offer and took it. Attorney Hazard testified that Applicant had been offered fifteen years and had rejected the offer. The negotiations were between counsel and the State, and the sentencing Judge was not a party to any plea negotiations that may have occurred. Applicant seemed to think that Attorney Hazzard should have immediately objected to the sentence as excessive, but the testimony in this matter establishes that while Hazzard may not have acted immediately after the sentence was announced, Hazzard made a timely motion to reconsider the sentence, which was to no avail. It appears from the testimony that Hazzard acted reasonably and within professional norms.

Applicant produced no evidence that his sentence was excessive. Applicant's sentence is well within the legal sentence that was available to the trial court. Applicant failed to show his counsel was ineffective. In reaching this conclusion, this Court finds counsel's testimony credible and gives it great weight. This Court does not find Applicant's testimony persuasive. I find that counsel acted reasonably, and that counsel was not deficient in this respect, nor was applicant prejudiced by any alleged deficiency. Further, I find counsel's actions were reasonable under prevailing professional norms, and therefore this claim is denied.

Other Allegations

No other allegations were raised or testified to at the PCR hearing. Therefore, any additional allegations raised in the PCR Application or amendment are deemed waived because no evidence was presented.

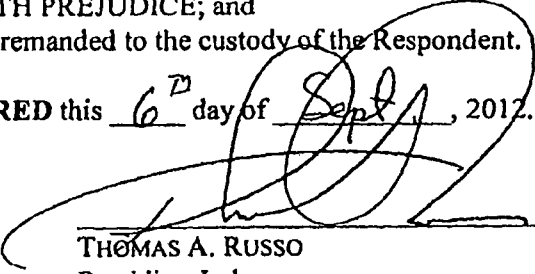
CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his application. Therefore, this application for post conviction relief is denied and dismissed with prejudice.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be DENIED AND DISMISSED WITH PREJUDICE; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 6th day of Sept, 2012.


THOMAS A. RUSSO
Presiding Judge
Fifteenth Judicial Circuit

Florence, South Carolina.

SHEETS/NMBPD
WITNESSES

DOCKET NO. 2007-GS-26-39132

THE STATE OF SOUTH CAROLINA

COUNTY OF Horry

BCR 85575-002

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE
VS

ARREST WARRANT NO. K176656

(CDR: 0139 16-11-0330(A))

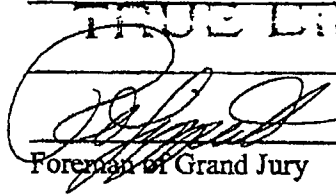
TRAVIS DETRON BELLAMY B/M

DOA: 07-02-07

DOB:
SS#:

ACTION OF GRAND JURY

TRUE BILL


Foreman of Grand Jury

SEP 20 2007

VERDICT

ATTORNEY: JAMES GALMORE

INDICTMENT FOR:

ARMED ROBBERY

ORIGINAL

Foreman of Petit Jury Date:

J. GREGORY HEMBREE, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF HORRY)

ARMED ROBBERY

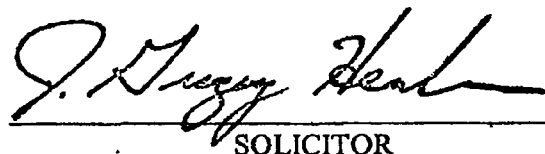
At a Court of General Sessions, convened on September 20, 2007, the Grand Jurors of Horry County present upon their oath:

ARMED ROBBERY

(CDR: 0139 16-11-0330(A))

That TRAVIS DETRON BELLAMY did in Horry County on or about March 21, 2007, while armed with a deadly weapon, to wit: a gun, take and carry away personal property from or in the immediate presence of Robert and Linda Whitlock with intent to deprive them of possession by use of force, threats or intimidation, in violation of Section 16-11-330(A), S. C. Code of Laws, 1976, as amended.

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


SOLICITOR

SHEETS/NMBPD
WITNESSES

DOCKET NO. 2007-GS-26-3930

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRY

BCR 85575-002

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE
VS

ARREST WARRANT NO. K176654

(CDR: 0079 16-11-0311)

TRAVIS DETRON BELLAMY

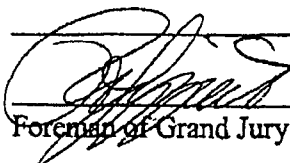
B/M

DOA: 07-02-07

DOB:
SS#:

ACTION OF GRAND JURY

TRUE BILL


Foreman of Grand Jury

SEP 20 2007

ATTORNEY: JAMES GALMORE

INDICTMENT FOR:

VERDICT

BURGLARY, FIRST DEGREE

ORIGINAL

Foreman of Petit Jury Date:

J. GREGORY HEMBREE, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF HORRY)

BURGLARY, FIRST DEGREE

At a Court of General Sessions, convened on September 20, 2007, the Grand Jurors of Horry County present upon their oath:

BURGLARY, FIRST DEGREE

(CDR: 0079 16-11-0311)

That TRAVIS DETRON BELLAMY did in Horry County on or about ^(PNC) March 21, 2007, enter the dwelling of Robert and Linda Whitlock located at _____, South Carolina without consent and with the intent to commit a crime therein and the defendant did so in the night time, in violation of Section 16-11-311(A), Code of Laws of South Carolina, 1976, as amended.

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


SOLICITOR

CERTIFIED COPY

2009 AUG 12 PM 2:59

Melanie Huggins
CLERK OF COURT
HARRY COUNTYFILED
HARRY COUNTY

2009 AUG 12 PM 3:36

MELANIE HUGGINS
CLERK OF COURT

THE STATE OF SOUTH CAROLINA

COUNTY OF HARRY

BCR 85575-002

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007

THE STATE
VS

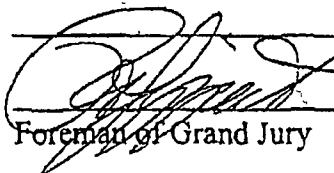
ARREST WARRANT NO. K176654

(CDR: 0079 16-11-0311)

DOA: 07-02-07

ACTION OF GRAND JURY

TRUE BILL


 SEP 20 2007
 Foreman of Grand Jury

VERDICT

Foreman of Petit Jury Date:

TRAVIS DETRON BELLAMY

B/M

ATTORNEY: JAMES GALMORE

INDICTMENT FOR:

BURGLARY, FIRST DEGREE

ORIGINAL

J. GREGORY HEMBREE, SOLICITOR

STATE OF SOUTH CAROLINA)

INDICTMENT FOR:

COUNTY OF HORRY)

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

J. Morgan Hail
SOLICITOR

FILED
HORRY COUNTY
2009 AUG 12 PM 3:36
MELANIE HUGGINS
CLERK OF COURT

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AUG 12 PM 2:59
Melanie Huggins
CLERK OF COURT
HORRY COUNTY

THE STATE OF SOUTH CAROLINA

COUNTY OF HORRYBCR 85575-002

COURT OF GENERAL SESSIONS

SEPTEMBER TERM 2007THE STATE
VSARREST WARRANT NO. K176656

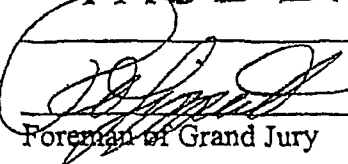
(CDR: 0139 16-11-0330(A))

TRAVIS DETRON BELLAMY

B/M

DOA: 07-02-07

ACTION OF GRAND JURY

TRUE BILL
Foreman of Grand Jury

SEP 20 2007

ATTORNEY: JAMES GALMORE

INDICTMENT FOR:

VERDICT

ARMED ROBBERY

ORIGINAL

CERTIFIED COPY

Foreman of Petit Jury Date:

J. GREGORY HEMBREE, SOLICITORCLERK OF COURT
HORRY COUNTY*Melanie Huggins*

2009 AUG 12 PM 2:59

CLERK OF COURT
MELANIE HUGGINS

2009 AUG 12 PM 3:36

FILED
HORRY COUNTY

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

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ARMED ROBBERY

(CDR: 0139 16-11-0330(A))

That TRAVIS DETRON BELLAMY did in Horry County on or about March 21, 2007, while armed with a deadly weapon, to wit: a gun, take and carry away personal property from or in the immediate presence of and Linda Whitlock with intent to deprive them of possession by use of force, threats or intimidation, in violation of Section 16-11-330(A), S. C. Code of Laws, 1976, as amended.

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

J. Gregory Heath
SOLICITOR

CERTIFIED COPY
2009 AUG 12 PM 2:59
Melanie Huggins
CLERK OF COURT
HORRY COUNTY

FILED
HORRY COUNTY
2009 AUG 12 PM 3:33
JEL: MIE HUGGINS
CLERK OF COURT