

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY

Roger L. Couch, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

JUSTIN DARNELL REYNOLDS,

APPELLANT

APPELLATE CASE NO. 2013-002637

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE) TRANSCRIPT OF RECORD
5 -vs-) 2012-GS-42-03307
6 JUSTIN DARNELL) 2012-GS-42-03308
7 REYNOLDS,) 2012-GS-42-03309
8) 2012-GS-42-03314 (COUNT I)
9) 2012-GS-42-03314 (COUNT II)
10) DECEMBER 2, 2013
11) SPARTANBURG, SOUTH CAROLINA
12)
13)
14)
15)
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18)
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22)
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24)
25)

(VOLUME I)

B E F O R E:

THE HONORABLE ROGER L. COUCH, JUDGE. ; And a Jury.

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

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ABEL GRAY, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

MARY STUART LYALL, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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1 (PROCEEDINGS, DECEMBER 2, 2013)

2 THE COURT: Ms. Lyall, do you have anyone who is a
3 potential witness other than those --

4 MS. LYALL: Not at this time, Your Honor.

5 THE COURT: -- on the State's list?

6 Okay. I just want to be sure.

7 This is the State of South Carolina versus Justin
8 Reynolds.

9 I have been presented with four indictments. The
10 first is 2013-3307 for kidnapping; 3308 for armed robbery;
11 3309 for grand larceny; and 3314-A, and I believe that is
12 for the possession of a firearm during the commission of a
13 violent crime, is that correct? Attempted murder was the
14 other count on that. Are you pursuing that attempted
15 murder?

16 MS. JORDAN: Yes, sir.

17 THE COURT: Okay. So -- all right. So just both
18 of those charges are being pursued on that indictment?

19 MS. JORDAN: Yes, sir, we have the five charges
20 that we are going forward on.

21 THE COURT: I see.

22 Now, first of all, Ms. Lyall, has your client been
23 arraigned on all of those charges?

24 MS. LYALL: Yes, Your Honor.

25 THE COURT: And I assume he is still pleading not

1 guilty?

2 MS. LYALL: Yes, Your Honor.

3 THE COURT: And requesting a jury trial, is that
4 true?

5 MS. LYALL: Yes, Your Honor.

6 THE COURT: Okay. Any matters that we need to
7 take up before we bring the jury in for jury selection?

8 MS. LYALL: Well, I do. I'm looking at the
9 State's request for questions to be asked of the jury pool.

10 THE COURT: Yes, ma'am.

11 MS. LYALL: And I do just have -- on their first
12 question they have "has any juror or juror's family member
13 or close personal friend been represented by Mary Stuart
14 Lyall or any attorney with the Spartanburg County Public
15 Defender's office?" Generally in a trial it's not said that
16 myself is a member of the Public Defender's office.
17 Sometimes it can -- some of the people picked on the jury
18 can look down on a client for being represented by the
19 Public Defender's office and that they don't go get their
20 own attorney, etcetera. So generally when I'm being
21 introduced to the jury, a judge says this is Mary Stuart
22 Lyall.

23 THE COURT: I usually allow the attorneys to
24 introduce themselves to the jury. That way we don't get
25 into difficulty with how they are introduced.

1 MS. LYALL: Right.

2 THE COURT: Ms. Jordan, she's objecting to one of
3 your requests.

4 MS. JORDAN: Your Honor, I don't mind if the court
5 strikes that last part.

6 THE COURT: All right. Now, then I'll just --
7 I'll leave that out.

8 Now, you also in your questions asks about people
9 in the solicitor's office. Do you want to go forward
10 with -- do you have any problem with that question?

11 MS. LYALL: No, Your Honor, clearly they are from
12 the solicitor's office.

13 THE COURT: Okay. All right.

14 Any other things we have to take up before we go
15 into jury selection; State's perspective?

16 MS. JORDAN: None from the State, Your Honor.

17 THE COURT: Defense?

18 MS. LYALL: No, Your Honor.

19 THE COURT: For the court's information, are there
20 any pretrial motions concerning suppression of evidence that
21 need to require a hearing?

22 MS. LYALL: Yes, Your Honor.

23 THE COURT: Okay. So we will select a jury. I
24 will probably then release them and bring them back and
25 start the trial after we have completed those hearings.

1 MS. JORDAN: Your Honor, the hearings may take a
2 good amount of time, in that I think that at least three
3 witnesses will be called in the Neal v. Biggers Hearing I
4 believe she's going to request.

5 MS. LYALL: Yes, Your Honor.

6 MS. JORDAN: Based on my victims identification of
7 the defendant.

8 THE COURT: I understand. Okay. We will probably
9 need about an hour then to get those taken care of.

10 MS. JORDAN: Yes, sir.

11 THE COURT: All right. Do you think that would be
12 sufficient, Ms. Jordan, an hour?

13 MS. JORDAN: I'm usually not very lengthy, so --

14 THE COURT: For the pretrial hearings, how long do
15 you think that they will take?

16 MS. LYALL: I'm very bad at guessing time as to
17 learn --

18 THE COURT: That's the problem that lawyers have
19 generally. I try not to hold that against them too badly.

20 MS. LYALL: I would think that would probably be
21 good.

22 THE COURT: About an hour ought to do it?

23 MS. LYALL: Yes, Your Honor.

24 THE COURT: All right. Then let's bring the jury
25 panel around, Mr. Bailiff, please.

1 MS. JORDAN: Judge, just before the jury is
2 brought in, could I just put something on the record, as far
3 as to a juror?

4 THE COURT: Yes, ma'am.

5 MS. JORDAN: 155 is a dentist at Pelham Links. I
6 go to Pelham Links Dentistry. He's not the dentist that I
7 normally see, but I just wanted to make Ms. Lyall aware that
8 I do go to that dentist.

9 THE COURT: Ms. Lyall, you are aware of that now?

10 MS. LYALL: Yes, Your Honor, I am.

11 And Vic Bailey is in this jury pool. We have a
12 client in common, James Scoggin.

13 THE COURT: That you represent him in that he --

14 MS. LYALL: I represent him, but he has contacted
15 my office multiple times about me and drafted a motion.

16 THE COURT: Mr. Bailey is an attorney, so --

17 MS. JORDAN: Yes, sir.

18 MS. LYALL: I guess his family is a personal
19 friend of my client.

20 THE COURT: Okay. Well, we will see if he answers
21 or doesn't. You are now aware of that?

22 MS. JORDAN: Yes, sir.

23 THE COURT: Okay.

24 (Whereupon, the jury venire panel entered the
25 courtroom)

1 THE COURT: All right, ladies and gentlemen, we
2 are about to begin the trial of the case of the State of
3 South Carolina against Justin Reynolds.

4 I have been presented with four indictments, one
5 of which contains two charges, so there are five charges
6 before the court in this case.

7 I'm going to go over the indictments with you at
8 this time. These are the documents that bring this case
9 into this courtroom. They do not constitute evidence of
10 guilt or innocence in the case, so they can't be considered
11 by a jury in any fashion in determining those questions, but
12 they do represent the documents that inform this court of
13 the charges that are to be tried, and then they inform the
14 defendant of the charges that have been lodged against him.
15 I'm going over them with you because in just a few minutes
16 I'm going to ask you questions that pertain specifically to
17 this case. The information contained in the indictments may
18 assist you in some fashion in answering the questions that
19 I'm about to ask.

20 The first indictment that I will discuss with you
21 is in case number 2012-GS-42-3307. The charge is
22 kidnapping. The indictment states that Justin Darnell
23 Reynolds did, in Spartanburg County, on or about April 8th
24 of 2012, willfully and unlawfully with criminal intent
25 seize, confine, inveigle, decoy, kidnap, abduct, or carry

1 away the victim Joshua Barrineau, without authority of law,
2 all in violation of Section 16-3-910 of the Code of Laws of
3 South Carolina, 1976, as amended, against the peace and
4 dignity of the State and contrary to the statute in such
5 case made and provided.

6 The second indictment is the same number, 3308.
7 This charge is for armed robbery. The indictment states in
8 its body that Justin Darnell Reynolds did, in Spartanburg
9 County, on or about April 8th of 2012, commit a robbery
10 while armed with a pistol, a dirk, a slingshot, metal
11 knuckles, razor, or other deadly weapon, or while alleging
12 either by action or words he was armed while using a
13 representation of a deadly weapon, or any object which a
14 person present during the commission of the robbery
15 reasonably believed to be a deadly weapon, did feloniously
16 take from the person or presence of Joshua Barrineau by
17 means of force, violence, and/or intimidation goods or
18 monies of Joshua Barrineau with the intent to deprive the
19 owner permanently of such property, in violation of Section
20 16-11-330(A) of the Code of Laws of South Carolina, 1976, as
21 amended, against the peace and dignity of the State, and
22 contrary to the statute in such case made and provided.

23 The next indictment is number 3309. This is for
24 the charge of grand larceny. This charge again alleges that
25 the defendant, Justin Darnell Reynolds, did, in the City of

1 Spartanburg, on or about April 8th of 2012, feloniously take
2 and carry away the goods of Joshua D. Barrineau, valued at
3 more than \$2,000, but less than \$10,000, described as
4 follows: A 2001 Chevrolet Blazer, with the intent to
5 deprive the owner permanently of such property, all in
6 violation of Section 16-13-30(b) of the Code of laws of
7 South Carolina, 1976, as amended, against the peace and
8 dignity of the State and contrary to the statute in such
9 made and provided.

10 The final indictment is case number 3314. This
11 indictment contains what is referred to as two counts or two
12 allegations. I'll go over these allegations separately.

13 The first count is for the offense of attempt
14 attempted murder. This indictment states that Justin
15 Darnell Reynolds did, in Spartanburg County, on or about
16 April 8th of 2012, with malice aforethought intend and
17 attempt to kill the victim, Joshua D. Barrineau, to-wit: By
18 shooting him with a handgun, all in violation of Section
19 16-3-29 of the Code of laws of South Carolina, 1976, as
20 amended.

21 The second count is for possession of a firearm
22 during the commission of a violent crime. This indictment
23 states that Justin Darnell Reynolds did, in Spartanburg
24 County, on or about April 8th of 2012, possess or visibly
25 display a firearm during the commission or attempted

1 commission of a violent crime, to-wit: Attempted murder,
2 all in violation of Section 16-23-490 of the Code of laws of
3 South Carolina, 1976, as amended, against the peace and
4 dignity of the State, and contrary to the statute in such
5 case made and provided.

6 Now, ladies and gentlemen, those are the
7 indictments that have been presented to the court. Those
8 are the charges that this court is to try and they are
9 intended to inform the defendant also of the charges lodged
10 against him.

11 Again, indictments do not constitute evidence in
12 the case and cannot be used by a jury in any manner in
13 determining the guilt or the innocence of a person named in
14 the indictments.

15 Now, I'm going to go over a set of questions with
16 you that will apply specifically to this case. Before I do
17 that I want the attorneys in this matter to introduce
18 themselves to you. And in the case of the defense, if you
19 would introduce the defendant to the jury panel as well.

20 First of all for the State. Ms. Jordan?

21 MS. JORDAN: Thank you, Your Honor.

22 My name is Jennifer Jordan. I'm an assistant
23 solicitor here in the Seventh Circuit. I prosecute cases
24 under solicitor Barry Barnette.

25 Seated at the table with me is Abel Gray, who is

1 also an assistant solicitor.

2 And also at the end of the table is my paralegal
3 Christie Beall Lindsey.

4 THE COURT: Thank you very much.

5 And for the defense?

6 MS. LYALL: My name is Mary Stuart Lyall and I
7 have the privilege today of representing Justin Reynolds.

8 THE COURT: All right. Thank you very much. You
9 can be seated.

10 Now, again, before I ask the questions, it's
11 important that the information that you provide us in
12 response to the questions that I'm about to ask is truthful,
13 honest and complete information. For that reason it's
14 necessary that you again be sworn, this time in this case to
15 respond accurately and truthfully to the questions of the
16 court.

17 Madam Clerk, please swear the potential jury panel
18 in this matter.

19 THE CLERK: Yes, sir.

20 Please stand and raise your right hands.

21 Do you solemnly swear and affirm the answers to
22 the questions you are about to give will be the truth, the
23 whole truth, and nothing but the truth, so help you God?

24 JURY VENIRE PANEL: (Collectively said I do.)

25 THE CLERK: Thank you. You may be seated.

1 THE COURT: Now, if there was any member of this
2 jury panel who either failed or refused to take the oath
3 that was just administered by the clerk, I would ask that
4 you now please stand.

5 (No response)

6 THE COURT: All right, the court record then will
7 reflect that all jurors have been sworn for purposes of
8 their responses to my questions.

9 All right, the first question -- and we will
10 follow the same procedure that we followed during jury
11 qualification. I'll ask a question. If you have a response
12 to the question, I'll be asking that you stand. I'll call
13 on you individually for your responses. Again, I'll need
14 your name and your juror number on the record before I
15 discuss any response that you might have to the questions
16 that I'm about to ask.

17 The first question I have, has any member of this
18 jury panel ever been related by marriage or are you related
19 by blood to either the defendant Justin Darnell Reynolds or
20 the alleged victim Joshua Barrineau? If that's true, please
21 stand.

22 (No response).

23 THE COURT: Has any member of this jury panel ever
24 been a close social or have a close personal relationship
25 with either the defendant Justin Darnell Reynolds or the

1 alleged victim Joshua Barrineau? If that's true, please
2 stand.

3 (No response).

4 THE COURT: Now, as for the attorneys that are
5 involved in this case, has any member of the jury panel ever
6 been represented by either of the attorneys, or any of the
7 attorneys that are involved in this case, or have they ever
8 appeared on the other side of a legal matter from you? If
9 that's true, please stand.

10 (No response).

11 THE COURT: Has any member of this jury panel ever
12 been related by marriage, or are you related by blood, or
13 have you ever had a close social or a personal relationship
14 with any of the attorneys that are involved in the trial of
15 this case? If that is true, please stand.

16 (No response).

17 THE COURT: I'm going to go over with you now a
18 list of people that have been identified to me as possible
19 witnesses in this case. It's a fairly lengthy list. It
20 looks like about twenty names, so I'm going to go over them
21 individually.

22 If there is any of them who are present in the
23 courtroom, when I call those names, if you would please
24 stand and face the jury panel so the jury could place a face
25 with the names.

1 The first person is Investigator Robert Talanges
2 with the Spartanburg County Sheriff's Office.

3 Next is Mr. Mike Flynn. He works for the
4 Spartanburg County 911.

5 Chief Darrell Dawkins with the Woodruff Police
6 Department.

7 Sir, if you will stand and face the jury panel.
8 Thank you, sir. You can be seated.

9 Officer Darrell Johnson with the Woodruff Police
10 Department.

11 Officer B. Knighton with the Woodruff Police
12 Department.

13 Officer W.T. Knight with the Woodruff Police
14 Department.

15 Mr. John Duncan.

16 Ms. Stephanie Vaughn.

17 Jason Tolison.

18 Joshua Barrineau.

19 Tiffany Barrineau.

20 Megan Margarita.

21 Kevin Felts, formerly with the Woodruff Police
22 Department.

23 Dr. Chris Morrow with Spartanburg Regional Medical
24 Center.

25 Dr. Kristine Lombardozzi with the Spartanburg

1 Regional Medical Center.

2 Mr. Michael Scroggs with the Spartanburg County
3 Emergency Medical Services.

4 Carlos Brown.

5 Officer Steve Sweat, formerly with the Laurens
6 County Sheriff's Office, currently with the Greenville City
7 Police Department.

8 Lieutenant Jawroski Shelton with the Laurens
9 County Sheriff's Department.

10 Mike Jones with the Spartanburg County detention
11 facility.

12 Now, as to those individuals that I have called
13 their names who are listed as possible witnesses in this
14 case, is there any member of the jury panel who has ever
15 been related by marriage, or you are related by blood, or
16 have you ever had a close social or a personal relationship
17 with any of those individuals? If that's true, please
18 stand.

19 (No response)

20 THE COURT: Has any member of the jury panel or a
21 member of your immediately family or a close personal friend
22 of yours ever been accused of or charged with a violent
23 crime or a drug crime? If that's true, please stand.

24 Name and number, sir.

25 JUROR NUMER 172: Adam Weathers, 172.

1 THE COURT: Yes, sir.

2 JUROR NUMBER 172: Phillip Canty on a manslaughter
3 charge.

4 THE COURT: Now, is this a friend of yours or a
5 family member of yours?

6 JUROR NUMBER 172: Friend.

7 THE COURT: A friend of yours?

8 JUROR NUMBER 172: Yes, sir.

9 THE COURT: Is that case still pending?

10 JUROR NUMBER 172: No, sir.

11 THE COURT: Well, the fact that you have had a
12 friend charged with that type of a crime, would that affect
13 your ability to be fair and impartial to both the State and
14 the defense in this case?

15 JUROR NUMBER 172: Yes, sir.

16 THE COURT: All right, sir, I'll excuse you from
17 this case. Remain seated. You no longer have to answer my
18 questions.

19 Name and number, please, ma'am.

20 JUROR NUMBER 15: Sherry Boyter, 15.

21 THE COURT: Yes, ma'am.

22 JUROR NUMBER 15: My brother-in-law was arrested.
23 It's been so long ago, but he is serving time now.

24 THE COURT: All right, ma'am. Can you tell me the
25 nature of the offense?

1 JUROR NUMBER 15: He had child solicit.

2 THE COURT: Would the fact that you have had a
3 family member charged and convicted in that fashion, would
4 that affect your ability to be fair and impartial, if you
5 were a juror in this case?

6 JUROR NUMBER 15: No, sir.

7 THE COURT: Thank you. You can be seated.

8 Name and number, please, ma'am?

9 JUROR NUMBER 28: Denise Butler, 28.

10 THE COURT: Yes, ma'am.

11 JUROR NUMBER 28: A nephew who was convicted of
12 making and with intent to distribute meth.

13 THE COURT: All right. Would that fact affect
14 your ability to be fair and impartial in this trial?

15 JUROR NUMBER 28: No.

16 THE COURT: Thank you.

17 Yes, ma'am, back here.

18 JUROR NUMBER 103: Ladonna Manis, 103.

19 THE COURT: Yes, ma'am.

20 JUROR NUMBER 103: My mother-in-law was convicted
21 of murder -- or charged with murder.

22 THE COURT: All right. Would that fact affect
23 your ability to be fair and impartial if you were a juror in
24 this case?

25 JUROR NUMBER 103: No.

1 THE COURT: Thank you.

2 Ma'am, name and number?

3 JUROR NUMBER 161: Brenda Thompson, 161. Was this
4 just in Spartanburg County, or anywhere?

5 THE COURT: I'm not sure. The events --

6 JUROR NUMBER 161: I have a son in Kings County,
7 New York. He's currently serving a term of --

8 THE COURT: I'm asking anywhere.

9 JUROR NUMBER 161: Okay. My son.

10 THE COURT: All right.

11 JUROR NUMBER 161: It was a 15 year sentence for
12 strong armed robbery.

13 THE COURT: Would the fact that your son had been
14 charged and convicted of such a crime, would that affect
15 your impartiality if you were serving on this jury?

16 JUROR NUMBER 161: No.

17 THE COURT: Thank you, ma'am.

18 Name and number, sir.

19 JUROR NUMBER 115: Harold E. Miller, Jr.. My
20 brother was convicted of distributing cocaine.

21 THE COURT: All right. Would the fact that he has
22 that conviction, would that affect your impartiality?

23 JUROR NUMBER 115: No, sir.

24 My brother has also been charged with having sex
25 with a minor.

1 THE COURT: Okay, sir.

2 JUROR NUMBER 115: And he's serving time.

3 THE COURT: I understand. Would that affect your
4 impartiality in this matter?

5 JUROR NUMBER 115: No, sir.

6 THE COURT: Thank you. You can be seated.

7 MS. LYALL: Your Honor, could I have his number?

8 THE COURT: Your number, sir?

9 JUROR NUMBER 115: 115.

10 THE COURT: Thank you.

11 Ma'am, name and number?

12 JUROR NUMBER 42: Sarah Dawkins, 42.

13 THE COURT: Yes, ma'am.

14 JUROR NUMBER 42: My son for drugs.

15 THE COURT: Was convicted of a drug crime?

16 JUROR NUMBER 42: He didn't serve any time.

17 THE COURT: I understand that, but did he suffer a
18 conviction? He may have been put on probation or something
19 like that.

20 JUROR NUMBER 42: Yes.

21 THE COURT: All right. Would that affect your
22 impartiality in this case, ma'am?

23 JUROR NUMBER 42: No, sir.

24 THE COURT: Thank you.

25 Name and number, ma'am?

1 JUROR NUMBER 137: 137, Julie Roland.

2 THE COURT: Yes, ma'am.

3 JUROR NUMBER 137: In 2007, my son had -- he
4 got -- I don't know what you call it, a charge on second
5 degree burglary, but then he was allowed to do the one time
6 whatever the --

7 THE COURT: What they call PTI probably.

8 JUROR NUMBER 137: Yes.

9 THE COURT: Pretrial intervention.

10 JUROR NUMBER 137: Yes.

11 THE COURT: Would that fact affect your ability to
12 be fair and impartial in this case, ma'am?

13 JUROR NUMBER 137: No.

14 THE COURT: Thank you, ma'am.

15 Has any member of the jury panel or a member of
16 your immediate family or a close personal friend of yours
17 ever been a victim of or a witness to a violent crime or a
18 drug crime? If that's true, please stand.

19 Name and number, please, ma'am.

20 JUROR NUMBER 42: Sarah Dawkins, 42.

21 THE COURT: Yes, ma'am.

22 JUROR NUMBER 42: My nephew was murdered.

23 THE COURT: All right. Would that fact affect
24 your impartiality if you were a juror in this case?

25 JUROR NUMBER 42: I don't think so.

1 THE COURT: Well, I need to know for sure, ma'am.

2 JUROR NUMBER 42: No, sir.

3 THE COURT: Thank you.

4 Name and number, sir?

5 JUROR NUMBER 85: Antilius Johnson, 85.

6 THE COURT: Yes, sir.

7 JUROR NUMBER 85: My sister's husband was killed.

8 THE COURT: All right. Would that fact affect
9 your impartiality if you were a juror in this case?

10 JUROR NUMBER 85: No, sir.

11 THE COURT: Thank you, sir.

12 JUROR NUMBER 161: Brenda Thompson, 161.

13 THE COURT: Yes, ma'am.

14 JUROR NUMBER 161: My daughter was assaulted.

15 THE COURT: All right. Would that fact affect
16 your impartiality in this matter?

17 JUROR NUMBER 161: No, sir.

18 THE COURT: Thank you.

19 Ma'am, name and number?

20 JUROR NUMBER 103: Ladonna Manis, 103.

21 THE COURT: Yes, ma'am.

22 JUROR NUMBER 103: My father-in-law was murdered.

23 THE COURT: All right. Would that fact affect
24 your impartiality if you were a juror in this case?

25 JUROR NUMBER 103: No.

1 THE COURT: Thank you, ma'am.

2 Has any member of the jury panel or a member of
3 your immediate family or a close personal friend of yours
4 ever been accused of or charged with any crime involving the
5 use of a gun or a firearm? If that's true, please stand.

6 Name and number, sir?

7 JUROR NUMBER 115: 115, Harold E. Miller, Jr..

8 THE COURT: Is it the same situation we talked
9 about earlier?

10 JUROR NUMBER 115: No.

11 THE COURT: Tell me about this one.

12 JUROR NUMBER 115: My brother-in-law was charged
13 with having a gun charge and messing with cocaine.

14 THE COURT: Would those facts affect your ability
15 to be fair and impartial if you were a juror in this case?

16 JUROR NUMBER 115: No.

17 THE COURT: Thank you, sir.

18 Name and number, ma'am?

19 JUROR NUMBER 161: Brenda Thompson, 161. The same
20 crime as before.

21 THE COURT: All right. Now, I assume it would
22 still not affect your impartiality, is that correct?

23 JUROR NUMBER 161: Correct.

24 THE COURT: Thank you.

25 Name and number, ma'am?

1 JUROR NUMBER 75: Kimberly Hendrick, 75.

2 THE COURT: Yes, ma'am.

3 JUROR NUMBER 75: My ex-husband, which while he
4 was going through the divorce, had a CDV with a firearm --

5 THE COURT: Yes.

6 JUROR NUMBER 75: -- against his girlfriend.

7 THE COURT: All right.

8 JUROR NUMBER 75: You know, I know about it,
9 but --

10 THE COURT: I understand. Would that affect your
11 impartiality in this trial, ma'am?

12 JUROR NUMBER 75: No.

13 THE COURT: Thank you.

14 Yes, ma'am, name and number?

15 JUROR NUMBER 111: Vanessa Means, number 111. My
16 nephew was charged with a gun charge when he was 16.

17 THE COURT: All right. Would that affect your
18 impartiality if you were selected in this trial?

19 JUROR NUMBER 111: No, it wouldn't.

20 THE COURT: Thank you, ma'am.

21 Anyone else?

22 (No response).

23 THE COURT: Has any juror or a member of your
24 immediate family or a close personal friend of yours ever
25 been the victim of or a witness to a crime involving the use

1 of a gun or a firearm? If that's true, please stand.

2 Name and number, ma'am?

3 JUROR NUMBER 103: Ladonna Manis, 103.

4 THE COURT: Yes, ma'am.

5 JUROR NUMBER 103: The same situation.

6 THE COURT: And I assume it would still not affect
7 your impartiality?

8 JUROR NUMBER 103: Correct.

9 THE COURT: Thank you.

10 Name and number, ma'am?

11 JUROR NUMBER 25: Tracy Burgess, 25.

12 THE COURT: Yes, ma'am.

13 JUROR NUMBER 25: My son and my husband both
14 are -- my husband was in law enforcement. My son is in law
15 enforcement, but I'm sure they had some of that.

16 THE COURT: I understand.

17 Would the fact that they have served in that
18 capacity and may have witnessed some of those events, would
19 that affect your impartiality if you were selected in this
20 case?

21 JUROR NUMBER 25: No, sir.

22 THE COURT: Thank you, ma'am.

23 Anyone else?

24 (No response).

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

1 who is related by blood or marriage to any law enforcement
2 officer at any level? That would include state troopers,
3 federal agents, deputy sheriffs, military police officers.
4 In other words, if you are related in any way to a law
5 enforcement officer, please stand.

6 Name and number, please, ma'am?

7 JUROR NUMBER 15: Sherry Boyter, 15.

8 THE COURT: Yes, ma'am.

9 JUROR NUMBER 15: My son-in-law, Carl Whisonet, is
10 a city policeman.

11 THE COURT: All right. Would that fact affect
12 your impartiality in this trial?

13 JUROR NUMBER 15: No, sir.

14 THE COURT: All right, ma'am, you can be seated.

15 Yes, ma'am, name and number?

16 JUROR NUMBER 28: Denise Butler, 28.

17 My nephew was a law enforcement officer in
18 Georgia, but I think he's changed jobs.

19 THE COURT: All right. I understand. Well, would
20 that affect your impartiality if you were in this case?

21 JUROR NUMBER 28: No.

22 THE COURT: Thank you, ma'am.

23 Ma'am, name and number?

24 JUROR NUMBER 75: Kimberly Hendrick, 75. My ex
25 was law enforcement for 20 years.

1 THE COURT: Would that affect your impartiality,
2 ma'am?

3 JUROR NUMBER 75: No.

4 THE COURT: All right, right behind her, name and
5 number, please, ma'am?

6 JUROR NUMBER 13: Amanda Fitch, number 13.

7 I have some cousins and family that are law
8 enforcement, but nobody --

9 THE COURT: I see. Would that affect your
10 impartiality in this case, ma'am?

11 JUROR NUMBER 13: No, sir.

12 THE COURT: Thank you.

13 Name and number, please, ma'am?

14 JUROR NUMBER 25: Tracy Burgess, 25. My husband,
15 my son, son-in-law, and my daughter is a former law
16 enforcement.

17 THE COURT: All right. You had indicated earlier
18 it would not affect your impartiality, is that true?

19 JUROR NUMBER 25: Yes, sir.

20 THE COURT: All right. Thank you.

21 Yes, ma'am, name and number?

22 JUROR NUMBER 39: Tracy Crosby, 39. My
23 brother-in-law is an air marshal.

24 THE COURT: All right. Would that affect your
25 impartiality in this matter?

1 JUROR NUMBER 39: No.

2 THE COURT: Thank you.

3 Sir, name and number?

4 JUROR NUMBER 46: Joe Duffessy, number 46.

5 THE COURT: Yes, sir.

6 JUROR NUMBER 46: My father is a retired prior
7 sheriff's officer and my father-in-law is retired up in
8 Massachusetts.

9 THE COURT: I see. Would that affect your
10 impartiality if you were a juror in the case?

11 JUROR NUMBER 46: No, sir.

12 THE COURT: Thank you.

13 Sir, name and number?

14 JUROR NUMBER 61: Henry Frye, 61.

15 THE COURT: Yes, sir.

16 JUROR NUMBER 61: I have a cousin, Ernest Brown,
17 assigned to the police department.

18 THE COURT: All right. Would that affect your
19 impartiality if you were on the jury?

20 JUROR NUMBER 61: No.

21 THE COURT: Thank you, sir.

22 Name and number, sir?

23 JUROR NUMBER 19: Andrew Briles, number 19. I
24 have got two cousins that served.

25 THE COURT: All right. In what capacity?

1 JUROR NUMBER 19: Just as police officers.

2 THE COURT: Locally or somewhere else?

3 JUROR NUMBER 19: One is in Columbia and one is
4 actually at the academy right now.

5 THE COURT: I see. Would that affect your
6 impartiality if you were on the jury?

7 JUROR NUMBER 19: No, sir.

8 THE COURT: Thank you.

9 Ma'am, name and number?

10 JUROR NUMBER 56: Kayla Glenn, 56. My husband was
11 a prior MP with the Air Force.

12 THE COURT: Would that affect your impartiality in
13 this case?

14 JUROR NUMBER 56: No.

15 THE COURT: Thank you.

16 Yes, ma'am?

17 JUROR NUMBER 137: Julie Roland, 137. My niece's
18 husband is a state trooper in Shelby, North Carolina, but it
19 won't affect my --

20 THE COURT: Thank you, ma'am. You can be seated.

21 Sir, name and number?

22 JUROR NUMBER 139: Matthew Ross, 139. I have
23 cousins. One is a chief detective who is actually in
24 Hickory that retired. Three is located in Charlotte and the
25 rest would be in Hickory, North Carolina.

1 THE COURT: I see. Would that affect your
2 impartiality in this case?

3 JUROR NUMBER 139: No, sir.

4 THE COURT: Thank you, sir.

5 Sir, name and number?

6 JUROR NUMBER 134: Garland Richards, 134.

7 THE COURT: Yes, sir.

8 JUROR NUMBER 134: My son-in-law is a former
9 Laurens County deputy sheriff at the detention center and
10 he's currently a deputy sheriff of Cherokee County in the
11 detention center.

12 THE COURT: Would that affect your impartiality in
13 this case if you were selected?

14 JUROR NUMBER 134: No, sir.

15 THE COURT: Thank you.

16 Ma'am?

17 JUROR NUMBER 13: Amanda Fitch, 13. I was a
18 former detention officer. I don't know if --

19 THE COURT: Okay. It might. So you -- would that
20 affect your impartiality in this case?

21 JUROR NUMBER 13: No, sir.

22 THE COURT: Thank you.

23 Anyone else?

24 (No response).

25 THE COURT: This case is being prosecuted by the

1 Seventh Circuit solicitor's office. The solicitor in our
2 circuit is Solicitor Barry Barnette.

3 The next question is, is there any member of the
4 jury panel who is a political or a financial supporter of
5 Solicitor Barnette? He has to run for office, so is there
6 anyone here who is a political or a financial supporter of
7 the solicitor Mr. Barnette, please stand.

8 Yes, sir, name and number?

9 JUROR NUMBER 8: Vollie Bailey, number 8.

10 THE COURT: Yes, sir.

11 JUROR NUMBER 8: I think my company may have
12 contributed to his campaign.

13 THE COURT: All right. Would that affect your
14 impartiality, though, if you were selected on the jury?

15 JUROR NUMBER 8: It would not.

16 THE COURT: Thank you.

17 Anyone else?

18 JUROR NUMBER 35: Don Coggins, number 35. Again,
19 I think our firm may have contributed.

20 THE COURT: Would that affect your impartiality,
21 if you were selected?

22 JUROR NUMBER 35: No, sir.

23 THE COURT: Thank you very much.

24 Anyone else?

25 (No response).

1 THE COURT: Is there any member of the jury panel
2 who is related either by blood or marriage, or are you a
3 close social or personal friend with any court official
4 involved with the trial? If that's true, please stand.

5 (No response)

6 THE COURT: Is there any member of the jury panel
7 who has previously served on a jury involved in a criminal
8 trial? If that's true, please stand.

9 Yes, ma'am, name and number?

10 JUROR NUMBER 42: Sarah Dawkins, 42. A
11 manslaughter and a murder charge.

12 THE COURT: All right. Would that fact affect
13 your impartiality if you were in this case?

14 JUROR NUMBER 42: No, sir.

15 THE COURT: Thank you.

16 Name and number, please, ma'am?

17 JUROR NUMBER 157: Jodie Swann, 157. It was a
18 murder trial.

19 THE COURT: All right. And would that affect your
20 impartiality if you were selected in this case?

21 JUROR NUMBER 157: No.

22 THE COURT: Thank you.

23 Ma'am, name and number?

24 JUROR NUMBER 165: Malinda Utter, 165. It was a
25 child molestation.

1 THE COURT: All right. Would that affect your
2 impartiality in this matter?

3 JUROR NUMBER 165: No, sir.

4 THE COURT: Thank you.

5 Sir, name and number?

6 JUROR NUMBER 11: Donald Becknell, number 11. A
7 felon receiving an involuntary --

8 THE COURT: Would that affect your impartiality in
9 this case, sir?

10 JUROR NUMBER 11: No, sir.

11 THE COURT: Thank you.

12 Sir, name and number?

13 JUROR NUMBER 9: Roger Bates, number 9. Indecent
14 exposure of a child.

15 THE COURT: All right. Would that affect your
16 impartiality if you were on this trial?

17 JUROR NUMBER 9: No, sir.

18 THE COURT: Thank you.

19 Ma'am, name and number?

20 JUROR NUMBER 171: Andrea Watson, number 171.
21 Domestic violence.

22 THE COURT: All right. Would that affect your
23 impartiality if you were to serve on this jury?

24 JUROR NUMBER 171: No, sir.

25 THE COURT: Thank you.

1 Sir, name and number?

2 JUROR NUMBER 74: James Heckathorn, number 74. It
3 was a child molestation case.

4 THE COURT: Would that affect your impartiality in
5 this matter?

6 JUROR NUMBER 74: No.

7 THE COURT: Thank you.

8 Sir, name and number?

9 JUROR NUMBER 104: Robert Marx, 104. Second
10 degree murder.

11 THE COURT: Would that affect your impartiality in
12 this case?

13 JUROR NUMBER 104: No.

14 THE COURT: Thank you very much.

15 Anyone else?

16 JUROR NUMBER 58: Lisa Foster, 58.

17 THE COURT: Yes, ma'am.

18 JUROR NUMBER 58: Criminal domestic violence.

19 THE COURT: Would that affect your impartiality,
20 ma'am?

21 JUROR NUMBER 58: No, sir.

22 THE COURT: Thank you.

23 Has any member of the jury panel gathered any
24 information from any source such that it would have caused
25 you to either form or express an opinion about any of the

1 issues that might be involved in this trial? If that's
2 true, please stand.

3 (No response)

4 THE COURT: Is there any member of the jury panel
5 who is aware of any bias or prejudice that you might have
6 either for or against either the State or the defendant in
7 this matter? If that's true, please stand.

8 (No response)

9 THE COURT: Is there any member of the jury panel
10 who may have been a member of the Grand Jury that issued the
11 indictments in this case? All of the indictments were
12 issued during the year 2012. If that's true, please stand.

13 (No response)

14 THE COURT: Is there any member of this jury panel
15 who is a member of or a contributor to any group that has as
16 its primary concern the promotion of law enforcement and/or
17 victims rights? These groups would include, but not be
18 limited to, such groups as the South Carolina Troopers
19 Association, the Citizens Against Violent Crime, Mothers
20 Against Drunk Driving, Students Against Drunk Driving, Safe
21 Homes Rape Crisis Council, the South Carolina Sheriff's
22 Association, or other similarly oriented organizations? If
23 that's true, please stand.

24 Name and number?

25 JUROR NUMBER 35: Don Coggins, number 35. In the

1 past I have contributed to the Safe Homes and the Sheriff's
2 Association.

3 THE COURT: All right. Would that affect your
4 impartiality if you were selected to serve in this case?

5 JUROR NUMBER 35: No, sir.

6 THE COURT: Thank you.

7 Name and number, sir?

8 JUROR NUMBER 46: Joe Duffessy, 46.

9 THE COURT: Yes, sir.

10 JUROR NUMBER 46: To the sheriff's office.

11 THE COURT: Would that affect your impartiality if
12 you were selected in this trial?

13 JUROR NUMBER 46: No, sir.

14 THE COURT: Thank you.

15 Ma'am, name and number?

16 JUROR NUMBER 28: Denise Butler, 28. In the past
17 I have donated to the Mothers Against Drunk Driving.

18 THE COURT: All right. Would that affect your
19 impartiality in this matter?

20 JUROR NUMBER 28: No.

21 THE COURT: Thank you, ma'am.

22 Name and number, please, ma'am?

23 JUROR NUMBER 25: Tracy Burgess, 25. I don't
24 personally do, but my husband donates to the State Troopers
25 Association.

1 THE COURT: All right. Would that affect your
2 impartial in this matter, ma'am?

3 JUROR NUMBER 25: No.

4 THE COURT: Thank you.

5 Any others?

6 (No response).

7 THE COURT: Does any member of the jury panel know
8 of any reason whatsoever why he or she should not serve as a
9 juror in this case with particular emphasis being placed
10 upon your ability to be both fair and impartial to both the
11 State and the defense? If that's true, please stand.

12 (No response).

13 THE COURT: Does the State request any additional
14 questions?

15 MS. JORDAN: No, sir, Your Honor.

16 THE COURT: Does the defense request any
17 additional questions?

18 MS. LYALL: No, Your Honor.

19 THE COURT: All right. I'll declare then that the
20 remaining members of the jury panel are qualified to serve
21 as jurors.

22 I'll direct the clerk to prepare a list of
23 potential jurors in this matter.

24 Let me explain to you what we are doing at this
25 point in time. Years ago we used to use a wooden barrel and

1 everyone's name was put in a capsule and we had -- state law
2 required that a legally blind person had to draw the names
3 of the jurors out of the box. Now we have a legally blind
4 computer that draws those names out of the box, so we have a
5 random search and selection program. It is now picking
6 names at random from your group. I'll be provided with a
7 list of those names.

8 What we will do then is we will begin to call
9 those names in the order in which the computer has placed
10 them on that list.

11 When your name is called, we are going to ask that
12 you come forward. You will come right down to the bar in
13 front of where the clerk is sitting. Turn and face what I
14 call the back door of the courtroom. And at that point in
15 time the attorneys will be in the position to exercise their
16 strikes.

17 In this case the State will receive five strikes.
18 The defense will have ten. We will pick one alternate, the
19 State having one strike and the defense having two strikes.

20 I will ask you if you have a pocketbook or other
21 personal item you brought into the courtroom, bring that
22 item with you when your name is called. If you are selected
23 to serve on the jury, you will immediately have a seat in
24 the jury box to my left, so you will not be returning to
25 your seats. So bring personal items with you when your name

1 is called.

2 Madam Clerk, you can begin the jury selection
3 process.

4 THE CLERK: Yes, sir.

5 Juror number 19, Andrew Briles.

6 What says the State?

7 MS. JORDAN: Please present this juror.

8 THE CLERK: What says the defense?

9 MS. LYALL: Please present this juror.

10 THE COURT: Sir, come to the box to my left and
11 have a seat.

12 THE CLERK: Juror number 34, Linda Clippard.

13 What says the State?

14 MS. JORDAN: Please present this juror.

15 THE CLERK: What says the defense?

16 MS. LYALL: Please strike this juror.

17 THE CLERK: Juror 111, Vanessa Means.

18 What says the State?

19 MS. JORDAN: Please present this juror.

20 THE CLERK: What says the defense?

21 MS. LYALL: Please present this juror.

22 THE CLERK: Juror 155, joshua Summers.

23 What says the State?

24 MS. JORDAN: Please present this juror.

25 THE CLERK: What says the defense?

1 MS. LYALL: Please strike this juror.
2 THE CLERK: Juror 176, Marie Womack.
3 What says the State?
4 MS. JORDAN: Please present this juror.
5 THE CLERK: What says the defense?
6 MS. LYALL: Please strike this juror.
7 THE CLERK: Juror 157, Jodie Swann.
8 What says the State?
9 MS. JORDAN: Please present this juror.
10 THE CLERK: What says the defense?
11 MS. LYALL: Please present this juror.
12 THE CLERK: Juror 58, Lisa Foster.
13 What says the State?
14 MS. JORDAN: Please present this juror.
15 THE CLERK: What says the defense?
16 MS. LYALL: Please strike this juror.
17 THE CLERK: 115, Harold Miller, Jr..
18 What says the State?
19 MS. JORDAN: Please present this juror.
20 THE CLERK: What says the defense?
21 MS. LYALL: Please present this juror.
22 THE CLERK: Juror 136, Jonathan Robinson.
23 What says the State?
24 MS. JORDAN: Please present this juror.
25 THE CLERK: What says the defense?

1 MS. LYALL: Please present this juror.
2 THE CLERK: Juror 151, Marilyn Stack.
3 What says the State?
4 MS. JORDAN: Please present this juror.
5 THE CLERK: What says the defense?
6 MS. LYALL: Please strike this juror.
7 THE CLERK: Juror 35, Donald Coggins, Jr..
8 What says the State?
9 MS. JORDAN: Please excuse this juror.
10 THE CLERK: Juror 118, Heather Nabors.
11 What says the State?
12 MS. JORDAN: Please present this juror.
13 THE CLERK: What says the defense?
14 MS. LYALL: Please excuse this juror.
15 THE CLERK: Juror 183, Tracy White.
16 What says the State?
17 MS. JORDAN: Please present this juror.
18 THE CLERK: What says the defense?
19 MS. LYALL: Please present this juror.
20 THE CLERK: Juror 26, Ralph Burris.
21 What says the State?
22 MS. JORDAN: Please present this juror.
23 THE CLERK: What says the defense?
24 MS. LYALL: Please strike this juror.
25 THE CLERK: Juror 177, Oren Wood.

1 What says the State?

2 MS. JORDAN: Please excuse this juror.

3 THE CLERK: Juror 162, Joseph Trudeau.

4 What says the State?

5 MS. JORDAN: Please present this juror.

6 THE CLERK: What says the defense?

7 MS. LYALL: Please present this juror.

8 THE CLERK: Juror 125, Rakshaben Patel.

9 What says the State?

10 MS. JORDAN: Please present this juror.

11 THE CLERK: What says the defense?

12 MS. LYALL: Please strike this juror.

13 THE CLERK: Juror 127, Jessica Peeler.

14 What says the State?

15 MS. JORDAN: Please present this juror.

16 THE CLERK: What says the defense?

17 MS. LYALL: Please present this juror.

18 THE CLERK: Juror 148, Andrew Snow.

19 What says the State?

20 MS. JORDAN: Please present this juror.

21 THE CLERK: What says the defense?

22 MS. LYALL: Please present this juror.

23 THE CLERK: Juror 166, Andrew Vanderboegh.

24 What says the State?

25 MS. JORDAN: Please present this juror.

1 THE CLERK: What says the defense?
2 MS. LYALL: Please strike this juror.
3 THE CLERK: Juror 73, Marion Haynes, III.
4 What says the State?
5 MS. JORDAN: Please present this juror.
6 THE CLERK: What says the defense?
7 MS. LYALL: Please present this juror.
8 THE CLERK: Juror 140, Howard Salters.
9 What says the State?
10 MS. JORDAN: Please present this juror.
11 THE CLERK: What says the defense?
12 MS. LYALL: Please present this juror.
13 THE CLERK: Juror 42, Sarah Dawkins.
14 What says the State?
15 MS. JORDAN: Please present this juror.
16 THE CLERK: What says the defense?
17 MS. LYALL: Please present this juror.
18 THE CLERK: And for the alternate, juror 139,
19 Matthew Ross.
20 What says the State?
21 MS. JORDAN: Please present this juror.
22 THE CLERK: What says the defense?
23 MS. LYALL: Please strike this juror.
24 THE CLERK: Juror 169, Petra Warren.
25 What says the State?

1 MS. JORDAN: Please present this juror.

2 THE CLERK: What says the defense?

3 MS. LYALL: Please strike this juror.

4 THE CLERK: Juror 171, Andrea Watson.

5 What says the State?

6 MS. JORDAN: Please present this juror.

7 THE CLERK: What says the defense?

8 MS. LYALL: Please seat this juror.

9 THE CLERK: Jury selection has been completed.

10 THE COURT: Thank you, Madam Clerk.

11 Are there any objections to the jury selection
12 process, from the State?

13 MS. JORDAN: No, sir, Your Honor.

14 THE COURT: Any from the defense?

15 MS. LYALL: No, Your Honor.

16 THE COURT: All right. Those of you who were not
17 selected in this process, I will ask that you step back
18 around to the assembly room. Judge Hayes will be giving you
19 some instructions on what to do further.

20 Again, I want to thank you for your cooperation.

21 At this time you are free to go. Please go
22 quietly at this time.

23 (Whereupon, the jury venire panel left the
24 courtroom)

25 THE COURT: All right, ladies and gentlemen, you

1 have been selected as jurors in this case and let me go over
2 some things with you at this point in time, because it's
3 almost -- it's about twenty minutes to one, so I will be
4 letting you go to lunch at this time. Then you will come
5 back this afternoon and we will actually start the trial of
6 the case.

7 When you return to the courtroom you will be asked
8 to take another oath. I know that you have had to swear a
9 couple of times this morning to various things, but when you
10 return to the courtroom you will be taking an oath
11 concerning your duties and responsibilities as jurors in
12 this case. At that time you will find that that oath will
13 require that you decide this case, if you take the oath,
14 based upon the law and the evidence that applies to this
15 matter.

16 Now, the only place that you are going to hear the
17 law and evidence concerning this case will be in this
18 courtroom during this trial.

19 I will tell you that it would be a violation of
20 your oath as jurors for you to attempt to gather any
21 information about this case on your own. I realize we live
22 in an information age and you can, with a couple of pushes
23 on a keyboard, get information just about anything in the
24 world or the universe these days, but I can assure you that
25 reports on the Internet or other news reports quite often,

1 in fact, most of the time, contain erroneous information,
2 information that should not be considered by a jury in
3 reaching a verdict in the case. And, again, it would be a
4 violation of your oath to consider any information about
5 this case, other than the law and the evidence. And you are
6 going to hear that in this courtroom during this trial. So
7 don't attempt to gather any information about the case or
8 the people that are involved in this case on your own.
9 Don't listen to, talk to anyone about this matter. Don't
10 listen to or watch or listen to any media reports about this
11 case. Should you hear such a report or see such a report,
12 turn it off, turn it down, don't listen to it. Again, your
13 job is to decide this case based upon the information given
14 to you during this trial, and you will get plenty of that
15 information once the case has begun.

16 I'm going to caution you to try to keep an open
17 mind about this matter until you have heard all of the
18 evidence, until you have heard all the arguments made by the
19 lawyers, until you have heard my charge to you concerning
20 the law that you are to apply. And then, and only then,
21 will I ask you to begin discussions about this case among
22 yourselves. That's called your deliberations as a jury. So
23 don't talk about the case with anyone. Don't discuss it
24 with anyone. Even the most innocent conversation you might
25 have with someone about the nature of the charges, or the

1 people that are involved, their responses to you and your
2 discussions with them might begin to color your decision in
3 this case and you haven't heard the first word of testimony
4 in this matter or the first arguments that's been made. So
5 it's okay to tell family or friends during the break that
6 you have been selected to serve on a jury, and that's about
7 as far as it should go. You will be free to talk with them
8 at the close of the trial, once everything is over, if you
9 choose to, but you are not required to talk to anyone about
10 your service on a jury. So I'm going to caution you don't
11 discuss the case with anyone, even among yourselves, until
12 such time as I ask you to begin your discussions, and I will
13 do that once you have gotten all the information that you
14 need to make the decision. That will be at the close of the
15 trial. You will have plenty of time to discuss it at that
16 point in time. So don't discuss it with anyone.

17 One other thing. I have cautioned you during jury
18 qualification about the fact that jury tampering is a crime.
19 It's a felony in this state. Anyone involved in trying to
20 influence a jury's decision would be guilty of such a crime.
21 For that reason again I'm going to caution you not to talk
22 to anyone else about this case and don't allow anyone to
23 talk to you about it. If someone approaches you and wants
24 to talk to you about this case or what's going on in this
25 trial, do not discuss it with them, do not discuss the

1 matter with them. If you can identify them, please let us
2 know who that is. I can assure you this court takes that
3 matter extremely serious. I would see that the appropriate
4 investigation was begun, should anyone attempt to influence
5 your decision in this matter.

6 Now, I'm going to release you at this point in
7 time and ask that you return. I know I told you I give
8 juries about an hour and fifteen minutes for lunch. I'm
9 going to stretch that out today because I have got some
10 pretrial matters I will need to take up with the attorneys
11 before we begin the actual trial of the case. Once those
12 things are resolved, it should allow the trial to go forward
13 a little quicker, a little more smoothly, so I'm going to
14 take those matters up with the lawyers. I will ask you to
15 be back in the jury room at let's say about 2:45 this
16 afternoon. That's 2:45 this afternoon.

17 The bailiffs will show you the jury room that you
18 are to return to. Come back to that jury room. Be there at
19 2:45. We should be in a position to start shortly
20 thereafter. I hope you have a good lunch and we will see
21 you at that time. You are free to go at this time.

22 (The following takes place outside the presence of
23 the jury panel)

24 THE COURT: I'll ask the attorneys to be back at
25 two o'clock. We should be in a position to start the

1 pretrial matters at that point in time.

2 The defendant, I assume, is in custody at this
3 time. He will remain in custody during the trial.

4 All right, we will be in recess until two o'clock.
5 Thank you very much.

6 (Whereupon, proceedings were recessed)

7 (Whereupon, proceedings were reconvened)

8 (Photograph marked as State's Exhibit No. 1 for
9 identification)

10 (Photograph marked as State's Exhibit No. 2 for
11 identification)

12 (Photograph marked as State's Exhibit No. 3 for
13 identification)

14 (Photograph marked as State's Exhibit No. 4 for
15 identification)

16 (Photograph marked as State's Exhibit No. 5 for
17 identification)

18 THE COURT: Ms. Lyall, it's my understanding that
19 you have motions or issues that you would like the court to
20 consider?

21 MS. LYALL: Yes, Your Honor.

22 THE COURT: Yes, ma'am.

23 MS. LYALL: The first -- I guess we will go with
24 the biggest first.

25 I have a Neal v. Biggers Hearing that I would like

1 the court to consider.

2 MS. JORDAN: And, judge, just for the record, I
3 need to make a motion as to one of the indictments at the
4 appropriate time.

5 THE COURT: All right. We will go ahead and take
6 this up now.

7 MS. LYALL: Okay. Your Honor, as I'm sure you
8 know, under Neal v. Biggers, due process requires success on
9 a case by case basis, whether his identification resulted
10 from unnecessary and unduly suggestive police procedures.

11 In this case the victim in the case, Josh, did
12 identify my client in a lineup and that was done at the
13 hospital a few days after the event took place. And I can
14 show you my copy of this.

15 THE COURT: This is a photo lineup?

16 MS. LYALL: It's a photo lineup.

17 THE COURT: All right.

18 MS. JORDAN: Judge, we do have the color
19 originals.

20 MS. LYALL: Okay, I saw that. No problem.

21 THE COURT: Do you want to -- without objection, I
22 suppose, it would be marked as an exhibit to this hearing,
23 is that right, Ms. Jordan?

24 MS. JORDAN: Judge, there are actually three
25 lineups and I would like to -- I would like all three of

1 them discussed.

2 THE COURT: Do you want to show them to --

3 MS. JORDAN: Yes, sir.

4 THE COURT: -- Ms. Lyall to make sure that she has
5 no objection?

6 MS. JORDON: Yes, sir.

7 THE COURT: Any objection, Ms. Lyall?

8 MS. LYALL: No, Your Honor.

9 THE COURT: Do you want to mark those separately?

10 MS. LYALL: Yes, sir.

11 THE COURT: All right, I'll ask the court reporter
12 to mark them separately for purposes of this hearing. They
13 will be State's Exhibits.

14 (Photo Lineup marked as State's Exhibit No. 6 for
15 identification)

16 (Photo Lineup marked as State's Exhibit No. 7 for
17 identification)

18 (Photo Lineup marked as State's Exhibit No. 8 for
19 identification)

20 THE COURT: Yes, ma'am.

21 MS. LYALL: And there are factors that the court
22 can consider in determining whether or not this procedure
23 was unnecessary and unduly suggestive, so I would like to
24 call a few witnesses so we can make that determination.

25 THE COURT: Okay. You may do so.

1 MS. LYALL: THE first witness would be Josh
2 Barrineau.

3 THE COURT: Mr. Barrineau, can you come up?

4 MS. JORDAN: I don't know how, just for the
5 clerk's office, how they will be swearing him in, because as
6 the court can tell, he cannot move his hands.

7 THE COURT: She'll just do it verbally.

8 MR. JORDAN: Okay.

9 JOSHUA BARRINEAU, having been first duly sworn,
10 testified as follows:

11 THE COURT: All right, you may proceed, Ms.
12 Stuart.

13 MS. JORDAN: Your Honor, just by way of procedure,
14 I always thought the State would call the witnesses and ask
15 the initial questions and then it would go to defense. If
16 I'm incorrect --

17 THE COURT: No, no, that's normally the case.

18 MS. JORDAN: Okay.

19 THE COURT: Go ahead.

20 I assume that you are going to present him as a
21 witness either way?

22 MS. JORDAN: He's one of them, yes, sir, Your
23 Honor.

24 THE COURT: Do you need these?

25 MS. JORDAN: Yes, sir.

1 THE COURT: You may proceed.

2 MS. JORDAN: Thank you.

3 DIRECT EXAMINATION BY MS. JORDAN:

4 Q. Please state your name for the record.

5 A. Josh Barrineau.

6 Q. Josh, how old are you?

7 A. Thirty years old.

8 Q. What's your date of birth?

9 A. [REDACTED].

10 Q. How far did you go in school?

11 A. 11th -- 9th, 11th grade.

12 Q. Which was it, 9th or 11th?

13 A. It was about the 10th grade.

14 Q. Okay. You go to the 10th grade.

15 Where did you go to school?

16 A. Christian Academy.

17 Q. And where is that?

18 A. It's in Simpsonville, I think.

19 Q. Okay. Josh, I'm going to take you back to the evening
20 of April the 7th of 2012. Where were you that night? It
21 was a Saturday night.

22 A. On my way home.

23 Q. By home, do you mean your parents' home?

24 A. Yeah.

25 Q. Okay. Where is their home located?

1 A. 321, 13789.

2 Q. Okay. What was the next day?

3 A. Easter.

4 Q. Okay. Did you stay at your parents' house that night?

5 A. I was planning on it, but I didn't.

6 Q. Okay.

7 A. I wish I would have.

8 Q. Why not?

9 A. Because "Dre" called me.

10 Q. Okay, let me stop you there. Who is "Dre"?

11 A. Andre was a friend of mine.

12 Q. Okay. Do you know his last name?

13 A. Uh-uh.

14 Q. Okay. How did you -- how long had you known Andre?

15 A. Probably about a year, two years.

16 Q. What would you do with Andre?

17 A. We just get together and party and drink and holler at

18 girls.

19 Q. Okay. By party, could you elaborate on that for me?

20 A. Just drink, smoke.

21 Q. Would it also involve drugs?

22 A. Yeah.

23 Q. Okay. Did you speak or text with Andre that night?

24 A. Yes, ma'am.

25 Q. Okay. And based upon your conversations with him, did

1 you make plans to meet up with him?

2 A. Yeah, we were supposed to meet up over there at the
3 house -- the apartment out there.

4 Q. Okay. Did you speak or text to anyone else that night
5 in reference to meeting up with "Dre"?

6 A. Yeah, two females.

7 Q. Okay. Do you remember their -- was one Stephanie
8 Vaughn?

9 A. Uh-huh.

10 Q. Okay. How did you speak with her?

11 A. Text and then talked. Then I talked to her too.

12 Q. Okay. Did she provide you an address to come to?

13 A. Yeah.

14 Q. Where was that address?

15 A. It was out there on Kelly Acres, the second apartment
16 behind the first one. It's the second driveway.

17 Q. Okay. And by Kelly Acres, are you referring to an
18 apartment complex in Woodruff?

19 A. Yes, ma'am.

20 Q. Prior to this did you know Stephanie Vaughn?

21 A. (Shaking head no).

22 Q. You have to answer verbally for the court reporter.

23 A. No, ma'am.

24 Q. Okay. How did you -- how did you get to --

25 Let me ask you this. How did you get Stephanie's

1 number?

2 A. Andre.

3 Q. Okay. How did you get to Kelly Acres?

4 A. I drove my car.

5 Q. Okay. And just a simple question here, but prior to
6 this night you had full use of all of your extremities?

7 A. Oh, yeah.

8 Q. Okay.

9 A. I was normal, just like everybody else.

10 Q. Okay. What type of car were you driving?

11 A. Chevy Extreme Blazer on 20's. Tinted windows.

12 Q. Okay. What year was it?

13 A. 2001.

14 Q. Okay. About what time did you get to Kelly Acres? Was
15 it before or after midnight?

16 A. It was after midnight.

17 Q. So it was actually Sunday, April 8th?

18 A. (Shaking head yes).

19 Q. Okay. When you got there, what did you do?

20 A. When I got there I pulled into the wrong driveway first
21 and they called me and told me that's the next one back.

22 Q. Okay. Who was it by they?

23 A. Stephanie.

24 Q. Okay. What did you do?

25 A. I said all right. I backed out and went to the next

1 driveway. She thought the next apartment or complex I would
2 have had one and then the one behind another one.

3 Q. Are you referring to like the different roads within
4 the apartment complex?

5 A. Yeah. Different roads, yeah.

6 Q. Okay. So you went in the second road?

7 A. Second road.

8 Q. Is that also known as Woody Court?

9 A. Yeah.

10 Q. Okay. Once you got to Woody Court, what did you do?

11 A. I seen one of the girls, I don't know her name,
12 stepping out and flagged me down and told me that's where to
13 go, so I parked. She wanted me to come in. I told her I
14 didn't want to get out, and she was like "well, come on in,
15 everything is okay."

16 Well "Dre" had been there with, which is Andre. "Dre"
17 would be there in a little bit and for me to come on in.

18 Q. Okay.

19 A. All right, so I went on in.

20 Q. When you went inside, who was inside?

21 A. These two girls, and a baby was supposed to be sleeping
22 in another room.

23 Q. Okay. Did you ever see the baby?

24 A. Never seen it.

25 Q. Okay. Were the two girls Stephanie Vaughn and Megan

1 Margarita?

2 A. Yeah.

3 Q. What did you notice about Stephanie Vaughn?

4 A. What do you mean?

5 Q. Was she pregnant?

6 A. Yeah.

7 Q. Okay. Was the other girl pregnant?

8 A. No.

9 Q. And prior to this night did you know either one of

10 those two girls?

11 A. No, ma'am.

12 Q. Was Andre inside? Were there any males inside the

13 apartment at that time?

14 A. No, ma'am.

15 Q. Were the lights on inside the apartment?

16 A. A little bit.

17 Q. Okay. Did you have any drugs with you that night?

18 A. Yes, ma'am.

19 Q. What did you have on you?

20 A. I had crack cocaine and pills.

21 Q. Okay. What did you keep them in?

22 A. A pill bottle.

23 Q. Could you describe that?

24 A. A pill bottle wrapped in black electrical tape.

25 Q. Okay. Did you show the pills to either of the girls or

1 both of them?

2 A. While they were sitting on the couch. I was just
3 counting them. You know, just looking at them.

4 Q. Okay. Were you able to get in touch with "Dre" that
5 night, once you arrived at Kelly Acres?

6 A. Once arrived at Kelly Acres, I never could get ahold of
7 him.

8 Q. Did you make attempts?

9 A. Oh, yeah.

10 Q. Okay. How did you make the attempts?

11 A. On my cell phone.

12 Q. Okay. What happened -- how long do you think that you
13 stayed in there with just the two girls?

14 A. Maybe an hour.

15 Q. And what happened once -- can you describe if anything
16 odd happened at the door?

17 A. Yeah, somebody beat on the door.

18 Q. Okay. What did you do?

19 A. I got up and went to look out the door, and Stephanie
20 got up with me. She's the one -- they were both looking out
21 with me at first and we didn't see nobody, seen nothing, so
22 we sit back down. She said that's been happening all night,
23 somebody would put a key to the door or something, so we
24 went back and sit down. She cut the radio on and we was
25 just chilling and then I asked for a cigarette. She gave me

1 a cigarette.

2 And then it happened again, the door. It happened
3 again, so I jumped up and went --

4 Q. Was the knock at the front door or the back?

5 A. The front door.

6 Q. Okay.

7 A. And I jumped up and opened the door. And when I opened
8 the door, somebody grabbed me from behind.

9 Q. Okay.

10 A. Put a gun to my head.

11 Q. How did that feel?

12 A. It's hard explaining.

13 Q. Okay. When you said they grabbed you from behind, how
14 did they grab you?

15 A. Just grabbed me where I couldn't move and had the gun
16 to my head and said "you are in the wrong hood now, ain't
17 you, nigger? You are in the wrong hood now," and walked me
18 out to the back.

19 Q. The person who took you out of the apartment, were they
20 black or white?

21 A. Black.

22 Q. A male or female?

23 A. Male.

24 Q. Okay. What happened once you got outside?

25 A. They attempted to rob me and they robbed me. Told me

1 to give them everything I had; my dope, my phone, my car
2 keys, my wallet.

3 Q. When they asked you to give them everything that you
4 had, did you comply?

5 A. I complied with everything and then finally told them
6 don't shoot.

7 Q. What did you give them?

8 A. I gave them my drugs and my money and my keys to my car
9 and my cell phone.

10 Q. About how much money did you have on you?

11 A. About 260, 280, or something like that.

12 Q. Okay. What, if anything, happened in regards to your
13 shoes?

14 A. They were going to take my shoes but they were the
15 wrong size.

16 Q. Okay. And by they were going to take, explain that to
17 the judge. What do you mean by they were going to take?

18 A. Well, he was going to take my shoes, but they were the
19 wrong size.

20 Q. Okay. Did they take them off of you or did they leave
21 them on?

22 A. They took them off.

23 Q. Okay. And then they left them there?

24 A. Yeah.

25 Q. Were you -- at this point in time were there one or two

1 people outside with you?

2 A. One.

3 Q. Okay. What happened after -- what happened after all
4 of your items were taken and your shoes were taken off, but
5 not removed from the area?

6 A. That one person that robbed me and took everything that
7 I had went and got in my truck and then another black male
8 come from behind the apartment and come right up to me and
9 just shot me and then jumped in the truck.

10 Q. Okay. And what did the person look like who shot you?

11 A. Him.

12 Q. Well, can you give the judge some details, as far as
13 his facial features, or anything that you saw?

14 A. His eyes were far apart and he a thick forehead and he
15 was ugly.

16 Q. Okay. Is there anything that you remember about his
17 nose?

18 A. He had a big flat nose.

19 Q. Okay. How long do you think you had the chance to
20 observe this individual?

21 A. I watched him coming.

22 Q. What was the lighting like outside that night?

23 A. Street light.

24 Q. Were there any lighting from the moon or anything?

25 A. Oh, yeah, full moon.

1 Q. So you were able to get a look at the person who shot
2 you?

3 A. Yes, ma'am.

4 Q. Once the person shot you, what did you do?

5 A. I couldn't do anything. I was paralyzed from the
6 moment I was shot.

7 Q. Okay. What do you recall happening with your vehicle?

8 A. It was stolen and took.

9 Q. Okay. How do you know it was taken?

10 A. I heard them get in it and go.

11 Q. Okay. Did anybody help you that night?

12 A. Nobody.

13 Q. How long, do you recall, if any, that you laid there
14 that night?

15 A. I don't know. I was there a long time. I was choking
16 on my own blood all night long.

17 Q. I'm sorry, I couldn't hear you.

18 A. I laid there choking on my own blood all night long.

19 Q. Okay. Do you recall -- the shooting happened on April
20 the 8th?

21 A. Yes.

22 Q. April the 8th of 2012 is when you were shot, and you
23 went immediately to the hospital?

24 A. (Shaking head yes).

25 Q. How long did you spend at the hospital?

1 A. Six months.

2 Q. Okay. So you were discharged I believe it was on
3 September 14th?

4 A. Yes.

5 Q. On April the 19th of 2012, did Chief Darrell Dawkins
6 come to visit you?

7 A. (Shaking head yes).

8 Q. Okay. Did you know the chief prior to this?

9 THE COURT: You have to answer verbally. I know
10 it's difficult.

11 THE WITNESS: Yes, sir.

12 THE COURT: Thank you.

13 BY MS. JORDAN:

14 Q. Did you know the chief prior to this?

15 A. No, ma'am.

16 Q. When he came into your hospital room, what type of room
17 were you in?

18 A. ICU.

19 Q. Okay. What medically did you have going on with you at
20 that time? I mean, just --

21 A. Everything. I was on life support.

22 Q. Did you have a trach at that time?

23 A. Yes.

24 Q. Could you speak?

25 A. Uh-uh.

1 Q. Could you communicate with your family or with your
2 doctors and nurses?

3 A. Just by nods and reading my lips.

4 Q. Okay. When the chief came in there did he introduce
5 himself to you?

6 A. Yes, ma'am.

7 Q. Okay. Who else was in the room with you at the time?

8 A. My -- Tiffany.

9 Q. Is Tiffany your --

10 A. She's still my wife, but we were separated.

11 Q. Okay. She was in the room. Was anyone else in the
12 room, that you recall?

13 A. No.

14 Q. Okay. And you were in the ICU at this point?

15 A. Yes, ma'am.

16 Q. Was there a television in that room that was hooked up
17 to cable?

18 A. No, ma'am.

19 Q. Okay. Prior to this had you seen any photographs of
20 anybody involved in the -- or alleged to have been involved
21 in your shooting?

22 A. No, ma'am.

23 Q. Had anybody shown you anything on a telephone?

24 A. No, ma'am.

25 Q. Had anybody showed you anything on a computer or a

1 tablet?

2 A. No, ma'am.

3 Q. Okay. Did you look at three lineups that were
4 prepared?

5 A. Yes, ma'am.

6 Q. Okay. When you looked at those lineups, how many
7 photographs were in each lineup, do you recall?

8 A. I think it was four or five.

9 Q. I'm going to show you what's been marked, this exhibit,
10 as State's 7, 8 -- 6, 7, and 8. How many photographs are in
11 this lineup?

12 A. Three.

13 Q. How many photographs for each lineup?

14 A. Oh, six.

15 Q. Okay. And there is three lineups?

16 A. Uh-huh.

17 Q. When the police chief showed you these lineups, did he
18 show them you one at a time?

19 A. Uh-huh.

20 Q. Did he in any way indicate to you which person you
21 should pick out of each lineup?

22 A. No, ma'am.

23 Q. When he showed you State's No. 6, do you recall what he
24 asked you with State's No. 6?

25 A. He asked me did I know anybody on this -- in this -- on

1 this paper.

2 Q. Okay. Then what would he do, as far as each picture?

3 A. He would point "do you know him? Do you know him? Do
4 you know him," and I would do like this here.

5 Q. And is there a person?

6 A. "Do you know him? Do you know him?"

7 Q. Is there a person identified in State's No. 6 by a
8 circle?

9 A. Yeah, that's "Dre".

10 Q. Okay. And "Dre" is the person that you knew?

11 A. Yeah, my buddy.

12 Q. Okay. Did the chief tell you who to pick out?

13 A. (Shaking head no).

14 Q. Okay. Did Tiffany tell you who to pick out?

15 A. No.

16 Q. Were you suggested by anyone to pick out a certain
17 person?

18 A. No.

19 Q. Okay. I'm going to move on to State's No. 7.

20 Did the chief follow the same procedure with No. 7 as
21 he did with No. 6?

22 A. Yes, ma'am.

23 Q. Okay. What did he ask you for this picture?

24 A. "Do you know them? Do you know them?" I said
25 "uh-huh."

1 Q. Who did you identify as the person who is circled as?

2 A. That's Stephanie.

3 Q. Was she one of the females who was at the apartment?

4 A. One of the females..

5 Q. Was she the pregnant one or the not pregnant one? Do
6 you recall?

7 A. Pregnant.

8 Q. I'm going to show you State's No. 8 that has a picture
9 of the defendant Justin Reynolds on it. Did the chief
10 follow the same procedure with this one?

11 A. Yes, ma'am.

12 Q. What did he ask you?

13 A. "Do you know him? Do you know him? Do you know him?"

14 Q. Okay. And it appears that there was a circle around
15 Justin Reynolds picture. Is this the person that you
16 identified to the --

17 A. That's who shot me.

18 Q. Okay. How did the chief ask you when he showed you
19 this? Did he ask if you knew someone in this picture?

20 A. Yeah.

21 Q. Okay. So prior to this you had not -- you didn't know
22 Stephanie Vaughn, you didn't know Megan Margarita, and you
23 didn't know Jason -- I'm sorry, Justin Reynolds?

24 A. No.

25 Q. You also didn't know a guy by of name of Jason Tolison,

1 did you?

2 A. No, I did not.

3 Q. Okay. And you were not shown a lineup that day with
4 his picture in it, were you?

5 A. No.

6 MS. JORDAN: Your Honor, may I have a moment?

7 THE COURT: You may.

8 (Off the record)

9 (Back on the record)

10 BY MS. JORDAN:

11 Q. Josh, how close were you to the person who shot you?

12 A. What do you mean by close?

13 Q. When he shot you, how close was he?

14 A. Close, point blank.

15 Q. Okay. And you were shot in the back of the neck?

16 A. (Shaking head yes).

17 Q. Do you see the person in the courtroom today that shot
18 you back on April the 8th, 2012?

19 A. Yes, ma'am.

20 Q. Where is he seated in the courtroom?

21 A. On my right hand.

22 Q. Okay. Is he the gentleman in the white shirt and black
23 tie?

24 A. Yes, ma'am.

25 Q. Seated next to Ms. Lyall?

1 A. Yes, ma'am.

2 Q. Okay. Please answer any questions that Ms. Lyall may
3 have.

4 THE COURT: Ms. Lyall, your witness.

5 MS. LYALL: Thank you, Your Honor.

6 THE COURT: Yes, ma'am.

7 CROSS EXAMINATION BY MS. LYALL:

8 Q. So, Mr. Barrineau, when you got to the apartment, you
9 met Stephanie Vaughn?

10 A. (Shaking head yes).

11 Q. Is that a yes?

12 A. Yes, ma'am.

13 Q. So you said that you spent about an hour with her?

14 A. With them, yes.

15 Q. With the two females?

16 A. Yes, ma'am.

17 Q. And previous to this you knew Andre Scott?

18 A. Yes.

19 Q. You knew him by "Dre"?

20 A. Uh-huh. Yes, ma'am.

21 Q. So you knew what he looked like. You spent a good
22 amount of time with him?

23 A. Yes, ma'am.

24 Q. And you said you did not know Justin Reynolds prior to
25 this?

1 A. No, ma'am.

2 Q. And when you spent about an hour in the apartment, you
3 did not see him? You were not hanging out with him?

4 A. No, ma'am.

5 Q. And you said that the lights were on a little bit in
6 the apartment. What did you mean by that?

7 A. Like a lamp.

8 Q. Okay. So it was kind of dark in the apartment?

9 A. Kind of dark. Just some -- a little lighting. It
10 wasn't bright.

11 Q. Just low lighting?

12 A. Yes, ma'am.

13 Q. Okay. And you said that when someone came in the door,
14 they grabbed you from behind where you couldn't move with a
15 gun to your head?

16 A. That's correct.

17 Q. And you just knew it was a black male. You couldn't
18 identify that person.

19 A. Identify at that point I didn't know if it was a black
20 male or not.

21 Q. Okay.

22 A. But when they turned me around and started robbing me,
23 yeah, I know it was a black male.

24 Q. Okay. But when someone grabbed you, you didn't know if
25 it was a black male, white male?

1 A. That's right.

2 Q. Okay. And you said that there was only one male
3 outside that was doing the robbing and that was not Justin
4 Reynolds?

5 A. Yeah.

6 Q. Do you know who that was?

7 A. That was the other guy.

8 Q. Who is the other guy?

9 A. "J-Baby".

10 Q. "J-Bay"?

11 A. "J-Baby".

12 Q. "J-Baby". Okay.

13 So my client wasn't even around when "J-Baby" was
14 robbing you?

15 A. He was sitting on the back porch. I seen him the whole
16 time I was getting robbed.

17 Q. Okay. And you said that when the person came that shot
18 you, you said that there was plenty of lighting. You said
19 lighting from street lights and the moon. You said there
20 were street lights around?

21 A. Uh-huh.

22 MS. LYALL: Your Honor, may I approach?

23 THE COURT: You may.

24 BY MS. LYALL:

25 Q. Do you recognize this as the apartment complex where

1 you were?

2 A. (No response).

3 Q. Do you see pieces of your clothing right there?

4 A. Uh-huh.

5 Q. Would you let me know if you see any street lights in
6 there?

7 MS. JORDAN: Your Honor, if I could just make a
8 comment about those photographs. They don't show high
9 enough up to where there would be street lights, if there
10 are street lights. I don't think they do.

11 MS. LYALL: Well, they would show a pole and
12 they're certainly on a pole.

13 MS. JORDAN: I'll agree that there is not a pole
14 in these photographs.

15 MS. LYALL: We can go through all the photographs.

16 A. I think the picture should have been taken at
17 nighttime myself where you can see how much light there was,
18 because I know there was enough light to say who shot me.

19 BY MS. LYALL:

20 Q. Okay. Well, did you see street lighting in these
21 photographs?

22 A. No, not in those photographs.

23 Q. And do you see that this is an extremely shaded area by
24 trees?

25 A. Yeah, but at nighttime there is lights all around.

1 Anybody knows that in an apartment complex you have lights
2 everywhere. It was lit up enough for me to see who shot me
3 and who robbed me.

4 Q. Do you see lights anywhere in these photos?

5 A. I don't know. It ain't took at dark. I couldn't tell
6 you.

7 MS. JORDAN: Your Honor, it's a different set of
8 four photographs and I would just argue the same thing, but
9 it's a --

10 THE COURT: I'll give you a chance to argue the
11 weight this ought to be given to those later.

12 BY MS. LYALL:

13 Q. These are four more photographs taken from a different
14 angle. Do you see any lighting in these photographs?

15 A. Like I said, they wasn't took at dark, so --

16 Q. I understand they are not taken at dark, but do you see
17 any street lights in these photos?

18 A. No, but I can see a bunch of porch lights. You know,
19 on every door, they have a porch light on them. On every
20 back door have a porch light on it.

21 Q. Well --

22 A. I do everything but enter an apartment and it would be
23 pitch black dark all around.

24 Q. Mr. Barrineau, I'm just asking if you see any lights in
25 those photographs?

1 A. These are took in the daytime. No, I do not see no
2 lights.

3 Q. Okay. Thank you.

4 And you said inside of the apartment was dimly lit as
5 well?

6 A. Yes, ma'am.

7 Q. And when the officer came to do these photo lineups,
8 they showed them to you all at once, correct?

9 A. No, one at a time.

10 Q. What I mean by that is they didn't show each photograph
11 to you by itself? They showed you all six of these at the
12 same time?

13 A. That's correct.

14 Q. And you were on life support at that time?

15 A. (Shaking head yes).

16 Q. Is that a yes?

17 A. Yes.

18 Q. And actually when they went to do a fourth photo lineup
19 with you, you actually had a medical emergency and it had to
20 be stopped?

21 A. Uh-huh.

22 Q. What type of medical emergency was that?

23 A. I had to be brought.

24 Q. What does that mean?

25 A. That means I had to be knocked unconscious and suck my

1 lungs out from where I was filling up with fluid from where
2 I had got shot.

3 Q. What type of medication were you on in the hospital at
4 the time that you did these lineups?

5 A. None at that time.

6 Q. You weren't on any pain medication?

7 A. I probably was on Lortab or something like that at that
8 time.

9 Q. Okay.

10 MS. LYALL: I don't think I have any other
11 questions at this time.

12 THE COURT: All right, anything further from this
13 witness, Ms. Jordan?

14 MS. JORDAN: No, sir.

15 THE COURT: All right, sir, you may move back to
16 your place. Thank you very much.

17 THE WITNESS: Thank you.

18 THE COURT: Yes, sir.

19 The State may call its next witness.

20 MS. JORDAN: Your Honor, the State calls Darrell
21 Dawkins.

22 THE COURT: Officer, come forward and be sworn,
23 please.

24 THE WITNESS: Yes, sir.

25 CHIEF DARRELL DAWKINS, having been first duly

1 sworn, testified as follows:

2 THE COURT: Have a seat, sir.

3 And once you are seated, state your name, please.

4 THE WITNESS: Darrell Dawkins.

5 THE COURT: Thank you.

6 Ms. Jordan, your witness.

7 DIRECT EXAMINATION BY MS. JORDAN:

8 Q. Where are you employed?

9 A. Woodruff Police Department.

10 Q. How long have you been employed there?

11 A. About nineteen years.

12 Q. Prior to being employed at Woodruff Police Department,
13 did you work at any other law enforcement agency?

14 A. No, sir -- no, ma'am.

15 Q. To get the job there, did you have to attend the police
16 academy?

17 A. Yes, ma'am.

18 Q. Okay. What have been some of the various titles or
19 jobs that you have had in your tenure at the Woodruff Police
20 Department?

21 A. I was a lieutenant for eight years, chief of police for
22 seven.

23 Q. Okay.

24 A. I have been -- I initially came on as the crime
25 prevention officer and went through that specialized

1 training initially through my completion of the academy.

2 Q. Okay. What is your current position with the Woodruff
3 Police Department?

4 A. I'm sergeant in charge of crime prevention.

5 Q. Okay. Did you have an occasion to work on a shooting
6 that happened in Kelly Acres on April the 8th of 2012?

7 A. Yes, ma'am.

8 Q. And what was your involvement in that crime?

9 A. I was just there -- initially I received the call of a
10 shooting. I responded to assist and try to initiate the
11 investigation.

12 Q. Do you recall about what time the call went out for
13 that?

14 A. I don't know the initial time of the call. I know that
15 I was planning to go to early morning service and I received
16 a call. It was in the early morning hours.

17 Q. Okay. And was it -- what day of the week was this?

18 A. It was on Sunday morning, Easter morning.

19 Q. Okay. Based on your investigation and the
20 investigation of the Woodruff Police Department, did y'all
21 identify subjects?

22 A. Yes, ma'am.

23 Q. Okay. Who were some of the people that were identified
24 as potential people involved in the crime?

25 A. After -- after that point?

1 Q. Yes, sir.

2 A. There was a Justin Reynolds.

3 Q. Okay.

4 A. There was a Jason Tolison. An Andre Scott. Also a
5 Stephanie Vaughn. Another person's involvement that was
6 there was a Megan Margarita.

7 Q. Okay. And let me ask you this, just for the judge's
8 information, what is the nickname that this defendant is
9 known by?

10 A. "Krazy".

11 Q. What is the nickname that Justin -- Jason Tolison is
12 known by?

13 A. "J-Baby".

14 Q. Okay. And what about an individual by the name of
15 Marquise Duncan? Do you know his nickname?

16 A. "Snoop".

17 Q. "Snoop"?

18 A. He came -- after further investigation, after talking
19 to one of the young ladies, his name came up.

20 Q. Okay. How soon after April the 8th do you recall, if
21 you remember, were Jason and Justin arrested?

22 A. I do not remember the exact arrest date.

23 Q. Okay.

24 A. I know it was quite an intensive manhunt for them
25 trying to determine and we located them on West George

1 Street, a location.

2 Q. Okay. Did you have an occasion to go to the hospital
3 on April 19th, 2012?

4 A. Yes, ma'am.

5 Q. When you went to the hospital, who did you go to visit?

6 A. Mr. Barrineau.

7 Q. What was the purpose of your visit there that day?

8 A. Trying to present a few lineups with those subjects
9 that I had mentioned prior and try to determine if he could
10 identify them.

11 Q. Okay. Who -- did anyone else go with you to the
12 hospital that day?

13 A. No, I went alone.

14 Q. Do you recall what area of the hospital you went to?

15 A. ICU.

16 Q. Okay. Who was present in the ICU when you met Josh?

17 A. His wife, Ms. Barrineau.

18 Q. Is she present today?

19 A. Yes.

20 Q. Okay. So my understanding is this was about eleven
21 days after the crime?

22 A. Yes, ma'am.

23 Q. Okay. What did you -- I'm going to pass up each one of
24 the lineups to you, 6, 7, and 8, and ask you a few questions
25 about them.

1 Who prepared those lineups?

2 A. I want to say it was Officer Knighton, one -- Brian
3 Knighton, one of the officers in the police department. I
4 did not prepare them.

5 Q. Okay. But they were prepared for you to use to show
6 Josh Barrineau?

7 A. That's correct, yes, ma'am.

8 Q. Okay. Were you aware of who the individuals were in
9 the picture, the subjects that you had already identified?

10 A. Yes, ma'am.

11 Q. Okay. And how many photographs are in each lineup?

12 A. Six.

13 Q. Okay. When you presented -- did you present all three
14 lineups to Josh at the same time?

15 A. No, one at -- each lineup was presented to him one at a
16 time.

17 Q. Okay. And when you entered, did you introduce
18 yourself?

19 A. Yes.

20 Q. And say that you were with a law enforcement agency?

21 A. Yes.

22 Q. Were you in uniform at the time or --

23 A. I believe I was in uniform at that time.

24 Q. Okay. How did you -- how did you show or how did --
25 how did you show Josh each one of the photographs?

1 A. I had these turned down --

2 Q. Okay.

3 A. -- and I don't remember the exact, as far as which one
4 I presented first --

5 Q. Yes, sir.

6 A. -- but I would present to him -- after speaking with
7 his wife about how he was and his condition --

8 Q. Yes, sir.

9 A. -- and as far as his clarity and if he -- how he -- of
10 course, his motion, if he could speak at the time. He had a
11 trach, but he had ability to acknowledge by nodding.

12 Q. Okay. What did you do with each lineup?

13 A. I presented one -- which Ms. Barrineau was also
14 present. I presented the lineup each of them one at a time,
15 and I would go through and -- I said "I'm going to go
16 through each one. And then when I come back, after looking
17 at all these, if there is anyone" -- and I didn't break it
18 down to have one individual. I just said "if there is
19 anyone that had involvement that you know of and can
20 identify, please acknowledge by nodding your head."

21 Q. Okay.

22 A. And what I would do is I would go to each photo and
23 pause, and then go to the next, and followed that procedure
24 on all of them.

25 Q. Okay. Did you -- did he nod at certain photographs?

1 A. Yes, ma'am.

2 Q. Okay. And I believe, just for the purposes of the
3 record, in State's No. 6, it's the bottom -- the person in
4 the sixth position is identified?

5 A. Yes, ma'am.

6 Q. And that is Andre Scott?

7 A. Yes, ma'am.

8 Q. And State's No. 8, the first person at the top is
9 identified?

10 A. Yes, ma'am.

11 Q. And that is Justin Reynolds?

12 A. Yes, ma'am.

13 Q. And in State's No. 7, the middle person on the top row
14 is identified?

15 A. Stephanie Vaughn.

16 Q. Okay. This may sound like a stupid question, but who
17 made the marks on that paper?

18 A. I did.

19 Q. Okay. So you circled based upon Josh's indication?

20 A. Yes, ma'am.

21 Q. Did you in any way suggest to him who to pick out?

22 A. No, ma'am.

23 Q. Did you point to a particular person and tell him that
24 this person was involved?

25 A. No, ma'am.

1 Q. Did anyone else in the room influence or persuade Josh
2 to pick a certain person out?

3 A. No, ma'am. The only other person was Ms. Barrineau and
4 I did have her to sign as a witness as so.

5 Q. And you also signed the top of each one?

6 A. Yes, ma'am.

7 Q. Okay. Did -- did you show any other photographs to the
8 victim before you showed him these lineups?

9 A. No, ma'am.

10 Q. Okay. Do you recall how long it took him to pick out
11 the people that he did pick out?

12 A. I wouldn't have an exact time, but it was pretty quick.

13 Q. Okay. How certain was the witness?

14 A. There wasn't -- like I said, there wasn't a verbal
15 communication, but he was positive in his acknowledgement.

16 Q. Okay. Once you circled each person on each lineup, did
17 you show Josh who you circled?

18 A. Oh, yes, ma'am.

19 Q. Okay. There is writing on the top of each one of
20 those. You already talked about your signature and Ms.
21 Barrineau's signature. Was there any writing on there
22 before you showed the lineup to Josh?

23 A. No, ma'am, the only print on here was the
24 acknowledgement of the date on the side. There was no
25 handwritten, as you can see. It just stated lineup number

1 one. That -- nothing indicating a name.

2 Q. Okay. Did you make those markings after Josh picked
3 someone out?

4 A. Yes, until I allowed him to view those, there were no
5 handwritten markings.

6 Q. Okay. When he identified Justin Reynolds, do you
7 recall what question, if any, you asked him, as far as that
8 lineup?

9 A. I do not recall.

10 Q. Please answer any questions Ms. Stuart may have. I'm
11 sorry, Ms. Lyall may have.

12 THE COURT: Your witness.

13 MS. LYALL: Thank you, Your Honor.

14 THE COURT: Yes, ma'am.

15 CROSS EXAMINATION BY MS. LYALL:

16 Q. You went to the hospital and it was approximately
17 eleven days after the crime happened?

18 A. Yes, ma'am.

19 Q. And you were not the one that prepared the lineup?

20 A. No, ma'am.

21 Q. Is it normally part of your job to do lineups?

22 A. As far as preparation?

23 Q. No, actually executing the lineup, showing it to
24 someone.

25 A. Oh, yes, ma'am, I have done it.

1 Q. Okay. And what is your department policy in regards to
2 lineups? Is the way that you did it normally how your
3 office does lineups?

4 A. Well, this is a little bit different, special
5 circumstances, due to the fact that the -- using the signage
6 and the circling would have been done by Mr. Barrineau, but
7 due to the fact that he was unable to do that, that would be
8 the only thing outside of what's quote as normal.

9 Q. Okay. Normally would your office show a person one
10 picture at a time instead of just showing them all six
11 pictures?

12 A. No, ma'am, we usually -- the lineups that I have been
13 involved has been pretty standard of a six photo lineup.
14 What you try to do is get people that are in similar
15 appearance, and try to -- if you have a person of suspicion
16 or you think he had involvement, include them in it and try
17 to not keep them in the same order.

18 One thing that you noticed that there is -- the
19 individuals that we thought were involved with the crime
20 were not in the same position on each lineup.

21 Q. Are you aware that it makes it more accurate if you do
22 it that way, by showing them one photo at a time so they can
23 actually concentrate on the individual person?

24 A. Well, I have seen it done both ways. It's just been a
25 practice by our office to do a lineup of that nature. Some

1 actually do a breakdown where they bring in individuals, but
2 this has been a -- I don't know what they, as far as rates
3 of determination, but we have done this pretty standard.

4 Q. Did you think because of Mr. Barrineau's physical
5 status at the time he was in the hospital that maybe that
6 might have been a good idea, to show him one photo at a
7 time, instead of, you know, placing six photos in front of
8 him?

9 A. Well, that -- by going through and taking each photo
10 and showing each mug shot -- excuse me, each lineup as one
11 and just presenting it to him to take a look at, and was not
12 in a situation where I allowed to go each picture instead of
13 having them stacked, had them each individual and just went
14 through each picture before we went for a period of
15 acknowledgement.

16 Q. Okay. What about -- generally other people are not in
17 the room, especially in a circumstance where Mr. Barrineau
18 can't speak, you are having to rely on him nodding. You
19 allowed his wife to stay in the room?

20 A. Yes, because she had been familiar with his response
21 and his demeanor over this period of time.

22 I thought just because he also was in an ICU situation,
23 that if there was a situation where there was -- or where he
24 wasn't feeling well or felt that something might not be --
25 or influence his decision, or his choice, that it would be

1 best to have someone who had been with him that
2 entire situation.

3 Q. Okay. So you said she was familiar with his response.
4 Did you rely on her to determine what his response was to
5 these photos?

6 A. No, ma'am, what I'm saying as far as his condition, as
7 far as I didn't want to be in there alone with him and not
8 know if it changed, or -- I knew that he had had some
9 situations with some fluid in his lungs. As a matter of
10 fact, I was going to present a fourth lineup when I
11 understood that it was the time for them to do a procedure
12 to clear his lungs.

13 Q. And where was she standing when you actually performed
14 the lineup?

15 A. Let's see, if I'm right, she was there. She was back
16 at some distance. I think just beyond him, I believe.

17 Q. Could he see her at --

18 A. No, I don't think so.

19 Q. But you are relying on her for his response?

20 A. No, I'm not relying on her.

21 Q. Well, for his medical response, but she couldn't see
22 him and he couldn't see her?

23 A. Right, if he -- to the side. For instance, very
24 similar to your position from her to the lady.

25 Q. Well, we can certainly see each other.

1 A. Well, but you have completely movement, and at that
2 time he had his trach I think was on like where he could
3 twist and turn and that thing, but that's something that I
4 can't answer if he could see. I felt --

5 At that determination all I was focusing on getting
6 those the lineup in front of him -- I mean, visible to him,
7 and to actually have him acknowledge and look and see if he
8 could make a determination.

9 Q. But with another person in the room, you can't
10 guarantee that he didn't rely on her for any of his
11 responses?

12 A. During that -- any time that we were looking at the
13 lineup, that I didn't see him making any eye contact or any
14 kind of reach back to acknowledge her for any influence,
15 that I was aware of.

16 Q. Okay. And you said that you felt that he had mental
17 clarity, but he actually did have a medical emergency in the
18 middle of these lineups?

19 A. I think that was pretty standard. I think there was so
20 many hours, that that procedure was one -- I don't think it
21 was something out of the norm. I think it was something
22 that they were giving him every day. I think after a
23 certain period of time that those lungs -- his lungs had to
24 be cleaned at that time, to the best of my knowledge after
25 speaking with them, and that it just -- it varied a little

1 bit when it reached the threshold that they took him. I
2 think part of it is because of the difficulty of the
3 procedure had to place him onto.

4 Q. Okay. You don't know that, though?

5 A. Just according to the family.

6 Q. Okay. And he was not able to tell you anything about
7 the actual lineups? He just, as you say, acknowledged he
8 knew these people?

9 A. I asked him if they were involved in this incident. He
10 didn't identify Justin as the person at that time that -- as
11 far as he couldn't -- he couldn't verbalize that to me.

12 Q. Okay.

13 MS. LYALL: I don't have any other questions.

14 THE COURT: Any further questions, Ms. Jordan?

15 MS. JORDAN: No, sir.

16 THE COURT: You may step down.

17 You may call your next witness.

18 MS. JORDAN: The State calls Tiffany Barrineau.

19 THE COURT: Come forward, Ms. Barrineau, and be
20 sworn.

21 TIFFANY BARRINEAU, having been first duly sworn,
22 testified as follows:

23 THE COURT: Have a seat, please, 'ma'am', and state
24 your name, once you are seated.

25 THE WITNESS: Tiffany Barrineau.

1 THE COURT: Ms. Jordan, your witness.

2 DIRECT EXAMINATION BY MS. JORDAN:

3 Q. Ms. Barrineau, how old are you?

4 A. Thirty-one.

5 Q. How do you know Josh Barrineau?

6 A. We were married for twelve years.

7 Q. Okay. Do you have any children with Mr. Barrineau?

8 A. Yes, we have three.

9 Q. How old are they?

10 A. Five, seven, and thirteen.

11 Q. Okay. Boys, or girls, or --

12 A. Two boys and one girl.

13 Q. Okay. Were you in the hospital with Josh on April the
14 19th of 2012?

15 A. Yes.

16 Q. Okay. What was the purpose of your visit?

17 A. I was just coming to visit and check on him and see how
18 he was doing.

19 Q. Okay. Did you also have a chance to meet Darrell
20 Dawkins that night?

21 A. Yes.

22 Q. Or that day?

23 A. Uh-huh.

24 Q. Okay. Were you present when the defendant was -- I'm
25 sorry, when Josh was shown three separate lineups?

1 A. Yes.

2 Q. Okay. Could you explain to the judge how the lineups
3 were shown to Josh?

4 Let me ask you this. Were they all three shown at the
5 same time?

6 A. No.

7 Q. Okay. Was each lineup individually shown?

8 A. Yeah.

9 Q. How did Chief Dawkins handle those lineups?

10 A. I mean, he told Josh -- I mean, he pointed to each
11 individual and told -- and he asked Josh to nod when he
12 pointed to the suspect.

13 Q. Okay. And did he do that with each and every lineup?

14 A. Yes.

15 Q. Okay. Did Josh indicate a person on each lineup?

16 A. Yes.

17 Q. Okay. Did the chief -- or did Officer Dawkins in any
18 way suggests to Josh who to pick out?

19 A. No.

20 Q. Did he -- to your recollection, did he linger on any
21 picture longer than another one?

22 A. No.

23 Q. Okay. Did you in any way suggest to Josh who to pick
24 out?

25 A. No, ma'am.

1 Q. Okay. Did you have any comment as to any of the
2 lineups?

3 A. No.

4 Q. Okay. Did you also -- let me show you State's 6, 7 and
5 8 and ask you if that's your signature on each one of them?

6 A. Yes, it is. Yes. Yes.

7 Q. When did you sign those?

8 A. When -- at the very end when he had picked them out.

9 Q. Please answer any questions Ms. Lyall may have.

10 THE COURT: Ms. Lyall, your witness.

11 CROSS EXAMINATION BY MS. LYALL:

12 Q. Did you know who the suspects were in this case?

13 A. No, ma'am.

14 Q. You hadn't watched any news, hadn't seen anything in
15 the paper?

16 A. Well, yes, I watched the news.

17 Q. So you knew who the suspects were in this case?

18 A. Yes.

19 Q. Okay. And you knew what their pictures looked like?

20 A. Yes.

21 Q. And had you spoken to Josh about any of this?

22 A. No, ma'am.

23 Q. Okay. And you were in the room when these lineups were
24 done?

25 A. Yes.

1 Q. And you have been convicted of a shoplifting before?

2 A. Yes.

3 MS. LYALL: I don't have any other questions.

4 MS. JORDAN: Your Honor, that's the State's
5 showing.

6 THE COURT: All right, ma'am. You may step down.

7 Does the defense wish to call any witnesses?

8 MS. LYALL: No, Your Honor.

9 THE COURT: All right. I'll be happy to hear from
10 you concerning the issue.

11 MS. LYALL: Thank you, Your Honor.

12 As you have heard, there are certain factors that
13 have to be proven in this hearing.

14 The first factor is the witness' opportunity to
15 view the perpetrator at the time of the crime.

16 As you heard, the first thing that happened was a
17 male grabbed him from behind, I believe he said tightly with
18 a gun to his head, and he was not able to determine -- he
19 said a black male, but then later said he couldn't tell if
20 it was a black male or a white male, couldn't see the
21 person.

22 Then he said a Jason Tolison or "J-Baby" robbed
23 him outside. And when he said that he was able to view my
24 client, he said he was able to because of street lights,
25 view from the moon, and it was when he was coming up to

1 shoot him in the back of the head/neck.

2 First of all, that happened from behind. I think
3 it would be very hard for him to actually see who did that.

4 Second, from the photos there are no street
5 lights. It's heavily covered in trees. I don't think there
6 would be much moonlight. There are no lights coming from
7 the apartment building, and the actual apartment was dimly
8 lit, according to Mr. Barrineau. The actual apartment had
9 one lamp on. I think this would be very hard for him to
10 actually view Mr. Reynolds.

11 He said he did not know Mr. Reynolds prior to
12 this. He had never met him. He never saw Mr. Reynolds in
13 the actual apartment. The people that he saw were Stephanie
14 Vaughn, Megan Margarita, and he previously knew Andre Scott,
15 so I did not believe that he had the opportunity to view Mr.
16 Reynolds at the time of the crime.

17 The second circumstance or factor is the witness'
18 degree of attention. This happened extremely fast. I think
19 the same thing for the first scope of the second as well,
20 but it was also an extremely fast event. It's being grabbed
21 out of an apartment, taken outside, robbed, and then shot in
22 the back of the head. He is not claiming that my client
23 took part in the robbery. He's actually just saying he shot
24 him in the back of the head/neck, and that happened from
25 behind.

1 The accuracy of the witness' prior description of
2 the perpetrator. Most of what we have is that it was a
3 black male. He did state some prior -- some description at
4 this point on the stand, but that's the first time we are
5 ever hearing that description. There are no statements to
6 the investigator. There is nothing of that description. I
7 think now saying it on the stand when he's staring at my
8 client is -- you know, I could describe anyone in this
9 courtroom looking at them. There is no prior description to
10 anyone in this case of Mr. Reynolds. So, you know, to say
11 it now on the stand what he looks like is a little different
12 than actually describing him two years ago, one year ago,
13 anything like that.

14 The level of certainty demonstrated by the witness
15 at the confrontation. I believe that's the thing. He did
16 pick my client out of a lineup, but I don't believe the
17 lineup was done properly. I do believe there is a chance of
18 there being issues with the lineup. I believe the lineup
19 should have been done one person at a time. I think it
20 should have been done when there were not so many medical
21 problems, and I think the fact that the client's (sic) wife
22 who knew that my client was a suspect sitting there in the
23 room, with the officers relying on the wife for cues, that's
24 just a horrible idea. The client -- I mean the victim can't
25 talk. They are relying on him to nod his head, and his wife

1 who knows -- who has been arrested in this case that's
2 sitting in the room. That shouldn't have ever happened. It
3 really taints the idea that --

4 THE COURT: She's been arrested in this case?

5 MS. LYALL: No, sir, it has been put in the news
6 as someone they are looking for. So --

7 THE COURT: Was she arrested in this case?

8 MS. JORDAN: No, sir, she wasn't arrested in this
9 case at all.

10 MS. LYALL: Sorry.

11 MS. JORDAN: She also wasn't placed on the news of
12 any type of suspect in this case at all either.

13 THE COURT: Okay.

14 MS. LYALL: What I'm saying is my client was
15 placed on the news as a suspect. She knew that and she is
16 sitting in the room with my -- with the victim in the case
17 and her knowledge of that is completely inappropriate, as
18 she shouldn't have been allowed in the room with the
19 officer. It's almost the same as having --

20 THE COURT: I didn't hear any testimony that she
21 really participated in the identification process. The
22 testimony I heard was that she was present and observed.

23 MS. LYALL: Well, Your Honor, the law enforcement
24 officer said that, but he's busy showing photographs.

25 THE COURT: That's what she said too. She said

1 she just sat there and watched.

2 MS. LYALL: I --

3 THE COURT: I didn't hear any testimony that she
4 participated, did you?

5 MS. LYALL: I didn't hear any testimony, but I
6 think it causes problems, the fact that she's sitting there.

7 THE COURT: Oh, I understand your position. Go
8 ahead.

9 MS. LYALL: And the length of time between the
10 crime and the confrontation. It was eleven days. I know
11 that's not a terrifically significant time, but I do believe
12 that there are too many problems with the identification in
13 this case for it to be used in this case.

14 I -- you know, he didn't have the opportunity, in
15 my opinion, to see Mr. Reynolds at the time of the crime.

16 I think the lineup procedure was done improperly.
17 I think that the wife should have been excluded from the
18 room. I think it just calls questions to the procedure. I
19 know there was no direct testimony to that fact, but, you
20 know, that's just a problem to me.

21 And I -- there has been no previous testimony at
22 any point that -- other than calling my client a black male,
23 that the victim could identify him in any way, other than
24 just saying it was a black male.

25 THE COURT: Thank you, ma'am.

1 Your argument, Ms. Jordan?

2 MS. JORDAN: Yes, sir.

3 Your Honor, just to hit a few things.

4 I think in State v. Brown at 333 S.C. 185, an
5 Appellate Court case in 1998, that talks about how a person
6 in fear of his life presumably has a more accurate degree of
7 attention to his surroundings than a mere passerby.

8 I would say at that point in time Justin was in
9 fear -- or, I'm sorry, Jason was in fear -- Josh was in fear
10 of his life at that point in time, as he had a gun put to
11 him. He had been drug out of an apartment at gunpoint,
12 robbed in the back and then shot in the back of the neck --
13 or robbed and then shot in the back of the neck.

14 I would also state that there is no -- that there
15 should be no issue as far as the length of time between the
16 crime and the confrontation. There were medical issues that
17 kept law enforcement from going to see him initially. He
18 went into surgery when he went into the hospital and was
19 placed in ICU. He stayed in the hospital for approximately
20 six months. Chief Dawkins did wait eleven days to go there,
21 but I think just based upon medical need and the medical
22 necessity that it's not one that he could run up to him
23 initially and get an identification from him.

24 As the court has heard, Josh couldn't speak at
25 that time. When I first met Josh I was actually surprised

1 that he was still able -- that he was able to speak and that
2 he was clear, as far as his thoughts and everything.

3 Josh also didn't -- there has been no allegations
4 here, other than Ms. Lyall just did not like the procedure
5 that Dawkins used. There is no allegations that anything
6 was un-permissibly suggestive, that she felt and did
7 anything as far as pointing out specific people. No
8 allegations from all three witnesses who testified to that.

9 I believe the State has put forth very convincing
10 evidence as to the identification procedure. It was not
11 unduly suggestive, and there is no need to even go to the
12 second question, which was, if so, was the procedure so
13 suggestive as to give rise to a very substantial likelihood
14 of irreparable misidentification under the totality of the
15 circumstances. Your Honor, I don't think they get past the
16 first test, that it was not unduly suggestive at that point.

17 I think it also goes to show, too, that he was
18 able to pick out Andre Scott, whom he knew prior to this.
19 He was also able to pick out Stephanie Vaughn, whom he had
20 just met that night. I think it goes to show that mentally
21 his facilities were still intact and that he had that going
22 in his favor that day when Chief Dawkins went to the
23 hospital to give him the lineup.

24 THE COURT: All right. After reviewing the
25 evidence that I have heard during the hearing I do not find

1 that the identification process was unduly suggestive. It
2 appears that the -- there was no challenge to the lineups or
3 their makeup.

4 I do not find that the proceeding that was
5 followed was suggestive. I did not hear any testimony that
6 indicated that his wife participated in the identification
7 process. I don't find any fault with the police officer's
8 conduct in conducting the identification or preparing the
9 individuals to be identified.

10 Even if there had been, the witness testified to
11 an opportunity to view the criminal at the time -- the
12 alleged criminal at the time of the crime. He stated he saw
13 him sitting on the porch before the shooting took place in
14 the location where he was being robbed.

15 The witness testified the lighting was adequate to
16 identify individuals in that area. It was in an apartment
17 complex. He testified it was generally lit, various
18 sources, indicating porch lights, things of that nature.

19 Obviously his attention was heightened, since he
20 was in the process of being robbed, according to his
21 testimony.

22 He did not know this particular individual
23 beforehand, but as the State pointed out, the two other
24 identifications he made at the same time were of people that
25 he had met prior to the crime itself and he identified both

1 of those accurately.

2 His certainty level, according to my viewing of
3 the testimony, he indicated a great deal of certainty in his
4 identification at that time.

5 And I do not find that the time between the crime
6 and the confrontation or the identification to be unduly
7 long or in any way prejudicial to the defendant.

8 So I'm going to deny the motion to suppress the
9 identification.

10 You certainly have the right to argue the question
11 of identification at trial and I would charge the jury
12 accordingly on that issue.

13 Any other pretrial motions from the defense?

14 MS. LYALL: Yes, Your Honor.

15 I don't know if this is actually going to be an
16 issue.

17 Are you still planning on bringing up arson?

18 MS. JORDAN: Yes, ma'am.

19 MS. LYALL: Your Honor, my client is charged with
20 arson in Laurens County, and it -- it sort of comes out of
21 this case -- well, I guess it does.

22 There is a charge of grand theft in this case of a
23 vehicle and that that vehicle was ultimately allegedly
24 driven to Laurens County and someone burned it. Well, my
25 client is charged with arson in Laurens County, and the

1 State just let me know that they intend to bring out the
2 arson charge in this trial.

3 THE COURT: In what respect, Ms. Jordan, do you
4 anticipate that being an issue in this trial?

5 MS. JORDAN: Your Honor, I think it's an issue, in
6 that it's part and parcel of this crime. I understand he is
7 not charged with it here, but it will not be a question to
8 the jury as far as his participation in the arson of Josh's
9 2001 Blazer. But you have already heard Josh state that his
10 keys were taken out and that his vehicle was driven away.

11 This all happened around two a.m. in the morning,
12 that Easter Sunday morning. The vehicle was reported on
13 fire just past Spartanburg County in Laurens County about
14 3:15, 3:30 in the morning. I believe it's part and parcel,
15 because it shows the actual -- you know, they took away the
16 vehicle. The grand larceny is the theft of it. They took
17 it away and deprived him --

18 THE COURT: With the intention of permanently
19 depriving --

20 MS. JORDAN: The owner of the said vehicle, yes,
21 sir, Your Honor.

22 And just for the court's knowledge, the way I --
23 the way I plan, if things go as I hope they go, to present
24 that evidence is that one of his co-defendants, Jason
25 Tolison, is going to testify on behalf of the State. He has

1 received consideration for his testimony that I have told
2 Ms. Lyall about. And part of his conversation is that he
3 and his brother, the defendant, drove away in that vehicle,
4 drove it to the location in Laurens County and torched it.
5 I think it goes along with everything that they did that
6 day.

7 Like I said, I'm not going to argue to the jury to
8 find him guilty of arson, because that's not in my
9 jurisdiction, but it's part and parcel of what happened that
10 night to tell the jury and give the jury the whole story.

11 I was planning on calling Jason and then also
12 calling Officer Steve Sweat, who used to be with the
13 sheriff's office in Laurens County, just to testify as to
14 the time and location of the vehicle fire.

15 THE COURT: So you are not offering it -- from
16 what I'm hearing is you are not offering it on any question
17 of credibility, or impeachment, or anything of that nature?
18 What you are arguing is that that is part of the element of
19 the crime that you have to prove to prove grand larceny?

20 MS. JORDAN: Yes, sir.

21 THE COURT: Okay.

22 Yes, ma'am?

23 MS. LYALL: Well, let me start with grand larceny,
24 and maybe go back to arson.

25 THE COURT: Well, she's not -- he's not charged

1 with arson here. He's charged --

2 MS. LYALL: Right.

3 THE COURT: -- with grand larceny.

4 MS. LYALL: Correct.

5 THE COURT: We are trying that case.

6 MS. LYALL: I also object to grand larceny.

7 THE COURT: Okay.

8 MS. LYALL: And -- I -- I mean, it may just be
9 that we will get to it in directed verdict.

10 THE COURT: Well, we can go -- you know, we can
11 take it up. I don't know whether we will get to it. If
12 there is some issue concerning -- this is a motion in
13 limine. Is that what this is?

14 MS. LYALL: Well, Your Honor, my issue with the
15 grand larceny is that he's charged with armed robbery and
16 he's charged with armed robbery of the keys, which is, in
17 effect -- he's charged with armed robbery of the keys in the
18 car and I don't think he can be charged with armed robbery
19 and grand larceny. So I don't think that they should be
20 allowed to go forward on the grand larceny, which would then
21 take care of the arson. And then they wouldn't be able to
22 bring either of them up. So I just don't think they can go
23 forward on the armed robbery and grand larceny.

24 THE COURT: It kind of shifted. Let's get back to
25 the issue we had in front of us.

1 The issue in front of us is whether or not she
2 could offer any evidence concerning the fact that the
3 vehicle was taken to Laurens and burnt.

4 She's not -- I agree, he's not on trial for arson.

5 MS. LYALL: Right.

6 THE COURT: And I won't let her bring up the fact
7 that he's even been charged with arson.

8 MS. LYALL: Right.

9 THE COURT: That won't be allowed to come in, but
10 my understanding of a larceny is is the taking of property
11 with the intention of permanently depriving the owner of the
12 use of that property.

13 So if I -- if I -- let's assume I did take
14 something from someone, I took it and used it for my own
15 purposes and then I destroyed it, it would seem to me that
16 that might be an element of the crime that I was charged
17 with that I could have prevented the owner from ever using
18 that property again.

19 MS. LYALL: Right. I don't think they need to
20 show that it was burnt in another county for the grand
21 larceny.

22 THE COURT: That would keep him from using it
23 again.

24 MS. LYALL: I object to it being brought in. It
25 puts me in a position of defending an arson and --

1 THE COURT: Well, again, I'm not going to allow
2 them to bring it up. I agree with you to that extent. I
3 guess I'm ruling in your favor, as far as them bringing up
4 the fact that he's been charged with an arson. It's not an
5 issue in this case.

6 But, now, if he took the property and took the
7 property to another location, and if they are able to prove
8 that he then destroyed that property so that it could not be
9 used by its owner again, I'm going to let them go into that.
10 That's part of the elements of the crime.

11 Now I guess I've ruled on that particular issue.

12 The next question is how much of the issue is
13 concerning whether or not they have the right to indict on
14 both charges and whether or not I should allow -- I don't
15 know at this point in time I can tell them what they can or
16 can't indict on.

17 MS. LYALL: Right.

18 THE COURT: But the question is what would go to
19 the jury.

20 MS. LYALL: Right.

21 THE COURT: It hasn't gone to the jury yet.

22 MS. LYALL: Correct, and that might be an issue
23 for my directed verdict.

24 THE COURT: That might be a better time to bring
25 that up.

1 You indicated there was something --

2 Is that -- any other motions from the defense?

3 I'm sorry, I didn't mean to --

4 MS. LYALL: Your Honor, if you want to take things
5 up as they come, I do also have an issue with John Duncan's
6 testimony.

7 THE COURT: Are you making a motion in limine
8 concerning --

9 MS. LYALL: Yes, Your Honor.

10 THE COURT: -- the testimony?

11 MS. LYALL: Yes, Your Honor.

12 THE COURT: What is that motion?

13 MS. LYALL: I believe that the State is going to
14 have him testify that the victim suffered all night. That's
15 part of his statement, and I don't believe that that is
16 within his ability to testify to.

17 THE COURT: Who is John Duncan, by the way?

18 MS. LYALL: He is the State's witness that found
19 the victim in this case.

20 THE COURT: I see. At some point later in the
21 evening, or morning, I don't know which it was.

22 MS. JORDAN: In the early morning hours, Your
23 Honor. He will testify and -- he will testify that he
24 normally goes and gets a cup of coffee at the Little Cricket
25 in Woodruff. About 6:30, 6:45 that he left to do that. He

1 noticed some items over on the ground in the direction that
2 Josh was lying, but at that point in time he didn't see
3 anything else there. He just thought someone threw out
4 their clothes. Well, he comes back after seven. You know,
5 it's lighter out at that point. He comes back and he
6 notices the items are still there and there is a body with
7 it, so he goes over there and he checks on him.

8 I do intend to call Mr. Duncan. Actually he's my
9 first witness. He is sitting upstairs waiting to come down.
10 I do intend to call him, but none of my questions are going
11 to ask about him suffering all night. I'm going to ask him
12 about when he left what he saw, when he came back what he
13 saw.

14 THE COURT: Well, it sounds like it won't be an
15 issue. If it comes up, you have the right to make the
16 objection.

17 MS. LYALL: Okay. Thank you, Your Honor.

18 MS. JORDAN: I do -- I do -- just for
19 clarification on the record, I do intend to ask him whether
20 or not the blood looked fresh or dry, because he describes
21 it as looking dry.

22 THE COURT: Well, that would be within his
23 observation. I would allow him to testify to that, as long
24 as he says he observed it. You have to lay a foundation to
25 what he observed.

1 MS. JORDAN: Yes, sir.

2 THE COURT: Okay.

3 MS. JORDAN: Your Honor, could I just throw
4 something in here, as far as the grand larceny indictment?

5 THE COURT: Well, I'm here to hear pretrial
6 motions, if you have a motion.

7 MS. JORDAN: I do. I have a motion to amend that
8 indictment. I did not realize until the court was reading
9 out that indictment that it says City of Spartanburg instead
10 of County of Spartanburg. It is, in my view, just a
11 typographical error. There is nothing in any of the
12 discovery that's been provided to Ms. Lyall that indicates
13 that this happened in the City of Spartanburg.

14 THE COURT: Which indictment? I recall that, but
15 I don't remember which indictment.

16 MS. JORDAN: The grand larceny.

17 THE COURT: Grand larceny.

18 MS. JORDAN: The big questionable one.

19 THE COURT: I'll take a look at it.

20 So you are saying that's a scrivener's error and
21 you are asking the court to allow you to amend that to read
22 the County of Spartanburg?

23 MS. JORDAN: Yes, sir.

24 THE COURT: Defense position?

25 MS. LYALL: That's fine, Your Honor.

1 THE COURT: Okay, I'll allow the amendment and
2 I'll indicate on the record that I am amending that
3 indictment to read that that occurred in the County of
4 Spartanburg.

5 It would be my finding that that amendment does
6 not change the nature of the charge and I believe that the
7 defendant has been placed on notice of the allegations
8 against him prior to this time.

9 MS. JORDAN: Do you want to hear arguments now as
10 to the grand larceny and the armed robbery, or is that for a
11 later time?

12 THE COURT: She indicated she was going to hold it
13 and make that motion in motions on directed verdict.

14 MS. JORDAN: Okay.

15 MS. LYALL: Directed verdict.

16 THE COURT: She's not waiving that.

17 MS. JORDAN: Yes, sir.

18 THE COURT: She's raised it before I swore the
19 jury, so I'll let her do that.

20 Anything else before we bring the jury in, from
21 the State's position?

22 MS. JORDAN: Your Honor --

23 THE COURT: We are going to take a short break
24 before I bring the jury in, but I just want to be sure that
25 we have taken up everything that I need to take up pretrial.

1 MS. JORDAN: From the State, yes, sir.

2 THE COURT: From the defense?

3 MS. LYALL: No, Your Honor.

4 THE COURT: All right, we will take about a ten
5 minute break. Court will be in recess for about ten or
6 fifteen minutes.

7 (Whereupon, proceedings were recessed)

8 (Whereupon, proceedings were reconvened)

9 THE COURT: You can be seated.

10 MS. JORDAN: May I have a moment to rush in and
11 check on my paralegal and my first witness?

12 THE COURT: Yes, ma'am, just let me know when you
13 are ready.

14 (Off the record)

15 (Back on the record)

16 THE COURT: Are you ready to proceed? We can do
17 opening arguments, I'm sure.

18 MS. JORDAN: Yes, sir. Christie was bringing the
19 Elmo, but I'll set it up afterwards, if that's no problem.

20 THE COURT: That would be fine.

21 So is the State ready to proceed at this time?

22 MS. JORDAN: Yes, sir, Your Honor.

23 THE COURT: Defense ready?

24 MS. LYALL: Yes, Your Honor.

25 THE COURT: Let's bring the jury in.

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

3 THE COURT: The record will reflect the jury has
4 returned to the courtroom.

5 If any of you had any difficulty in complying with
6 my instructions concerning your behavior while you were away
7 from the courthouse, please stand.

8 (No response).

9 THE COURT: It appears that all jurors have been
10 able to comply with the court's instructions thus far.

11 I want to thank you for your patience thus far.
12 Our pretrial matters took a little longer than I expected,
13 but we completed those at this time.

14 I told you that when you returned to the courtroom
15 you would be taking an oath concerning your responsibilities
16 as jurors in this case, and at this time I will ask that the
17 clerk please swear the jury panel for this trial.

18 THE CLERK: Yes, sir.

19 Please stand and raise your right hand.

20 Do you solemnly swear or affirm in the case about
21 to be tried to truly try the issues joined in this case and
22 render a true verdict according to the law and evidence, so
23 help you God?

24 JURY PANEL: (Collectively said I do).

25 THE CLERK: You may be seated.

1 THE COURT: Now, if any of you either failed or
2 refused to take the oath that was just administered by the
3 clerk, I would ask that you now please stand.

4 (No response).

5 THE COURT: The record will reflect that all
6 jurors have been sworn for purposes of this trial.

7 First of all, the temperature in here has dropped
8 a little bit. We have called the repair people and they are
9 supposed to be coming over to check it out, so we are aware
10 of that. I apologize about the temperature in here, but it
11 varies quite often in this courtroom. The building is
12 getting a little age on it and it's showing that fact, so we
13 will do the best we can, and we have called the appropriate
14 people to come fix that problem. I'm aware of it and we are
15 dealing with it the best that we can.

16 Now, before we begin the trial there are some
17 matters that I would like to go over with you. And I
18 noticed as I was questioning you prior to the trial that
19 there is a couple of you, maybe, that have participated in
20 trials as jurors before, but for the majority of you this is
21 your first opportunity to serve as a juror in a criminal
22 matter such as this.

23 And for those of you who have never been in this
24 position before and never served on a jury, I would expect
25 that most of what you might know about the jury process you

1 might have learned from outside sources, such as television
2 shows that you have watched, or movies that you have seen,
3 or maybe books that you have read, things of that nature.
4 And, you know, while those sources of information are always
5 interesting, that's because they are designed to keep your
6 attention. They are designed to entertain you and get you
7 to watch those particular sources of information. They are
8 always full of high drama and intense action and riveting
9 circumstances, as you would expect television shows and
10 movies to be. Again, that's because they are intended to
11 entertain you.

12 What you are engaged in today, and perhaps through
13 tomorrow, is an exercise that's not intended to entertain
14 you at all. What you are involved in is a fundamental part
15 of our democracy. I hope that you realize that in most of
16 the countries that exists in this world today citizens are
17 not allowed to participate directly in the judicial
18 processes of those countries. In those countries the
19 decisions in the courtrooms are made primarily by
20 government-appointed officials or bureaucrats, things of
21 that nature.

22 Our system is different. Our Constitution and our
23 Bill of Rights guarantees every citizen the right to a trial
24 by jury. We are participating in that function today. That
25 right to a trial by jury was first embodied in a document

1 called the Magna Carta. That document was signed in the
2 year 1215 in a place called Runnymede, England. That means
3 in two years that document will have its eight hundredth
4 birthday. Now, there is not too many things in the
5 government of man that has lasted for eight hundred years,
6 so it's a system that we have used over and over again for
7 almost an eight hundred year period of time.

8 What we are engaged in today is a search for the
9 truth. It's an effort to see that justice is done between
10 the parties that are before the court in this case.

11 In this case the State of South Carolina has
12 brought a criminal charge against one of its citizens, the
13 defendant in this matter, several criminal charges in this
14 case. And what we are going to do is try to determine the
15 truth in this matter.

16 If I were to have asked you before we started this
17 trial what you might expect a search for the truth to be
18 like, I would expect that you would have told me "well, if
19 I'm searching for the truth, I think I would want to go
20 slow. I think I would want to be deliberate. I would want
21 to be sure that I was getting it right. For that reason I
22 might want to be even repetitive as I go along." That's
23 what I would expect you would think a search for the truth
24 ought to be like. So I can tell you, unlike on television
25 where sometimes they have an event occur and the case tried

1 and it all happens in an hour and they still have time to
2 stop for commercials four or five times, that's not going to
3 occur in this case. This will be a slow, a deliberate, and
4 sometimes a repetitive process, because I hope that you
5 realize that this courtroom is a place of honor. It's
6 dedicated to the preservation of citizen's rights through
7 the laws and the Constitution, both of this state and of the
8 United States.

9 Now, I want to thank you very much for your
10 willingness to participate this week in that process as
11 jurors serving in an important decision making role in this
12 courtroom during this trial.

13 Now, the attorneys that are here are here to
14 represent their client's interests. I'm sure they will do
15 an excellent job in presenting the case for their client
16 before you during this trial, but I want to point out one
17 thing to you, that, first and foremost, all attorneys that
18 appear before this court are, first and foremost, officers
19 of this court. At some point in time they appeared before
20 the court, either this court or some other court in this
21 state, and they have taken an oath as prescribed by the
22 rules of that court. Part of that oath is that they will
23 assist you in your search for the truth during this trial.
24 And for that reason you could expect that they will act in a
25 reasonable and a professional and an ethical manner in the

1 presentation of their client's cases before you as this
2 trial proceeds.

3 I'm going to remind you, too, that you have come
4 before this court. You have now taken an oath. Your oath
5 is to decide this case based upon the law and the evidence
6 that's presented during this trial. You, too, are now
7 expected to act in a reasonable and a professional and an
8 ethical manner in the discharge of your duties as jurors
9 during this trial. And, again, I want to thank you for your
10 willingness to accept that responsibility during this case.

11 Now, what I'm telling you now is not intended to
12 be a charge on the law to be applied in this case. I'll
13 give you the law at the close of the trial, once all the
14 evidence has been presented and all the arguments have been
15 made. What I'm telling you now is intended to be an
16 introduction to the trial of this case. I'm going to go
17 over with you the procedure that we will follow and the
18 roles that each of us has in the trial of this matter.

19 I have already read to you the indictments in this
20 case and I'm not going to read them to you again. I will go
21 over with you that the indictments that are before this
22 case, case number 13 -- I mean 3307 is for the offense of
23 kidnapping; 3308 is for the offense of armed robbery; 3309
24 is for the offense of grand larceny; and 3314-A is for the
25 offenses of attempted murder and possession of a firearm

1 during the commission of a violent crime. Those are the
2 indictments that are before the court, and I have already
3 told you those documents are simply the documents that
4 inform this court of the cases to be tried. It informs the
5 defendant of the charges that have been lodged against him.
6 They do not constitute evidence of guilt and cannot be used
7 by you in any manner in determining the guilt or the
8 innocence of the defendant in this case.

9 The defendant has pled not guilty to those
10 indictments. That plea under the laws and the Constitution
11 of this state places the burden of proof upon the State.
12 Their burden is to prove the allegations contained in the
13 indictments by proof beyond a reasonable doubt. At the
14 close of the trial I will instruct you concerning those
15 concepts and what they mean and how you can consider the
16 question of whether or not the State has met that burden,
17 but it will be your duty at the close of this trial to
18 determine whether or not the State has met its burden of
19 proof concerning the indictments that are before the court.

20 Your purpose as jurors is to find and determine
21 the facts in this case. And I will tell you that under the
22 law of this state, in every case tried before this court
23 with a jury, the jury is the sole and exclusive judge of the
24 facts in this case. It will be your responsibility to
25 determine the facts in this matter at the close of this

1 trial.

2 Now, the same law that makes you the sole judges
3 of the facts in this case makes me the sole judge of the law
4 in this case. The law that I give to you at the close of
5 the trial is the only law that you can use in making a
6 determination in this matter.

7 I will instruct you now, as I will at the close of
8 the trial, if you came into the courtroom today with some
9 opinion or some idea as to what the law is or you have an
10 opinion as to what the law ought to be, those notions should
11 be left outside of the jury room before you begin your
12 deliberations. It's your responsibility to take the law
13 exactly as I give it to you. Then apply that law to the
14 facts as you determine those facts to be. That should put
15 you in a position to carry out your duty and determine
16 whether or not the State has met its burden of proof
17 concerning the indictments that are before the court.

18 You are to determine the facts from the testimony
19 that you hear and from any other evidence introduced and put
20 into the record of the case. It's up to you to determine
21 the inferences which you feel can be properly drawn from the
22 evidence.

23 I will tell you it's especially important that you
24 do your job as the fact finder in this case both diligently
25 and conscientiously, because under our system of justice

1 ordinarily there is no means by which an erroneous
2 determination of fact made by a jury can ever be changed.

3 Now, until I advise you to begin deliberations, I
4 have already touched on this a little earlier, don't discuss
5 anything about this case, even among yourselves. Even the
6 most innocent conversation you might have about the
7 personalities involved, or the issues involved, or the way a
8 witness testified, or how they spoke, or whatever you talk
9 about about this case. That may begin to color your
10 ultimate decision. We have gone to a lot of troubles to
11 find a jury that has no opinion about this case, has no
12 knowledge of the facts involved in this case, that you have
13 an open mind concerning the issues in this case. And I want
14 you to keep that open mind until you have heard all the
15 arguments by the lawyers, all the evidence that's presented
16 during the trial and my charge concerning the law. Only
17 when you have all of that information will you have the
18 information that you need to properly begin discussions
19 concerning any matter that has to do with this case. So
20 throughout the trial you will get tired of hearing me say
21 this, because I'm going to remind you every time that you
22 step outside of this courtroom not to begin any discussions
23 about this case until I have asked you to begin your
24 deliberations.

25 Also I have cautioned you about gathering any

1 information outside of the courtroom during the trial. I
2 will remind you every time that you leave the courthouse not
3 to listen to, watch or read media reports, don't try to
4 gather information on your own. And, again, don't allow
5 anyone to discuss the case with you during your absence from
6 the courthouse.

7 Again, it's important that you keep that open mind
8 until all of the information that you have is necessary to
9 make up your mind has been given to you, because, you see,
10 it's your solemn responsibility to determine the guilt or
11 the innocence of the defendant and your verdict must be
12 based solely upon the evidence as it's presented to you
13 during this trial and on the law as I instruct you at the
14 close of the trial.

15 Now, in just a few minutes we are going to begin
16 this trial and I'm going to allow the attorneys to make
17 what's called an opening statement to you. And I'll tell
18 you that our rules allow attorneys to directly address the
19 jury only on two occasions during the trial, the first of
20 which is at the beginning of the trial. They can make an
21 opening statement in which they may discuss with you their
22 case, or perhaps the evidence they intend to prove. They
23 will go over the matters to familiarize you with what the
24 case is about and perhaps what they intend to show.

25 At the close of the trial the attorneys will be

1 allowed to make what's called a summation or a closing
2 argument, and at that time they will go over with you the
3 evidence that you have heard during the case and from their
4 client's perspective and argue to you what inferences you
5 might draw from that evidence, but the statements made by
6 lawyers, both at the beginning of the trial and at the close
7 of the trial to you, I will tell you do not constitute
8 evidence in the case.

9 The only evidence you will hear in this case is
10 the testimony of witnesses. Those witnesses have to be
11 sworn to tell the truth. They will testify from this
12 witness stand. The only other evidence in the case will be
13 whatever evidence, documents, objects, whatever goes into
14 the record of the case through the testimony of those
15 witnesses. There also can be evidence placed into the
16 record by stipulation. That means agreement by the lawyers
17 that facts are true and they can be placed into the record
18 in that fashion, but that's the only evidence that you will
19 hear in the case; testimony of witnesses and whatever comes
20 into the record through that testimony by ruling of this
21 court.

22 Now, from time to time during the trial it will be
23 my job as the presiding officer in this case to rule on
24 certain questions sometimes about the admissibility of
25 evidence under the rules that govern the admissibility of

1 evidence, or some argument or discussion concerning the
2 appropriateness of questions that are being asked, things of
3 that nature. And I will tell you that if it becomes my
4 belief that the discussion I will have with the attorneys
5 about that issue might lead to a discussion about some
6 matter which is permissibly not admissible under the rules,
7 or possibly not admissible under the rules, I may ask you to
8 leave the courtroom while we have that discussion. Don't
9 think because I have asked you to leave the courtroom that I
10 have an opinion as to how you ought to determine the facts.
11 I will tell you that I am not allowed an opinion concerning
12 the facts, and I don't have an opinion as to how you
13 determine the facts in this case. It's simply me doing my
14 job. My job is to see to it that you decide this case based
15 on evidence that's been properly admitted into the record
16 under the rules that govern the admission of that evidence.
17 And if I think the discussion is going to be about some
18 matter that's not admissible under those rules, I will ask
19 you to step outside while I discuss the matter.

20 Now, once I have made a ruling you will be asked
21 to come back into the courtroom. I will announce the ruling
22 and we will proceed, but, again, don't take from the fact
23 that I have asked you to leave the courtroom to indicate
24 somehow that I have an opinion as to how you determine the
25 facts in this case. I do not have such an opinion. I'm not

1 allowed such an opinion in this matter.

2 Now, I have told you you are the sole judges of
3 the facts in this case. And in doing that job, it is your
4 responsibility to decide whether or not the testimony that
5 you hear from the witnesses is believable.

6 Believability is sometimes referred to as
7 credibility. It's my responsibility to decide as a matter
8 of law whether or not certain testimony is admissible at
9 all, but once it's admitted, it is your job to determine the
10 credibility or the believability of that witness, that
11 testimony, or that witness' statement.

12 In deciding whether to believe the testimony that
13 you have heard, you have the right to consider using your
14 own good common sense many factors. You have the right to
15 consider such factors as whether or not a witness might have
16 a stake in the outcome of the case; whether a witness
17 exhibits a bias or a prejudice one way or the other; whether
18 or not the witness actually had the ability to know or
19 experience the facts about which that person is testifying;
20 and perhaps most importantly of all, that's up to you using
21 your common sense, but we always put the witness stand right
22 in front of the jury box. That is so that you could observe
23 the witnesses as they testify, how they speak, the way they
24 deliver their testimony.

25 You have the right to consider anything that's in

1 the record in determining the credibility or the
2 believability in the testimony that you hear. For that
3 reason I'm going to ask you to try not to let your thoughts
4 wander. Try to pay attention to what's going on and is
5 being said and even how it's being said. Be in a position
6 when we turn the case over to you as the jury to discuss the
7 questions of credibility or believability of the testimony
8 that you have heard with your fellow jurors. So, again, try
9 to pay close attention to what's going on in the courtroom
10 during the trial and listen to what's being said.

11 As the sole judges of the facts you have the right
12 to believe all of what a witness has told you, none of what
13 a witness has told you, or part of what a witness has told
14 you. It will be your job to evaluate the weight or the
15 strength of the testimony that you have heard. So, again,
16 pay close attention as the trial goes along to what's being
17 said during the trial.

18 I do not appoint a foreperson of the jury until I
19 charge you concerning the law. One of the reasons that I do
20 that is because I will point out to you at the close of the
21 trial when you start to reach your verdict that the verdict
22 has to be unanimous. Each juror has to agree upon the
23 verdict before it's the verdict of the jury. All twelve of
24 you must agree. For that reason no one juror is any more
25 important than any other juror. All of you have an equal

1 say in the outcome of the case. Sometimes I think if I
2 appoint a foreperson at the beginning of the trial, members
3 on the jury says "well, that person obviously is the most
4 important juror and will pay attention and I really don't
5 have to be in a position to listen to everything. They will
6 take care of that." I want each of you to think that you
7 might be the foreperson of the jury and you might be called
8 upon to lead the discussions, so I want all of you to think
9 you have that possibility. I will make the appointment at
10 the close of the trial. But, again, I'll stress to you you
11 each have an equal say in the outcome of the case and you
12 have an equal responsibility to be in a position to discuss
13 those issues with your fellow jurors when you begin your
14 deliberations in this matter.

15 Now, I want to be sure that I haven't violated
16 anyone's rights in what I told you thus far.

17 Does the State have an objection to my opening
18 comments?

19 MS. JORDAN: No, sir, Your Honor.

20 THE COURT: Defense have any objection?

21 MS. LYALL: No, Your Honor.

22 THE COURT: All right. Now, I have told you that
23 it's the State's responsibility to prove the allegations in
24 the indictment by proof beyond a reasonable doubt, so they
25 have what we call under the law the burden of proof. Now,

1 for that reason we allow the State to go first in making its
2 arguments to you, followed by the defense. Then the State
3 would be allowed to go first with the presentation of
4 evidence. Once all the evidence has been presented, the
5 attorneys will be given the right to make their closing
6 arguments. Then I'll charge you concerning the law. Then
7 I'll turn the case over to you for your deliberations. So
8 those are the steps that we are going to follow.

9 So at this time we are going to begin with the
10 opening statements by counsel.

11 Ms. Jordan, you may proceed:

12 MS. JORDAN: Thank you, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. JORDAN: Ladies and gentlemen of the jury,
15 April the 8th of 2012 was a huge day in the life of Josh
16 Barrineau. On that date his life changed forever. He went
17 from somebody who had a fully functioning body to someone
18 who now only has movement from basically their shoulders up.

19 Josh Barrineau was twenty-nine years old back in
20 April of 2012. He got a phone call from one of his friends,
21 a guy named Andre, or they called him "Dre". He's going to
22 tell you that he knew Andre a year or two. They partied
23 together, drank together, talked to girls together. He got
24 a phone call that day inviting him over to a place called
25 Kelly Acres in Woodruff, which is an apartment complex.

1 Josh made the mistake of going.

2 Josh is not a saint. I'm not going to paint him
3 out to be that way for you. Josh chose to go over there
4 that night for what he thought was going to be some
5 partying, maybe some drug usage, and possibly hooking up
6 with some girls. But when he got there it wasn't at all
7 what he thought or what he had planned. You see, at that
8 apartment beforehand there had been six other individuals,
9 and you are going to hear from some of them. Stephanie
10 Vaughn was there. Megan Margarita, Andre Scott, Jason
11 Tolison, Marquise Duncan. The defendant was also present.

12 When Josh got there there were only two people
13 there, the two girls. He spent some time with them. And
14 you are going to hear from various witnesses what happened
15 that night to him. You are going to hear from the various
16 witnesses who were there at the apartment that night and
17 some who came into play later on how Josh ended up in the
18 position that he's in now and the role the defendant played
19 in placing him there. You are going to be able to hear
20 that. And as the judge said, you are going to be able to
21 look at the credibility and the believability of the
22 witnesses from this stand when they tell you what happened
23 that night, or the early morning hours of April the 8th,
24 2012, in Kelly Acres in Woodruff.

25 I ask you that you please pay attention to what

1 you see and what you hear inside the courtroom over the next
2 few days.

3 The defendant is charged with multiple things.
4 He's charged with armed robbery, attempted murder, a
5 possession of a weapon charge connected to the attempted
6 murder, a grand larceny charge, and a kidnapping. It's a
7 lot of charges, but they all arise out of this one set of
8 facts.

9 Ladies and gentlemen, one of the things that I
10 love about our jury system that we have here in this country
11 is that no one stood at the door to the courthouse or at the
12 door to this courtroom and told you to put away your common
13 sense. They had a basket for you to put your cell phones in
14 and your tablets, but there is no basket for your common
15 sense. You get to bring that in here as a collective group
16 and apply it to what you hear. That is one of the things
17 that I love about our system, is that your common sense
18 comes into play with everything that you hear and that you
19 see here.

20 Ladies and gentlemen, I just want to thank you
21 briefly for your time and let you know that I'll be back to
22 speak with you again at the end of this case when I ask you
23 for a guilty verdict on every charge that the judge gives
24 you.

25 THE COURT: Ms. Lyall, for the defense.

1 MS. LYALL: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. LYALL: Good afternoon. Again my name is Mary
4 Stuart Lyall and I am representing Justin Reynolds in this
5 case today.

6 As you heard from the judge, my client is presumed
7 innocent in this case. That means as you sit here today he
8 is innocent.

9 I would like for you to consider another thing
10 that the judge told you, to consider the credibility or
11 believability of the witnesses as they come forward and sit
12 in that chair today.

13 You are going to be hearing many different
14 versions of the event that happened in Kelly Acres on that
15 night.

16 As you heard from the State, you are going to hear
17 from Stephanie Vaughn. She made four different statements
18 and then what she's going to come here and say today.

19 You are going to hear from Megan Margarita. She
20 made two different statements and then what she's going to
21 come here and say today.

22 Then you are going to hear from Jason Tolison. He
23 made one statement. He wrote three letters regarding this
24 incident. He met with the solicitor's office and denied any
25 involvement in this case and now he's going to come testify

1 to what actually happened in this case and want you to
2 believe this version of events.

3 That's what the judge is talking about;
4 credibility, believability. I would like y'all to consider
5 this when each of these people comes and testifies to what
6 they are now saying is going to be the truth today.

7 You are going to hear that there is no actual
8 evidence against Justin Reynolds in this case, other than
9 these statements that each of these people are going to come
10 up and tell you today in court. There is no fingerprints.
11 There is no DNA. There is no gun. There is none of this
12 stuff that will be presented to you today. Just a bunch of
13 people coming up here and telling just their statement after
14 statement after statement of what allegedly happened in that
15 apartment complex that night. He was not arrested at the
16 crime scene, so you -- there is nothing that you will hear
17 that ties him to that, other than these statements that
18 night.

19 And at the end of hearing from these witnesses, we
20 are going to ask that you find for the defense and that you
21 find him not guilty of each of these crimes. Thank you.

22 THE COURT: The State may call its first witness.

23 MS. JORDAN: Thank you, Your Honor.

24 The State calls John Duncan.

25 THE COURT: Come forward Mr. Duncan.

1 If you will step to my left here, sir, to be
2 sworn. Come around, please.

3 JOHN DUNCAN, having been first duly sworn,
4 testified as follows:

5 THE CLERK: Thank you. You may be seated.

6 THE COURT: Sir, once you are seated, I'll ask
7 that you state your name or tell us who you are.

8 THE WITNESS: My name is John A. Duncan.

9 THE COURT: Thank you.

10 Ms. Jordan, your witness.

11 MS. JORDAN: Thank you.

12 DIRECT EXAMINATION BY MS. JORDAN:

13 Q. Mr. Duncan, how old are you?

14 A. Seventy years old. I just turned seventy.

15 Q. Okay. Where do you live?

16 A. Woodruff.

17 Q. Okay. Where were you in the early morning hours of
18 April the 8th of 2012?

19 A. I was at [REDACTED].

20 Q. Okay. Where is that located?

21 A. Kelly -- Kelly Acres?

22 Q. Okay. And what is Kelly Acres?

23 A. It's a government apartment complex.

24 Q. Okay. Do you know what county that Kelly Acres is in?

25 A. Spartanburg County.

1 Q. Okay. Do you have a specific morning routine that you
2 do?

3 A. Yes. Well, when I'm -- when I'm over there, I just go
4 to the Little Cricket --

5 Q. What do you --

6 A. -- in the morning about 6:30 -- 6:00 to 6:30.

7 Q. Okay. What do you go to the Little Cricket for?

8 A. Coffee.

9 Q. Okay.

10 A. Chit chat.

11 Q. Okay. On the morning of April 8th of 2012, what time
12 did you go to leave to go to Little Cricket?

13 A. 6:30.

14 Q. Okay. Did you notice anything as you left Little
15 Cricket -- I'm sorry, as you left Kelly Acres?

16 A. Yes, when I -- when I was getting ready to get -- to
17 get in my -- get in truck I looked to the -- I looked to the
18 right and I saw what -- then I saw some -- I saw some pair
19 of boots and I saw what looked like might have been jeans
20 and what looked like it might have been a shirt. And so I
21 figured, I said "huh, somebody has done throwed somebody's
22 clothes out, or something."

23 Q. Okay. Did you -- did you leave at that point?

24 A. Yes, I got in my truck and I went to -- I went to the
25 Little Cricket there and I got back at 7:15.

1 When I pulled up in the truck I looked, and I took a
2 good look, and I said to myself, I said, "that's a boy."

3 Q. Okay. When you got back about 7:15, was it lighter
4 outside?

5 A. Was it what?

6 Q. Was it lighter outside?

7 A. It was light, yes.

8 Q. And what did you do once you realized that there was a
9 body with those clothes?

10 A. Well, what I -- what I -- what I done, I got -- well, I
11 had gotten out of the truck and I walked -- walked around
12 there and I -- I saw him lying down. And I asked him did
13 he -- was he all right. And so he was facing -- his head
14 faced north and south. And he just -- he just -- his head
15 was laying to the right and he just hold his head up like he
16 was trying to tell me something and then I immediately
17 called 911.

18 Q. Okay. Let me ask you this. When you came upon this
19 person, could you describe what this person looked like?

20 A. He was -- he was a white -- white male, medium --
21 medium built. Clothed neatly. Neatly dressed.

22 Q. And let's talk about his boots for a moment. Do you
23 recall where his boots were in relationship to his body?

24 A. Well, his -- I would say his boots about two -- maybe
25 about -- about two foot from his -- from his foot.

1 Q. Okay. So they were off his --

2 A. The -- the toe part was faced this way.

3 Q. Okay. So were they on or off his feet?

4 A. They was off.

5 Q. Okay. As you got closer to the body, did you notice
6 anything on his face?

7 A. Yes, I noticed the right side -- the right side of his
8 face that was blood had ran down on his -- on his neck.

9 Q. Did it appear to be -- could you describe what the
10 blood looked like?

11 A. Well, it was -- it was -- it was -- it was dry.

12 Q. Okay. Let me ask you one last question. What was the
13 temperature like that morning?

14 A. It was cool that morning.

15 Q. Okay.

16 A. That was I think Mother's Day. It was cool that
17 morning.

18 Q. Could it have been Easter?

19 A. He suffered a little bit.

20 Q. Could it have been Easter that morning?

21 A. What?

22 Q. Could it have been Easter?

23 A. Sure.

24 Q. Okay.

25 A. Okay.

1 Q. Please answer any questions that Ms. Lyall may have.

2 THE COURT: Your witness, Ms. Lyall.

3 MS. LYALL: I have no questions.

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

5 Thank you for coming.

6 Do you wish to excuse the witness?

7 MS. JORDAN: Yes, sir, I do.

8 THE COURT: Any objection to his being excused?

9 MS. LYALL: No, Your Honor.

10 THE COURT: Sir, you are free to go at this time.

11 Thank you coming.

12 THE WITNESS: All right. Thank you.

13 THE COURT: You may call your next witness.

14 MS. JORDAN: Thank you, Your Honor.

15 If I may have one moment?

16 THE COURT: Yes, ma'am.

17 (Off the record)

18 (Back on the record)

19 MS. JORDAN: The State calls Officer Darrell

20 Johnson.

21 THE COURT: Sir, if you will come forward to my
22 left and be sworn, please, sir.

23 OFFICER DARRELL JOHNSON, having been first duly
24 sworn, testified as follows:

25 THE CLERK: Thank you. You may have a seat.

1 THE COURT: Have a seat, please, sir.

2 And once you are seated, I ask that you state your
3 name as well.

4 THE WITNESS: Yes, sir. My name is Darrell
5 Johnson.

6 THE COURT: Thank you.

7 Your witness, Ms. Jordan.

8 DIRECT EXAMINATION BY MS. JORDAN:

9 Q. Where are you currently employed?

10 A. I'm employed at the Woodruff Police Department.

11 Q. How long have you been employed there?

12 A. Approximately six years.

13 Q. Okay. What is your current position within the
14 Woodruff Police Department?

15 A. My current position right now is sergeant over traffic.

16 Q. Okay. Were you employed at the Woodruff Police
17 Department back on April the 8th of 2012?

18 A. That's correct.

19 Q. Okay. Did you have an occasion to respond to a call at
20 Woody Court or in Kelly Acres?

21 A. Yes.

22 Q. Okay. What county is that located in?

23 A. Spartanburg County.

24 Q. Okay. Could you describe to the jury what you saw when
25 you first arrived at Kelly Acres?

1 A. When I arrived at Kelly Acres there was -- medic was
2 called at that particular time on the scene. Medic 12 was
3 called.

4 As I got around the corner where they were at in Kelly
5 Acres at the apartment complex I noticed a white male was
6 laying on the ground there. They were trying to give him
7 medical attention at that particular time. And I did notice
8 that he did have blood coming from his nose area, which was
9 dry. And at the time we didn't -- we wasn't sure if he had
10 a seizure or what his problem was, so they kind of turned
11 him over on his right -- on his right side -- on his left
12 side and I noticed at the base of his neck there was like a
13 small pinhole in the back of his neck there.

14 And also in the front of his throat it looked like
15 something was protruding from his throat there. It wasn't
16 his Adams Apple, but it was right up above it there. At
17 that particular time I noticed that it was -- I thought it
18 was a gunshot wound.

19 Q. Okay. Could you describe to the jury the clothing that
20 Josh Barrineau was wearing at that time?

21 A. Yes, at the time he was wearing a pair of jeans, I
22 think a shirt. His shoes was taken off. And his pockets
23 were turned inside out, but he still had his socks on.

24 Q. Okay. And what pockets are you referring to that were
25 turned inside out?

1 A. His front pants pocket was turned inside out.

2 Q. Okay. Were you able to identify who he was at the
3 scene?

4 A. No, everything was taken from him. He had nothing. No
5 ID or anything was on him.

6 Q. Okay. Did you find any car keys on him?

7 A. No. No.

8 Q. Did you find a cell phone on him?

9 A. No.

10 Q. Did you find any cash?

11 A. Everything was turned inside out of his pocket.

12 When they took him to the Spartanburg Regional there
13 was nothing on him at that particular time. I couldn't even
14 identify him.

15 Q. Okay. I'm going to show you some pictures that have
16 been previously marked as State's Exhibits 1 through 5. I'm
17 going to ask you to look at these photographs.

18 A. (Witness examining photographs).

19 Okay.

20 Q. Do you recognize the items or the locations in State's
21 1 through 5?

22 A. Yes, I do.

23 Q. Where do you recognize them from?

24 A. They are basically on the right -- on the left-hand
25 side as you are coming up to the apartments. I think it's

1 [REDACTED] right there at Woody Court, that corner.

2 Q. Okay.

3 MS. JORDAN: Your Honor --

4 BY MS. JORDAN:

5 Q. Do those pictures fairly and accurately represent that
6 area of Kelly Acres as you came upon it that morning?

7 A. Yes, it does.

8 MS. JORDAN: Your Honor, at this time I would move
9 to admit State's 1 through 5.

10 THE COURT: Any objections?

11 MS. LYALL: No, Your Honor.

12 THE COURT: Without objections they will be
13 admitted as marked.

14 (Whereupon, State's Exhibit No. 1 was entered into
15 the record as evidence)

16 (Whereupon, State's Exhibit No. 2 was entered into
17 the record as evidence)

18 (Whereupon, State's Exhibit No. 3 was entered into
19 the record as evidence)

20 (Whereupon, State's Exhibit No. 4 was entered into
21 the record as evidence)

22 (Whereupon, State's Exhibit No. 5 was entered into
23 the record as evidence)

24 THE COURT: You may proceed.

25 MS. JORDAN: Your Honor, at this time I would ask

1 that they be published to the jury.

2 THE COURT: All right. Do you wish to pass them
3 among the jurors?

4 MS. JORDAN: Your could, if I could just have
5 Officer Johnson step down and then show the pictures to the
6 jury?

7 THE COURT: He can step down and discuss them with
8 them. He may publish them.

9 (Witness off the witness stand)

10 BY MS. JORDAN:

11 Q. Officer Johnson, if you could just hold them and just
12 tell us what's in some of the photographs.

13 A. Okay. This picture is a photograph here, like I said,
14 between the two apartment buildings here. It would just be
15 the clothes that was laying on the ground there.

16 THE COURT: If you will walk down. Take each one
17 so the jurors will get a chance to see them, please.

18 A. That was 5.

19 And No. 1 is pretty much the same thing, that the
20 clothes was at the top area of this photo here.

21 And this will be No. 2. You could also see this
22 particular picture where the tennis shoe is going to be at
23 the front part of the picture and the clothes are still in
24 that area also.

25 And this was photo No. 3. This is where his shoes were

1 laying, tennis shoes was laying.

2 And the last photo, No. 4, it just shows also the
3 angle, a different angle of the complex to where his clothes
4 and everything were laying at.

5 (Witness back on the witness stand)

6 BY MS. JORDAN:

7 Q. Thank you, Officer Johnson.

8 Did you -- did you -- did you stay and help search for
9 any other items on the scene?

10 A. Well, at that particular time after Medic 12 had taken
11 him to the hospital I had notified Chief Dawkins of the
12 incident. He arrived on the scene also along with the ID
13 unit of Spartanburg County. And Officer Felts also arrived
14 on the scene. And when they came in ID -- we roped off the
15 area and also started searching for any brass or anything
16 where the gunshot happened at.

17 Q. Did you recover any shell casings or anything at the
18 scene?

19 A. Not at that particular time.

20 Q. Okay.

21 A. No.

22 Q. Could you just show -- could you point out to the jury
23 who was the -- who the individual was in the courtroom today
24 that was located on the ground that morning?

25 A. Yes, it would be the gentleman here.

1 MS. JORDAN: Just let the record reflect he's
2 pointing to Mr. Barrineau.

3 THE COURT: It will so reflect.

4 BY MS. JORDAN:

5 Q. Please answer any questions this Ms. Lyall may have.

6 THE COURT: Your witness, counsel.

7 MS. LYALL: Thank you, Your Honor.

8 THE COURT: Yes, ma'am.

9 CROSS EXAMINATION BY MS. LYALL:

10 Q. So you notified Chief Dawkins and Officer Felts and
11 then you roped off the area?

12 A. Negative. They were notified at the same time and
13 Chief Dawkins -- Medic 12 was on the scene at that
14 particular time. I notified ID, Chief Dawkins and Officer
15 Felts, and we proceeded to rope the area off at that
16 particular time.

17 Q. Okay. Then you roped off the area?

18 A. That's correct.

19 Q. Okay. And at that time you searched for anything else
20 that was involved with this crime?

21 A. Along with the ID unit.

22 Q. Okay. And you didn't find any shell casings?

23 A. No, we did not.

24 Q. Did you find a weapon used at this crime?

25 A. We didn't find any weapons on the scene.

1 Q. Okay. And you said that you were working with ID?

2 A. I was assisting, assisting them.

3 Q. Okay. Did y'all take any fingerprints?

4 A. I'm not sure if he did. If I'm not mistaken, if he did
5 or not, I'm not sure if he took any or not. I didn't take
6 any myself.

7 Q. You didn't take any fingerprints?

8 A. No.

9 Q. Did -- so, to your knowledge, no fingerprints were
10 found?

11 A. Not that I know of.

12 Q. Okay.

13 A. I think I was -- I was in another area at the time when
14 ID was there, which I was looking around. I'm not sure what
15 he -- what evidence he gathered at that particular time.

16 Q. Okay. Did you collect any other evidence?

17 A. No, I didn't.

18 Q. And did you speak to any of the witnesses in this case?

19 A. Any other witnesses? At that particular time?

20 Q. Right.

21 A. No.

22 MS. LYALL: I have no questions.

23 THE COURT: Any further questions from the State?

24 MS. JORDAN: No, sir, Your Honor.

25 We would ask that he be excused.

1 THE COURT: All right. You may step down, sir.

2 Any objection to his being excused?

3 MS. LYALL: No, Your Honor.

4 THE COURT: All right, you are free you to go
5 officer, if you would like.

6 THE WITNESS: Thank you.

7 THE COURT: You may call your next witness.

8 MS. JORDAN: Your Honor, may I have a brief recess
9 to bring my next witness in?

10 THE COURT: Yes, that would be fine.

11 All right, ladies and gentlemen of the jury, at
12 this point in time I'll ask you to step back to the jury
13 room.

14 Every time you leave the courtroom I'll remind you
15 not to begin any discussions about this matter until I have
16 asked you to do so. You may retire.

17 (The following takes place outside the presence of
18 the jury panel)

19 THE COURT: Court is in recess. I'll stay on the
20 bench.

21 (Whereupon, proceedings were recessed)

22 (Whereupon, proceedings were reconvened)

23 THE COURT: Are you ready?

24 MS. JORDAN: If we could put something on the
25 record real quick?

1 THE COURT: Yes, ma'am.

2 MS. JORDAN: I just wanted to make the court aware
3 that the next person who is testifying is a co-defendant,
4 Stephanie Vaughn. She's present in the courtroom along with
5 her attorney Mike Morin of the Spartanburg County Bar.

6 THE COURT: All right.

7 MS. JORDAN: She is charged in this case with
8 accessory before the fact to attempted murder and armed
9 robbery and accessory after the fact. She will receive
10 consideration for this; however, nothing has been agreed
11 upon at this point. Just based on her position as a
12 co-defendant, I just wanted to make the court aware of that.

13 THE COURT: Has defense been made aware of all
14 those matters?

15 MS. LYALL: Yes, Your Honor.

16 THE COURT: All right.

17 Bring the jury in.

18 (The following takes place in the presence of the
19 jury panel)

20 THE COURT: The record will reflect that the jury
21 has returned to the courtroom.

22 At this time the State may call its next witness.

23 MS. JORDAN: Thank you, Your Honor.

24 The State calls Stephanie Vaughn.

25 THE COURT: Come forward, ma'am, to my left.

1 STEPHANIE VAUGHN, having been first duly sworn,
2 testified as follows:

3 THE CLERK: You may be seated.

4 THE COURT: Have a seat, please.

5 State your name.

6 THE WITNESS: Stephanie Vaughn.

7 THE COURT: Thank you.

8 State's witness, Ms. Jordan.

9 MS. JORDAN: Thank you.

10 DIRECT EXAMINATION BY MS. JORDAN:

11 Q. Stephanie, how old are you?

12 A. Eighteen.

13 Q. Okay. Where do you -- where do you live?

14 A. [REDACTED].

15 Q. Where is that?

16 A. In Woodruff.

17 Q. Okay. How far did you go in school?

18 A. 11th grade.

19 Q. Okay. Have you finished high school?

20 A. No, ma'am.

21 Q. Okay. Do you have any children?

22 A. Yes, ma'am.

23 Q. How many children do you have?

24 A. Two.

25 Q. How old are they now?

1 A. Three and one.

2 Q. Okay. How old were they -- or did you have two
3 children back in April of 2012?

4 A. No, ma'am.

5 Q. How many did you have then?

6 A. One.

7 Q. How old was he?

8 A. Two -- one, almost two.

9 Q. What was his name?

10 A. Braydon.

11 Q. And I don't recall, did I ask you what your age was?

12 A. Yes, ma'am.

13 Q. Okay. How old were you again?

14 A. Eighteen.

15 Q. Okay. How many -- I'm going to go through and ask you
16 how you know several different people.

17 How do you know Justin Reynolds?

18 A. Through Jason.

19 Q. Who is Jason?

20 A. "J-Baby".

21 Q. Is his name Jason Tolison?

22 A. Yes, ma'am.

23 Q. Do you know how he's related to Justin Reynolds?

24 A. He said that's his brother.

25 Q. Okay. How -- how long have you known Jason Tolison?

- 1 A. Since middle school.
- 2 Q. How long have you known Justin Reynolds?
- 3 A. A couple weeks before everything happened.
- 4 Q. Okay. How do you know Andre Scott?
- 5 A. Through my baby's father.
- 6 Q. Okay. How long have you known Andre Scott?
- 7 A. For about three years.
- 8 Q. Okay. What name does he usually go by?
- 9 A. "Dre".
- 10 Q. Okay. Moving on to Marquise Duncan or Marquez Duncan,
- 11 how do you know him?
- 12 A. That was Jason's cousin.
- 13 Q. How long did you know Marquise?
- 14 A. About a year.
- 15 Q. Is there a certain nickname that he goes by?
- 16 A. "Snoop".
- 17 Q. Okay. And when you talk about how long you have known
- 18 these people, was that from April of 2012, how long you had
- 19 known them at that point?
- 20 A. From before to the end, yes.
- 21 Q. Okay. How do you know Megan Margarita?
- 22 A. We went to school together.
- 23 Q. Okay. How long have you known her?
- 24 A. Since about 9th grade.
- 25 Q. Okay. Prior to the early morning hours of April 8th,

1 2012, did you know Josh Barrineau?

2 A. No, ma'am.

3 Q. Okay. When did you meet him?

4 A. That night.

5 Q. Okay. Were you charged in relationship with what
6 happened to Josh Barrineau?

7 A. Yes, ma'am.

8 Q. So you have charges pending for accessory before the
9 fact to attempted murder?

10 A. Yes, ma'am.

11 Q. And accessory before the fact to armed robbery?

12 A. Yes, ma'am.

13 Q. And you also have an accessory after the fact charge
14 pending?

15 A. Yes, ma'am.

16 Q. Okay. Will you get consideration from the State for
17 your cooperation and testimony?

18 A. Ma'am?

19 Q. Will you get some consideration or leniency from the
20 State?

21 A. No, ma'am.

22 Q. Do you expect to get consideration or leniency on your
23 charges for cooperating today?

24 A. No, ma'am.

25 Q. Have you been offered anything at this point?

- 1 A. No, ma'am.
- 2 Q. Do you hope to be offered leniency in the future?
- 3 A. No, ma'am.
- 4 Q. Okay. On Saturday, April the 7th, 2012, where did you
5 and Megan go?
- 6 A. To Kelly Acres.
- 7 Q. Okay. Whose apartment did you go to?
- 8 A. "Glimmer's".
- 9 Q. Who is "Glimmer"?
- 10 A. My sister's friend.
- 11 Q. Okay. And who had the apartment in Kelly Acres?
- 12 A. "Glimmer".
- 13 Q. Do you remember what number it was?
- 14 A. [REDACTED].
- 15 Q. Okay. Who was there when you got there?
- 16 A. No one was there.
- 17 Q. Okay. Who was -- was anyone else with you and with
18 Megan?
- 19 A. My son.
- 20 Q. Okay. Is that the one year old?
- 21 A. I was pregnant with him, but my two year old was there.
- 22 Q. Okay, what's his name?
- 23 A. Brandon.
- 24 Q. Okay. Did anyone join you and Megan and your son that
25 night?

1 A. Yes, ma'am.

2 Q. Who joined you?

3 A. "Krazy".

4 Q. Let me stop you. Who is "Krazy"?

5 A. Justin.

6 Q. Okay. Is that his nickname?

7 A. Yes, ma'am.

8 Q. Who else joined you?

9 A. Jason.

10 Q. Okay. And what is his nickname?

11 A. "J-Baby".

12 Q. Who else?

13 A. And "Dre".

14 Q. And that's Andre Scott?

15 A. Yes, ma'am.

16 Q. Okay.

17 A. And "Snoop".

18 Q. And "Snoop" is Marquise Duncan?

19 A. Yes.

20 Q. Okay. When did they come?

21 A. A couple minutes after we got there.

22 Q. Okay. What did y'all do at the apartment when everyone
23 was there?

24 A. Megan and "Snoop" were talking in the bedroom, and I
25 was cleaning, and "Dre" and "Krazy" were in the kitchen.

1 Q. Okay.

2 A. And "J-Baby" was on the couch.

3 Q. Okay. At some point in time -- when "Dre" and "Krazy",
4 or the defendant, when they were in the kitchen, what were
5 they doing?

6 A. Eating and talking.

7 Q. Okay. At some point in time did Andre make a phone
8 call?

9 A. Yes, ma'am.

10 Q. Okay. Do you know who he called?

11 A. He said a white boy.

12 Q. Okay. Did you have a phone with you that night?

13 A. Yes, ma'am.

14 Q. Did you have any minutes on it?

15 A. Yes, ma'am.

16 Q. Okay. At some point in time did Andre give your number
17 to someone else?

18 A. No, ma'am.

19 Q. Did someone call you on your phone?

20 A. No, ma'am.

21 Q. Did you have contact with Josh Barrineau that night?

22 A. Yes, ma'am.

23 Q. Do you recall if it was before or after midnight?

24 A. Maybe after.

25 Q. Okay. What conversations did you have with Josh

1 Barrineau?

2 A. For him to come to the apartment.

3 Q. Okay. And was this the same person that Andre was
4 talking to earlier, or do you know?

5 A. Possibly. I mean, I really don't know.

6 Q. Okay. But you didn't know Josh prior to talking to him
7 on the phone?

8 A. No, ma'am.

9 Q. Okay. Did you give Josh your address?

10 A. Yes, ma'am.

11 Q. Okay. Before he got there what did everybody do?

12 A. They left.

13 Q. Okay. And by they, who is they?

14 A. Andre, Justin, Jason, and "Snoop".

15 Q. Okay. Did Andre make any type of symbols or anything
16 like that when y'all were on the phone with Josh?

17 A. He wasn't around me when I talked to him.

18 Q. Okay. At any point in time did Andre make any type of
19 symbols or anything to --

20 A. Yes, ma'am, but we used to do it to each other all the
21 time.

22 Q. Okay. What did you do -- or what did he do?

23 A. We always did that to each other, but --

24 Q. What did you do to each other?

25 A. (Witness demonstrating).

1 Q. Okay. You held your hands up like this?

2 A. Uh-huh.

3 Q. Did Justin make any comment when that was said -- or

4 when that was done?

5 A. Yes, ma'am.

6 Q. What did he say?

7 A. "That's me", but I didn't know he was talking to "Dre".

8 Q. Okay. But he said "that's me" after this was made?

9 A. That was -- yes, ma'am, a couple minutes after that.

10 Q. Okay. What did you do -- what did you do when Josh got

11 to your apartment, or to the apartment that you were at that

12 night?

13 A. I went outside and met him, stood by his truck, and he

14 came back in with me.

15 Q. Okay. Where were the four boys?

16 A. They were gone.

17 Q. Okay. What did you -- what were you planning to do

18 with Josh?

19 A. We was waiting on "Dre" to come back.

20 Q. Okay. So "Dre" was planning to come back?

21 A. Uh-huh. Yes, ma'am.

22 Q. Okay. What happened -- or what did you do with Josh

23 when he was at the apartment?

24 A. We was sitting on the couch and we was talking.

25 Q. Okay. Who is we?

1 A. Me and Josh.

2 Q. Okay. Where was your friend Megan?

3 A. In the bedroom.

4 Q. Okay. Did she at any point in time join you?

5 A. She kept coming in, but she would go back in the
6 bedroom.

7 Q. Okay. Was anyone else at the apartment?

8 A. No, ma'am.

9 Q. Okay. What happened -- did Josh have a phone with him?

10 A. I guess, because I talked to him.

11 Q. Okay. Did he -- did you see him call anybody at your
12 house?

13 A. No, ma'am.

14 Q. Did he have any type of -- did he show you anything
15 that he had with him?

16 A. He had some pills in his pocket.

17 Q. What were they in?

18 A. A pill bottle.

19 Q. Okay. Did he -- what did he do with them?

20 A. He was counting them.

21 Q. Okay. Did he have anything else on him?

22 A. Not that I know of.

23 Q. Okay. Did you see him with any type of weapon?

24 A. No, ma'am.

25 Q. You didn't see him with a gun?

1 A. (No response).

2 Q. Did you see him with a knife?

3 A. No, he told me he had a gun, but I never seen it.

4 Q. Okay. But you didn't see one?

5 A. No, ma'am.

6 Q. Okay. Did anything odd happen with the door?

7 A. Yes, ma'am.

8 Q. What happened?

9 A. Someone knocked on the door. And I went to the door, I
10 didn't see anybody. And then maybe five minutes later it
11 happened again. And me and Josh went to the door and he
12 said he had his gun. And when he said that is when Justin
13 came in.

14 Q. Okay. By Justin coming in, what happened? Tell the
15 jury specifically what happened.

16 A. Justin had the gun and -- well, not the gun, but Josh
17 had the gun and -- well, I guess he did. He said he did.
18 And once --

19 Q. Well, did he -- did he say he had a gun, or did you see
20 him with a gun?

21 A. He said he had a gun.

22 Q. Okay. Did you see him with one?

23 A. No, ma'am.

24 Q. Okay. Who did you see with the gun?

25 A. Nobody. Nobody that night.

1 Q. Okay. What happened when "Krazy" came in?

2 A. He come in. He had to come in from the back, because
3 he wasn't in the apartment.

4 Q. Okay.

5 A. And he pulled me by my hair. And I had a cigarette in
6 my hand and I burnt my pants.

7 He grabbed him by his mouth.

8 Q. Who? Who grabbed who?

9 A. Jason grabbed Josh by his mouth --

10 Q. Okay.

11 A. -- and was pulling him to the left.

12 Q. Okay. Did you see anything in Justin's hands?

13 A. No, ma'am.

14 Q. But Justin came into the house?

15 A. Yes, ma'am.

16 Q. And Justin grabbed Josh?

17 A. Yes, ma'am.

18 Q. What happened next?

19 A. He told me to "shut the fuckin' door," and -- told me
20 to "shut the fuck up and shut the fuckin' door."

21 Q. Who told you this?

22 A. Justin.

23 Q. Okay.

24 A. So I shut the door and I was -- I was rambling and I
25 heard a gunshot.

1 Q. Okay. At any time before you heard the gunshot did you
2 look outside?

3 A. Not before.

4 Q. Okay. When you looked outside after what did you see?

5 A. Two people getting in his truck.

6 Q. What did the two people look like?

7 A. It was -- they were dark. It was dark figures.

8 Q. Okay. And into what truck?

9 A. Josh's.

10 Q. Okay. And they were getting into the same vehicle that
11 Josh came to Kelly Acres in?

12 A. Yes, ma'am.

13 Q. Okay. When Justin took Josh out of the apartment, did
14 you see Josh again?

15 A. No.

16 Q. Okay. Did you go check outside on anybody?

17 A. No.

18 Q. What did you do after you heard the gunshot?

19 A. I called my daddy to come and get me.

20 Q. Do you recall about what time that was?

21 A. No, ma'am.

22 Q. Okay. What -- who picked you up that night?

23 A. My step-daddy did.

24 Q. What's his name?

25 A. Carlos Brown.

1 Q. Okay. Who was with you when you left the apartment?

2 A. Megan and my child.

3 Q. Okay. Was it light outside or dark when you left?

4 A. Dark.

5 Q. Did you see the defendant Justin any more after he left
6 the apartment?

7 A. No, ma'am.

8 Q. Okay. Have you spoke with me before?

9 A. Yes, ma'am.

10 Q. Have you also spoke with officers with the Woodruff
11 Police Department?

12 A. Yes, ma'am.

13 Q. Have you written statements to them?

14 A. Yes, ma'am.

15 Q. Okay. Have you had a chance to review those statements
16 prior to today?

17 A. Yes, ma'am.

18 Q. In any of those statements did you state that anyone
19 other than Justin, or "Krazy", as you call him, came into
20 the apartment and took Josh out?

21 A. (Shaking head no).

22 Q. You have to answer with a --

23 A. No, ma'am.

24 Q. When Josh came to your apartment that night, did he
25 walk in?

1 A. Yes, ma'am.

2 Q. Did he have use of his arms?

3 A. Yes, ma'am.

4 MS. JORDAN: Your Honor, may I have a moment?

5 THE COURT: Yes, ma'am.

6 (Off the record)

7 (Back on the record)

8 BY MS. JORDAN:

9 Q. Please answer any questions that Ms. Lyall may have.

10 THE COURT: Ms. Lyall, your witness.

11 MS. LYALL: Thank you, Your Honor.

12 THE COURT: Yes, ma'am.

13 CROSS EXAMINATION BY MS. LYALL:

14 Q. Ms. Vaughn, you wrote a few statements in this case?

15 A. Yes, ma'am.

16 Q. And in each one of these you signed your name at the
17 bottom stating that they were the truth?

18 A. Yes, ma'am.

19 Q. Okay. And at the time that you wrote these statements
20 you had also been placed under arrest in this case?

21 A. (Shaking head yes).

22 Q. Is that a yes?

23 A. Yes, ma'am.

24 Q. You were placed under arrest for accessory before the
25 fact to attempted murder?

1 A. Accessory before the fact to armed robbery, yeah.

2 Q. And accessory before the fact to armed robbery?

3 A. Yes, ma'am.

4 Q. And also an accessory after the fact charge?

5 A. Yes, ma'am.

6 Q. And you are facing prison for those charges?

7 A. Yes, ma'am.

8 Q. And you knew that at the time that you wrote those
9 statements?

10 A. I wasn't thinking at the time.

11 Q. And you are still facing prison today?

12 A. Yes, ma'am.

13 Q. And I know that the solicitor asked you these
14 questions, but it's my understanding -- and your attorney is
15 here in court, but if you do testify truthfully today, you
16 are getting consideration for your testimony, isn't that the
17 truth?

18 A. Ma'am?

19 Q. If you testify truthfully today --

20 A. Uh-huh.

21 Q. -- the solicitor's office is giving you consideration
22 for your testimony?

23 A. I don't -- I don't understand.

24 Q. They will take that into consideration when they take
25 care of your charges?

1 A. Yes, ma'am.

2 Q. Okay. Now, when you wrote your first statement, you
3 said that "J-Baby" and "Krazy" told you to call this white
4 guy?

5 A. Yeah. Yes, ma'am.

6 Q. And when you wrote your second statement, you said
7 "Dre" told you to call this white guy?

8 A. Yes, ma'am.

9 Q. Which one is it?

10 A. "Dre".

11 Q. Okay. Well, first you told the police it was "J-Baby"
12 and "Krazy".

13 A. Uh-huh.

14 Q. But now you are telling the jury it was "Dre" that told
15 you to call?

16 A. Yes, ma'am.

17 Q. Okay. And then -- you are actually -- or -- I'm not
18 sure, probably not currently now, but at the time that you
19 were dating and/or sleeping with Jason Tolison? You had
20 some sort of relationship with him?

21 A. In middle school.

22 Q. Okay. Has he been writing you from the Department of
23 Corrections?

24 A. Yes, ma'am.

25 Q. And these are pretty lovey letters?

1 A. Yeah.

2 Q. About how y'all have had a sexual relationship?

3 A. Yeah. Yes, ma'am.

4 Q. So y'all had a sexual relationship?

5 A. Yes, ma'am, in the past.

6 Q. Okay. And that's "J-Baby", correct?

7 A. Yes, ma'am.

8 Q. And you are not blaming anything on "J-Baby" in this
9 case, are you?

10 A. As far as I know, I didn't see him do anything.

11 Q. Okay. And you are still in contact with him to this
12 day?

13 A. No, ma'am.

14 Q. Y'all have been writing letters back and forth.

15 A. I stopped.

16 Q. But significantly after he was arrested for these
17 charges?

18 A. Yes, ma'am.

19 Q. And these letters were very lovey back and forth?

20 A. Yes, ma'am.

21 Q. Okay. Now, in your statement -- in your first
22 statement you say when someone banged on the door you asked
23 if Josh had his gun and he got up?

24 A. Not the first time. The second time is when the gun
25 was mentioned between me and Josh.

1 Q. Okay. So Josh had told you he had a gun?

2 A. Yes, ma'am.

3 Q. Was that the only mention of a gun that entire night?

4 A. Yes, ma'am.

5 Q. And that was with Josh Barrineau?

6 A. Yes, ma'am.

7 Q. And when you also heard a bang on the door, Josh told
8 you to hold on because he had to put his pills up?

9 A. Yes, ma'am. That was the first time.

10 Q. Okay. And he had his pills out?

11 A. Yes, ma'am.

12 Q. And he was over there actually selling drugs that
13 night?

14 A. No, ma'am.

15 Q. That was --

16 A. They were supposed to -- "Dre" was supposed to buy some
17 pills from him outside, but -- I mean, that was originally
18 what was supposed to happen, yes, ma'am.

19 Q. So that would be -- is that the mention of selling
20 drugs?

21 A. Yes, ma'am.

22 Q. Okay. So he came over there to sell some of those
23 pills to "Dre"?

24 A. Yes, ma'am.

25 Q. Okay. And he had them out with you on the table?

1 A. It wasn't on the table. It was in his lap.

2 Q. In his lap counting some pills?

3 A. Yes, ma'am.

4 Q. Okay. You also wrote a statement stating that after
5 you wrote three different statements to the police officers
6 that "J-Baby" contacted you and asked you to keep his name
7 out of this?

8 A. Yeah.

9 MS. JORDAN: Your Honor, could Ms. Lyall show this
10 witness the statement, if she needs to see it?

11 MS. LYALL: She answered yes. I would be glad to
12 show it to her, but she's not denying she did it.

13 MS. JORDAN: Your Honor, I missed her answer.

14 THE COURT: She acknowledged the statement.

15 MS. JORDAN: Okay.

16 THE COURT: You may proceed.

17 MS. LYALL: Thank you, Your Honor.

18 BY MS. LYALL:

19 Q. Is that correct?

20 A. He said -- he contacted me once before and said that if
21 I did say his name, that he would hurt me and my family. He
22 did say that.

23 Q. Okay. So "J-Baby" threatened you to keep his name out
24 of it?

25 A. Yeah.

1 Q. Okay. And you told him you had not put his name in a
2 statement?

3 A. No.

4 Q. No, that's not correct?

5 A. No.

6 MS. LYALL: Your Honor, may I approach the
7 witness?

8 THE COURT: You may approach the witness.

9 BY MS. LYALL:

10 Q. I'm showing you your previous statement. If you could
11 read to yourself what I have underlined?

12 A. Yes.

13 Q. Does that refresh your recollection?

14 A. Yes, ma'am.

15 Q. So when he threatened you, did you tell "J-Baby" you
16 had not?

17 A. Yes, ma'am.

18 Q. Now, you said that when Josh got to Kelly Acres, that
19 you and Megan were the only people in the house?

20 A. Yes, ma'am.

21 Q. And y'all were waiting for "Dre" to come back?

22 A. Yes, ma'am.

23 Q. And when the armed robbery and the attempted murder
24 happened, you did not witness this?

25 A. No.

1 Q. So you have no idea what happened outside?

2 A. No, ma'am.

3 Q. Okay. And the only -- now, you didn't see it, but the
4 only mention of a gun that entire night was of Josh?

5 A. Yes, ma'am.

6 Q. You heard a gunshot?

7 A. Yes, ma'am.

8 Q. And you said in your statement you thought -- you said
9 "him killing him could have been anyone killing anybody,"
10 but you didn't check to see if anyone was okay? You just
11 left the house, is that correct?

12 A. Yes, ma'am.

13 MS. LYALL: One moment, Your Honor.

14 THE COURT: Yes, ma'am.

15 (Off the record)

16 (Back on the record)

17 MS. LYALL: I have no other questions at this
18 time, Your Honor.

19 THE COURT: Redirect?

20 MS. JORDAN: Thank you, Your Honor.

21 REDIRECT EXAMINATION BY MS. JORDAN:

22 Q. Stephanie, in the statement that Ms. Lyall referred to
23 where she talked to you about the conversation you had with
24 "J-Baby", I'm going to show you that statement and give you
25 a second to look at it.

1 I believe this is the same one that Ms. Lyall just
2 showed you?

3 A. Uh-huh.

4 Q. You were threatened, isn't that correct?

5 A. Yes, ma'am.

6 Q. Okay. But you still went to the police and you still
7 wrote a statement?

8 A. Yes, ma'am.

9 Q. Okay. And in that statement you are referring to the
10 conversation on the phone?

11 A. Yes, ma'am.

12 Q. Okay. The four-page statement that you gave to law
13 enforcement when this happened, I'm going to draw your
14 attention to the bottom of the second page and ask you who
15 you said came into the house that night when Josh got there.

16 A. "Krazy".

17 Q. Okay. If you will flip the page. Flip it over to the
18 third page.

19 At the top of that statement who do you say -- who did
20 you state told you to shut the f'ing door?

21 A. "Krazy".

22 Q. Okay. It is also true that you gave two additional
23 statements to law enforcement, is that correct?

24 A. Yes, ma'am.

25 Q. I'm going to show you statement number two that Ms.

1 Lyall referred to in her cross and ask you, seven lines from
2 the bottom who did you say came into the apartment that
3 night and got Josh?

4 A. "Krazy".

5 Q. Okay. You also gave a fourth statement to law
6 enforcement. Would a summary of that be about a phone call
7 that you had with "J-Baby"?

8 A. Yes, ma'am.

9 Q. Okay. Stephanie, are you worried about your family?

10 A. Yes, ma'am.

11 Q. Okay. Are you worried about your own safety?

12 A. Yes, ma'am.

13 Q. Okay. But you are here today?

14 A. Yes, ma'am.

15 Q. And you also spoke to the police several times?

16 A. Yes, ma'am.

17 Q. Why did you talk to the police and why are you here
18 today?

19 A. They deserve to know the truth.

20 Q. Thank you.

21 MS. JORDAN: No further questions.

22 THE COURT: Anything further?

23 MS. LYALL: No, Your Honor.

24 THE COURT: You may step down.

25 THE WITNESS: Thank you.

1 THE COURT: I would ask the attorneys to approach.

2 (Whereupon, the lawyers approached the bench for
3 an off-the-record discussion)

4 THE COURT: Ladies and gentlemen, we are about two
5 minutes to five. It looks like the next witness is going to
6 be fairly long, so rather than start on that, we will start
7 that in the morning, so I'm going to allow you to go home at
8 this time.

9 I will caution you, as I have before, please don't
10 discuss the case with anyone. Don't allow anyone to discuss
11 it with you. Don't try to gather any information on your
12 own. Don't listen to, watch, or read media reports
13 concerning the case. Should anyone try to contact you or
14 contact you about your service on this jury, please report
15 it. I'll see that the appropriate action is taken.

16 We will start in the morning at nine o'clock. I
17 would ask you to be back in the jury room. We will probably
18 do a little better on starting on time than I did this
19 afternoon, because I'll start it at nine o'clock. So if you
20 will be here at nine o'clock, we should get started shortly
21 thereafter.

22 I hope you have a good evening and I'll be
23 checking on these matters when you come back, so please
24 follow my instructions. You are free to go at this time.

25 (The following takes place outside the presence of

1 the jury panel)

2 THE COURT: Court is in recess until nine o'clock
3 in the morning.

4 The defendant remains in custody.

5 Thank you very much.

6 MS. JORDAN: Thank you, Your Honor.

7 MS. LYALL: Thank you.

8 (Whereupon, proceedings were adjourned to December
9 3, 2013)

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1 STATE OF SOUTH CAROLINA)
2) IN THE COURT OF GENERAL SESSIONS
3 COUNTY OF SPARTANBURG)

4 THE STATE) TRANSCRIPT OF RECORD
5 -vs-) 2012-GS-42-03307
6) 2012-GS-42-03308
7 JUSTIN DARNELL) 2012-GS-42-03309
8 REYNOLDS,) 2012-GS-42-03314 (COUNT I)
9) 2012-GS-42-03314 (COUNT II)
10) DECEMBER 3, 2013
11) SPARTANBURG, SOUTH CAROLINA
12)
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25)

DEFENDANT.

(VOLUME II)

B E F O R E:

THE HONORABLE ROGER L. COUCH, JUDGE. ; And a Jury.

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

JENNIFER JORDAN, ASSISTANT SOLICITOR
ABEL GRAY, ASSISTANT SOLICITOR
ATTORNEYS FOR THE STATE

MARY STUART LYALL, ASSISTANT PUBLIC DEFENDER
ATTORNEY FOR THE DEFENDANT

MICHAEL R. WATTS
CIRCUIT COURT REPORTER

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1 (PROCEEDINGS, DECEMBER 3, 2013)

2 THE COURT: I understand the jury has arrived.

3 Is the State ready to proceed?

4 MS. JORDAN: Yes, sir.

5 THE COURT: Defense ready?

6 MS. LYALL: Yes, sir, Your Honor.

7 THE COURT: All right.

8 MS. JORDAN: Your Honor, before they are brought

9 in could I just put some things on the record?

10 THE COURT: Certainly.

11 MS. JORDAN: Just because I believe my third

12 witness this morning will be Jason Tolison, and in the event

13 we do not take a break, I would make the court aware, as you

14 know, he's one of the ones charged in the crime.

15 THE COURT: Yes, ma'am.

16 MS. JORDAN: He has previously entered pleas of

17 guilty to the grand larceny, attempted murder, armed

18 robbery, kidnapping, and a resisting arrest charge.

19 THE COURT: Uh-huh.

20 MS. JORDAN: The State -- and I have made Ms.

21 Lyall aware of this. The State upon his truthful testimony

22 today will be recommending a fifteen year sentence on those

23 charges.

24 THE COURT: All right.

25 MS. JORDAN: He's represented by Andy McGee from

1 the local bar. Andy is present, and my understanding is
2 Jason is in the jail room ready to come in at the
3 appropriate time.

4 THE COURT: All right.

5 MS. JORDAN: I just wanted that put on the record.

6 THE COURT: Defense has been aware of that?

7 MS. LYALL: Yes, Your Honor.

8 THE COURT: All right.

9 MS. JORDAN: Your Honor, also just to put on the
10 record, too, I have had conversations with Mary, too, up in
11 my office a week ago about the fact that she knows that
12 Jason gave a statement to law enforcement, and she has a
13 copy, and that we interviewed Jason in our office several
14 weeks ago. I believe it was in September for the first
15 time. When we initially brought him in he denied any active
16 involvement in the robbery, stated he just stayed inside the
17 back in the apartment. Then during that conversation was
18 when he started telling us the truth about what happened,
19 his involvement in this. He denied knocking on the front
20 door, meeting his brother around the back, robbing the
21 defendant (sic) and leaving in his vehicle. I have made Ms.
22 Stuart aware of that -- Ms. Lyall aware of that, as I believe
23 I'm required under the case law under Brady --

24 THE COURT: Uh-huh, right.

25 MS. JORDAN: -- under all of that, and I just

1 wanted to put that on the record too.

2 THE COURT: All right. Is defense aware of that
3 information as well?

4 MS. LYALL: I am, Your Honor.

5 THE COURT: All right. Thank you.

6 All right. Bring the jury in.

7 (The following takes place in the presence of the
8 jury panel)

9 THE COURT: All right, the record will reflect
10 that the jury has returned to the courtroom.

11 I hope everyone had a good evening.

12 I gave you some instructions yesterday afternoon
13 when you left the courthouse concerning your behavior. If
14 any of you had any difficulty or were unable to follow my
15 instructions, please stand.

16 (No response).

17 THE COURT: It appears that all jurors have been
18 able to comply with the court's instructions as of this
19 time.

20 I do know it's now too warm in the courtroom, and,
21 of course, the gentlemen are here to adjust that, so that
22 should be adjusting sometime this morning, I would hope, but
23 just to make you aware that we are still working on getting
24 the temperature right. So if you need to pull off a jacket
25 or something that you wore because you thought it would be

1 too cool, please free to do that. Hopefully we will get it
2 to a comfortable temperature before we finish today.

3 When we took our break yesterday the State was in
4 the process of calling its witnesses and at this time the
5 State may call its next witness.

6 Ms. Jordan.

7 MS. JORDAN: Thank you.

8 The State calls Michael Scroggs.

9 THE COURT: Come forward, sir, and be sworn.

10 MICHAEL SCROGGS, having been first duly sworn,
11 testified as follows:

12 THE CLERK: Thank you. You may have a seat.

13 THE COURT: Once you have been seated, sir, please
14 state your name.

15 THE WITNESS: My name is Michael Curtis Scroggs.

16 THE COURT: Thank you.

17 Ms. Jordan, your witness.

18 MS. JORDAN: Thank you.

19 DIRECT EXAMINATION BY MS. JORDAN:

20 Q. Mr. Scroggs, if you could just speak up loud enough so
21 that all the jurors can hear you and the court reporter can
22 hear you also.

23 A. All right.

24 Q. What is your age?

25 A. My age is twenty-two years old.

1 Q. Okay. And what's your occupation?

2 A. Right now my occupation is residential and commercial
3 insurance professional.

4 Q. Okay. What were you doing back in April of 2012?

5 A. I was a paramedic for Spartanburg EMS.

6 Q. Okay. How long had you been employed or worked in that
7 position?

8 A. At that time probably about four or five months.

9 Q. Okay. Did you -- and this is the job, the EMS job,
10 that you had in April of 2012?

11 A. Yes, ma'am.

12 Q. Okay. Were you working on the early morning hours of
13 April 8th, 2012?

14 A. Yes, ma'am, I was.

15 Q. Did you respond to a call at Woody Court in Spartanburg
16 County?

17 A. Yes, ma'am.

18 Q. What time was that call dispatched?

19 A. That call was dispatched at 7:31 a.m. that morning.

20 Q. Okay. Were you working alone that day, or were you
21 working with someone else?

22 A. I was working with a partner.

23 Q. Okay. What's that partner's name?

24 A. My partner was Allan Pruett.

25 Q. Okay. What did you find in Woody Court when you

1 arrived?

2 A. When we arrived, we found people standing outside
3 waiting on us, the people that had called EMS.

4 Q. Okay.

5 A. They stated they had a man in the field next to their
6 apartment complex. We just noted the man in the field
7 laying face up. At that point we got out of the ambulance.

8 Q. Okay. What race was the man who was laying on the
9 ground?

10 A. It was a white male.

11 Q. Okay. Were you able to identify him at the scene?

12 A. Identify him as -- the name and everything?

13 Q. Yes, sir.

14 A. No, ma'am.

15 Q. Okay. How -- and you said he was laying face up?

16 A. Yes, ma'am.

17 Q. What was his skin temperature?

18 A. His skin temperature when we found him was cool and he
19 was a little bit clammy.

20 Q. Do you recall what the temperature was like that
21 morning outside?

22 A. It was very chilly. It had been cold the night before.

23 Q. Okay. Was there anything on the ground, that you
24 recall?

25 A. We didn't see anything particular on the ground. The

1 only thing that I saw walking up was his shoes off and
2 beside him.

3 Q. Okay. What else was he wearing?

4 A. He was wearing pants, jeans, and a shirt. And when I
5 saw him, not only did I notice the shoes, but I noticed his
6 pockets themselves were out-turned.

7 Q. Okay. Was there anything in his pockets?

8 A. No, ma'am.

9 Q. Was there anything of a personal nature lying around
10 him?

11 A. No, ma'am.

12 Q. Okay. Did you see a cell phone?

13 A. No, ma'am.

14 Q. Did you see money?

15 A. No, ma'am.

16 Q. Did you see a pill bottle?

17 A. No, ma'am.

18 Q. Did you see a set of car keys?

19 A. No, ma'am.

20 Q. Okay. What was the defendant -- or, I'm sorry, the
21 victim's level of consciousness when you arrived?

22 A. When we arrived, when we first got to the victim, he
23 looked at us. He could look at us and he seemed like he was
24 trying to talk, but he wasn't really talking. He was moving
25 his lips but nothing was really coming out that we could

1 hear.

2 Q. Okay.

3 A. So I would say altered.

4 Q. Okay. Did you see any blood on him?

5 A. No, ma'am, there was no blood around him at all. The
6 only thing that I noticed walking up was he had a small red
7 spot on top of his neck and it was little bit red in it.

8 Q. What did y'all find when you moved him?

9 A. When we first got there we couldn't really talk to him
10 because he wasn't making sense. I noticed a red spot and it
11 looked like he had been mugged or robbed, so one of the
12 first things I did was asked my partner to grab his neck for
13 a C-spine so in case he had a neck injury, and I was going
14 to the truck to get a backboard so we could place him on the
15 backboard. Before I made it to the truck my partner told me
16 that his finger had slipped up to his neck to a small hole.

17 Q. Okay. Did you have a chance to observe that small
18 hole?

19 A. No, ma'am, I did not.

20 Q. Okay. You mentioned something in the front of his
21 neck. Do you -- were you able to tell what that was?

22 A. From deduction at that point, not until thinking after
23 the call, I figured that if it was anything raised, it
24 looked like it was raised about, I don't know, a quarter
25 inch from the top of his Adams apple. I figured that was

1 probably a bullet.

2 Q. Okay. Were you able to place anything in the victim's
3 nose?

4 A. No, ma'am. An NPA, a nasopharyngeal airway, is what
5 you would normally use if you can't place anything in the
6 mouth for ventilation. Nothing was being able to be placed
7 in the nose because of all the clotted blood that had
8 happened.

9 Q. Okay. What happened to the defendant's (sic) heart
10 rate at the scene?

11 A. At the scene when he was laying there when we first
12 found him it was around normal. Right when we moved him and
13 put him on the backboard so we could respond to precautions
14 everything dropped.

15 Q. Okay. How was he transported to the hospital?

16 A. We got him in the back of our truck and started
17 treating him. We had another paramedic that was off duty
18 that got the call. They came and drove us. Right when we
19 noticed that he had a bullet wound to the back of his neck,
20 or the small hole, we had called for Region 1, which is the
21 air transport from Spartanburg Regional.

22 Q. Okay. Did you go with him to the hospital?

23 A. No, I transferred him from my ambulance where I had
24 committed treatment to a landing zone the fire department
25 set up that morning. And from that landing zone the Region

1 1 crew to our ambulance and we debriefed them on the
2 situation, what we had done and our interventions. We then
3 helped them load him from our stretcher to their stretcher
4 in the helicopter itself.

5 Q. Okay.

6 MS. JORDAN: Your Honor, may I have a moment?

7 THE COURT: You may.

8 (Off the record)

9 (Back on the record)

10 BY MS. JORDAN:

11 Q. Please answer any questions that Ms. Lyall may have.

12 A. Okay.

13 MS. LYALL: I have no questions.

14 THE COURT: Thank you, sir. You may step down.

15 Do you wish to excuse the witness?

16 MS. JORDAN: Yes, sir, I do.

17 THE COURT: Any objections?

18 MS. LYALL: No objections.

19 THE COURT: Sir, you are free to go, if you would
20 like.

21 THE WITNESS: Thank you.

22 THE COURT: Thank you for coming this morning.

23 THE WITNESS: Thank you, sir.

24 THE COURT: You may call your next witness.

25 MS. JORDAN: The State calls Megan Margarita.

1 THE COURT: Come forward, please, ma'am, and be
2 sworn.

3 MEGAN MARGARITA, having been first duly sworn,
4 testified as follows:

5 THE CLERK: Thank you. You may have a seat.

6 THE COURT: Once you are seated, ma'am, state your
7 name, please.

8 THE WITNESS: Megan Margarita.

9 THE COURT: Your witness, Ms. Jordan.

10 MS. JORDAN: Thank you.

11 DIRECT EXAMINATION BY MS. JORDAN:

12 Q. Megan, if you will do me a favor and scoot as close as
13 you can to that microphone. I need to make sure that you
14 are talking loud enough so that everybody in this courtroom
15 can hear you, okay?

16 Could you state your name again for the record?

17 A. Megan Margarita.

18 Q. Okay. That's a lot better.

19 How old are you?

20 A. Eighteen.

21 Q. How far did you go in school?

22 A. 11th grade.

23 Q. Did you finish high school or obtain your GED?

24 A. I got my GED.

25 Q. What are you currently doing as far as an occupation or

1 school?

2 A. Baby-sitting.

3 Q. Okay. In April of 2012, where did you live?

4 A. I lived in Woodruff.

5 Q. Okay. I'm going to take you through a few people and
6 ask you how you know them.

7 How do you know Stephanie Vaughn?

8 A. School.

9 Q. How long have you known her?

10 A. Since high school.

11 Q. What was your relationship with her?

12 A. Friend.

13 Q. Okay. How do you know Jason Tolison?

14 A. Friend.

15 Q. Okay. How long?

16 A. Since middle school.

17 Q. Okay.

18 THE COURT: Ma'am, please speak up. You are
19 getting quieter again. Thank you.

20 BY MS. JORDAN:

21 Q. If you will just bend down into that microphone.

22 Did Jason have a nickname that he went by?

23 A. Yes.

24 Q. What was it?

25 A. "J-Baby".

1 Q. Okay. Do you also know Justin Reynolds?

2 A. Know him? I didn't know him until he got out of jail.

3 Q. When did you -- how long did you know him?

4 A. A few weeks.

5 Q. Okay. Did he have a nickname?

6 A. Yes.

7 Q. What is the nickname you knew him by?

8 A. "Krazy".

9 Q. Okay. Moving on to Andre Scott, how do you know him?

10 A. I know him through Stephanie.

11 Q. Okay. How long did you know Andre?

12 A. A few months.

13 Q. Okay. And last is Marquise Duncan or Marquez Duncan.

14 How do you know him?

15 A. I met him through Stephanie.

16 Q. What was your relationship with him?

17 A. At the time me and him were talking.

18 Q. What do you mean by talking?

19 A. Dating.

20 Q. Okay. Did Marquise Duncan have a nickname?

21 A. Yes.

22 Q. What was it?

23 A. "Snoop".

24 Q. Okay. I'll just remind you to make sure that you talk
25 loud enough, okay?

1 Prior to the early morning hours of April the 8th,
2 2012, did you know Josh Barrineau?

3 A. No, ma'am.

4 Q. Were the early morning hours of April the 8th the first
5 time that you met him?

6 A. Yes, ma'am.

7 Q. Okay. Where did you go on the evening of Saturday,
8 April the 7th, 2012?

9 A. Kelly Acres.

10 Q. What's in Kelly Acres?

11 A. "Glimmer's" house.

12 Q. Who is "Glimmer"?

13 A. A friend of Stephanie's.

14 Q. Okay. What is Kelly Acres?

15 A. It's an apartment complex.

16 Q. Okay. Was "Glimmer" present?

17 A. No.

18 Q. Okay. Who went with you?

19 A. Me, Stephanie and her son.

20 Q. How old was her son?

21 A. One.

22 Q. Okay. What was his name?

23 A. Braydon.

24 Q. Braydon.

25 When you arrived at the apartment was anybody there?

1 A. No.

2 Q. Were you joined by anybody later that evening?

3 A. Yes, ma'am.

4 Q. Who were you joined by?

5 A. "Snoop", "Krazy", "J-Baby", and Andre.

6 Q. Okay. Just for clarification, that's Andre Scott?

7 A. Yes, ma'am.

8 Q. Marquise Duncan?

9 A. Yes, ma'am.

10 Q. Justin Reynolds?

11 A. Yes, ma'am.

12 Q. And Justin Reynolds is who you call "Krazy"?

13 A. Uh-huh.

14 Q. And Jason Tolison?

15 A. Yes, ma'am.

16 Q. And that's who you referred to as "J-Baby"?

17 A. Yes, ma'am.

18 Q. Okay. When did they get there?

19 A. Not too long after us.

20 Q. What happened once they arrived? What did everybody
21 do?

22 A. Everybody was in the kitchen talking and then me and
23 Marquise Duncan went into the back room.

24 Q. Okay. What -- while you were in the back room with
25 Marquise Duncan, or "Snoop", did anybody come into the room?

1 A. After awhile Jason came into the room.

2 Q. Okay. Did anybody else come into the room?

3 A. No, ma'am.

4 Q. Do you recall if "Snoop" ever spoke to Justin Reynolds

5 any that night?

6 A. Yes, ma'am.

7 Q. Okay. Did the defendant ask you to make a phone call

8 for him at any point that night?

9 A. Yes, ma'am.

10 Q. Did you?

11 A. No, ma'am.

12 Q. Okay. Did "Snoop" stay in the bedroom with you?

13 A. For most of the night, yes, ma'am.

14 Q. But was there a point where he joined the others in the

15 main --

16 A. Yes, ma'am.

17 Q. -- part of the apartment?

18 A. Yes, ma'am.

19 Q. Okay. When you came out of the bedroom, where was

20 everybody else at later on that evening?

21 A. "Dre" and "Krazy" were in the kitchen and Jason was on

22 the couch.

23 Q. Okay. Did you at any point in time see Stephanie make

24 a phone call or speak to anyone on the phone?

25 A. I seen her on the phone.

1 Q. Okay. Where were the boys at that were in the
2 apartment when she was doing that?

3 A. Standing around her.

4 Q. Okay. Did they appear to be -- were they close to her
5 when she was talking on the phone?

6 A. Yes.

7 Q. Okay. And by boys, can you tell me who was around her?

8 A. Jason, "Krazy", "Snoop", and Andre.

9 Q. Okay. Did you become aware at some point that another
10 person was joining you guys?

11 A. No.

12 Q. Were you -- do you recognize Josh Barrineau?

13 A. Yes, ma'am.

14 Q. Okay. Did he come to the apartment at some point in
15 the early morning hours of April the 8th?

16 A. Yes, ma'am.

17 Q. Do you recall about what time?

18 A. No, ma'am.

19 Q. Okay. When he arrived at the apartment, who was inside
20 the apartment?

21 A. Me, Stephanie, and her son.

22 Q. Okay. Do you know where any of the four guys that we
23 have talked about were?

24 A. No, ma'am.

25 Q. Okay. But they were not inside the residence?

1 A. No.

2 Q. Okay. What happened when Josh Barrineau got there?

3 A. Me and him and Stephanie were in the front room and
4 they were talking about Andre, and then she went -- I seen
5 her smiling.

6 Q. Okay. What happened --

7 Let me ask you this. Did you see Josh with any type of
8 pills or drugs?

9 A. Yes, ma'am.

10 Q. Okay. Did you see Josh with any type of weapon?

11 A. No, ma'am.

12 Q. Did you see him with a gun?

13 A. No, ma'am.

14 Q. Did you see him with a knife?

15 A. No, ma'am.

16 Q. What did he have -- the pills or drugs that he had,
17 what did he have them in?

18 A. A bottle.

19 Q. Okay. What happened?

20 A. He asked me did I know anybody that wanted any pills
21 and I told him no. And as I went to the back room and asked
22 Stephanie if she needed me to get her some of the bottles.
23 She said she had already gotten it. And there was a banging
24 at the door and Stephanie come back in there. And I don't
25 know who they was, but it was -- and him and Stephanie got

1 up and went to the door and then --

2 Q. Which door?

3 A. The front door.

4 Q. Then what happened once they were at the front door?

5 A. "Krazy" came in and grabbed Josh.

6 Q. Okay. When you mean "Krazy", could you point him out
7 to the jury?

8 A. (Witness pointing).

9 Q. What is he wearing?

10 A. Blue shirt.

11 MS. JORDAN: Just let the record reflect she's
12 pointed to the defendant.

13 THE COURT: The record shall so reflect.

14 You may proceed.

15 BY MS. JORDAN:

16 Q. What happened once -- or can you explain to the jury --
17 when you say he came in, what did he come in?

18 A. Who?

19 Q. The defendant.

20 A. I'm assuming the back door.

21 Q. Okay. How many doors were there to this apartment?

22 A. Two.

23 Q. Okay. Was there one at the front?

24 A. Uh-huh.

25 Q. And one at the back?

1 A. Yeah.

2 Q. How did -- how did the defendant grab Josh?

3 A. I don't know.

4 Q. Okay. Did you notice if the defendant had anything in
5 his hands?

6 A. Yes, ma'am.

7 Q. What did he have?

8 A. A gun.

9 Q. What color was it?

10 A. Black.

11 Q. What did the defendant do with Mr. Barrineau?

12 A. Took him outside.

13 Q. Okay. Once they went outside what did you do?

14 A. I was shocked so I just stood there.

15 Q. Okay. At any point what did Stephanie do?

16 A. Stephanie shut the door, and a minute later we heard a
17 gunshot.

18 Q. I'm sorry, could you repeat that?

19 A. Not long after we heard a gunshot, and she told me to
20 call her dad and she was calling her momma.

21 Q. Okay. Before you heard the gunshot did you look out
22 the window or look out the door?

23 A. No. After I looked out the window.

24 Q. What did you see?

25 A. I didn't see anything.

1 Q. Okay. Did you at any point in time look out --
2 Let me ask you this. Did you provide a written
3 statement to law enforcement?

4 A. Yes, ma'am.

5 Q. Was it a one-page statement?

6 A. Approximately.

7 Q. Okay. Did you -- and where did you provide that
8 statement? Where were you?

9 A. At Stephanie's house.

10 Q. Okay. Did law enforcement come to you?

11 A. Yes, ma'am.

12 Q. Okay. And I forgot to ask you this. How did you leave
13 Kelly Acres that night?

14 A. Her stepdad.

15 Q. Thank you. You mean Stephanie's stepdad?

16 A. Uh-huh.

17 Q. About what time did he come and get you?

18 A. I'm not sure.

19 Q. Was it light outside or dark?

20 A. It was dark.

21 Q. Okay. Who left with you?

22 A. Me, Stephanie, and her son.

23 Q. Okay. After the gunshot did you see Josh Barrineau?

24 A. No, ma'am.

25 Q. Did anyone go outside to check on him?

1 A. No, ma'am.

2 Q. Did you see Justin Reynolds any more?

3 A. No, ma'am.

4 Q. Did you see Jason Tolison any more?

5 A. No, ma'am.

6 Q. Okay. Did you also provide law enforcement with a
7 four-page handwritten statement?

8 A. Yes, ma'am.

9 Q. Okay. Did you give that to them in person?

10 A. No, ma'am.

11 Q. What led you to send them that statement?

12 A. I was no longer in Woodruff, so I had to write it and
13 send it to them.

14 Q. Okay. By no longer in Woodruff, did you move out of
15 Woodruff after this happened?

16 A. Yes, ma'am.

17 Q. How far away did you move?

18 A. At least two hours.

19 Q. Why did you move?

20 A. Because I was scared.

21 Q. Okay. When you sent the statement, did anybody tell
22 you what to put in it?

23 A. No, ma'am.

24 Q. Is what you put in the statement an accurate --

25 A. Yes, ma'am.

1 Q. -- depiction of what happened?

2 A. Yes.

3 MS. JORDAN: Your Honor, may I have a moment?

4 THE COURT: You may.

5 (Off the record)

6 (Back on the record)

7 BY MS. JORDAN:

8 Q. Megan, please answer any questions that Ms. Lyall may
9 have.

10 THE COURT: Ms. Lyall, your witness.

11 MS. LYALL: Thank you, Your Honor.

12 THE COURT: Yes, ma'am.

13 CROSS EXAMINATION BY MS. LYALL:

14 Q. Ms. Margarita, you said you wrote two statements in
15 this case?

16 A. Yes, ma'am.

17 Q. And in that first statement you said that when you were
18 at Kelly Acres a guy came that was trying to sell drugs?

19 A. I don't know if I said that he was trying to sell
20 drugs.

21 MS. JORDAN: Your Honor, may she have a chance to
22 review the statement, if Ms. Lyall is going to ask her about
23 it?

24 THE COURT: Yes.

25 MS. LYALL: Your Honor, may I approach?

1 THE COURT: You may approach the witness.

2 BY MS. LYALL:

3 Q. This is your statement. If you would like to review it
4 for a few moments, and then I'll ask you a few questions
5 about it.

6 A. (Witness reviewing document).

7 Yeah, he asked me if I knew anybody who wanted to buy
8 his drugs.

9 Q. Okay. So a gentleman came over to the house that you
10 didn't previously know and he was trying to sell drugs at
11 the house?

12 A. Yes, ma'am.

13 Q. And who was that gentleman?

14 A. Josh.

15 Q. Josh Barrineau?

16 A. Yes, ma'am.

17 Q. Okay. What type of drugs was he trying to sell?

18 A. I don't know.

19 Q. Did you see any drugs?

20 A. Yes, ma'am.

21 Q. What type of drugs were they?

22 A. They were pills, I'm assuming.

23 Q. Okay. And in that first statement you also say that
24 you think "Krazy" came and got Josh by his arms, but you
25 don't know what happened?

1 A. Yes, ma'am.

2 Q. Okay. Then you also wrote a second statement and you
3 said that "Krazy" asked you to call a white guy?

4 A. Yes, ma'am.

5 Q. But a few moments ago you testified that you were in a
6 room with Marquise Duncan?

7 A. Yes, ma'am.

8 Q. And only Jason came into the room?

9 A. Yes, ma'am.

10 Q. So if you were in a room with Marquise Duncan and only
11 Jason came into the room, how did "Krazy" ask you to call
12 someone?

13 A. Because "Krazy" and Jason and "Snoop" went to the other
14 room and were talking. And when they came out I was
15 standing in the doorway. So he wasn't in the room. He was
16 in the hallway when he asked me.

17 Q. And you said "Dre", "J-Baby" and "Krazy" left the house
18 and you didn't see them again?

19 A. All four of them left the house.

20 Q. Okay. And you also stated a few moments ago in your
21 testimony that -- well, also --

22 In your first statement you said you think "Krazy" came
23 in and got him, but you don't know what happened.

24 MS. JORDAN: Your Honor, may I ask her to have the
25 witness read that, because I think her version of that is

1 not -- is not as I read it.

2 MS. LYALL: Your Honor, she's --

3 THE COURT: She has -- is this the statement that
4 she has?

5 MS. LYALL: It's the statement she read and she's
6 agreed with what I said.

7 THE COURT: I thought there is two statements. Is
8 this from the first statement?

9 MS. LYALL: The first statement.

10 THE COURT: Okay. Does she have that in front of
11 her?

12 MS. LYALL: I have it, but she has already read
13 it.

14 THE COURT: I understand that.

15 If you are referring to a specific portion of it,
16 you may approach and show her what you are talking about.

17 BY MS. LYALL:

18 Q. A few moments ago in your testimony when talking about
19 "Krazy" coming into the house, you said "I'm assuming he
20 came through the back door and I don't know how he grabbed
21 him".

22 A. Yes, ma'am.

23 Q. And you said "after that I didn't see anything."

24 A. Yes, ma'am.

25 Q. Okay. You also stated a few moments ago in your

1 testimony that you never looked out of a window?

2 A. I looked out the window after I heard the gunshot.

3 Q. Okay. A few moments ago did you testify to the jury
4 when the solicitor was asking you questions that you did not
5 look out of a window?

6 A. I said I looked out the window after the gunshot, not
7 before.

8 Q. Okay. And that you did not look to go outside of the
9 door?

10 A. No.

11 Q. Didn't you state in your second statement that when you
12 came out, they stopped moving and a few minutes later you
13 heard a gunshot?

14 A. Yes.

15 She asked me did I look out the window before the
16 gunshot and I said no. I told her I looked out the window
17 after the gunshot.

18 Q. Okay.

19 A. She did not ask me if I walked out of the door.

20 Q. You said when you came out they stopped moving.

21 A. Yes.

22 Q. That doesn't seem to say you are looking out of a
23 window. It seems to say that you came out.

24 A. Okay.

25 Q. So which one is it?

1 A. I looked out the window after the gunshot, but before
2 the gunshot I did walk out of the house.

3 Q. Okay. And when you came out, you said they stopped
4 moving?

5 A. Yes.

6 Q. So you did come out of the house?

7 A. Yes.

8 Q. And you couldn't identify what was going on?

9 A. I seen what was going on.

10 Q. You said that you saw a white guy on the ground and two
11 black males over him?

12 A. Yes.

13 Q. But you couldn't see who they were --

14 A. No.

15 Q. -- from the back door on the side of the house?

16 A. No.

17 Q. And you have no idea who did the shooting?

18 A. No.

19 Q. You didn't witness the robbery?

20 A. No. I witnessed him getting taken out of the house.

21 Q. But you are assuming they came from the back door. You
22 didn't see that.

23 A. I don't know how else they would have got in the house.

24 Q. You don't know how he grabbed him?

25 A. No.

1 Q. And after that you stated you didn't see anything?

2 A. No.

3 MS. LYALL: I don't have any other questions at
4 this time.

5 THE COURT: Redirect?

6 MS. JORDAN: Thank you, Your Honor.

7 REDIRECT EXAMINATION BY MS. JORDAN:

8 Q. Megan, I'm going to pass you a copy of that first
9 statement that you gave.

10 Ms. Lyall talked to you on that statement about how you
11 didn't know what happened.

12 A. Uh-huh.

13 Q. What is in your statement just before you put "I didn't
14 know what happened?" It's towards the bottom about five or
15 six lines down.

16 A. Can't you point it out?

17 Q. Yes. Five lines from the bottom, starting --

18 THE COURT: You can approach and indicate.

19 BY MS. JORDAN:

20 Q. Starting with "when".

21 Can you tell me what that says?

22 A. It says "Krazy" and then came through the back and got
23 him. After that I don't know what happened when that
24 happened. When I say they got him, I mean that "Krazy" came
25 behind him and grabbed him by his arms I think."

1 Q. Okay. So you are not stating that you don't know what
2 happened at all that night, are you?

3 A. No.

4 Q. Are you just stating you don't know what happened once
5 they left the apartment?

6 A. Yes, ma'am.

7 Q. And I apologize if I didn't ask the questions right
8 earlier. I did ask if you looked out the door, but did you
9 walk out the door?

10 A. Yes, ma'am.

11 Q. Which door did you walk out?

12 A. The back door.

13 Q. And what did you see when you walked out?

14 A. To my right I seen Josh and two black males.

15 Q. Okay. You also -- in your handwritten letter to law
16 enforcement, who did you say pulled Josh out of the
17 apartment?

18 A. "Krazy".

19 Q. Did you say that anybody else pulled him out of the
20 apartment?

21 A. No, ma'am.

22 Q. Okay.

23 MS. JORDAN: Nothing further, Your Honor.

24 THE COURT: Recross?

25 MS. LYALL: No, Your Honor.

1 THE COURT: Ma'am, you may step down.

2 Do you wish to excuse the witness?

3 MS. JORDAN: Yes, sir, Your Honor.

4 THE COURT: Any objections to her being excused?

5 MS. LYALL: No, Your Honor.

6 THE COURT: Ma'am, you are free to go. Thank you
7 for coming today.

8 You may call your next witness.

9 MS. JORDAN: Your Honor, my next witness is Jason
10 Tolison.

11 THE COURT: Do you want to take a short break
12 before we start that?

13 MS. JORDAN: Yes, sir.

14 THE COURT: All right. Ladies and gentlemen of
15 the jury, we are going to take a short break.

16 As always when you leave the courtroom, I will
17 instruct you not to discuss anything about this case, even
18 among yourselves, until I have asked you to do so.

19 You may retire to the jury room.

20 (The following takes place outside the presence of
21 the jury panel)

22 THE COURT: Yes, ma'am.

23 MS. JORDAN: Judge, I do have an issue to bring
24 up, as far as Jason Tolison's rap sheet --

25 THE COURT: Yes, ma'am.

1 MS. JORDAN: -- if at all possible.

2 THE COURT: All right.

3 MS. JORDAN: He has two arrests on there for petit
4 larcenies from the City of Woodruff. We called and checked
5 and verified that he was convicted of those charges.

6 He also --

7 THE COURT: He was what?

8 MS. JORDAN: Convicted of those.

9 THE COURT: Convicted, all right.

10 MS. JORDAN: Two petit larcenies and I believe
11 they fall under the crime of dishonesty.

12 He also has on his record a burglary second,
13 violent, which falls within the prerogatives of I believe
14 it's Rule -- let me cheat. I think it's 609, but I want to
15 make sure I'm right.

16 THE COURT: I think that's right. I'll let you
17 look at it.

18 MS. JORDAN: Yes, sir, within Rule 609.

19 Ms. Stuart and I had a conversation yesterday
20 about his record and he has on there a conviction for
21 assault and battery by a mob, third degree. I do not
22 believe that that qualifies.

23 THE COURT: Let's find out if she intends to use
24 that conviction.

25 MS. LYALL: Your Honor, I would like to. It's

1 punishable by a year and --

2 THE COURT: Well, it has to go to his
3 truthfulness -- I guess you are using it to impeach?

4 MS. LYALL: Correct.

5 I was reading it a year, or more. She's reading
6 it more than a year. So --

7 MS. JORDAN: Your Honor, just to reference, Rule
8 609 (A) (1) is if the crime is punishable by death or
9 imprisonment in excess of one year under which the witness
10 was convicted.

11 THE COURT: And that was a one year offense?

12 MS. JORDAN: Yes, sir. As I read it under --

13 THE COURT: And it also has to be an offense that
14 goes -- has something to do with credibility.

15 Does this -- is this defined as such an offense?
16 I have not looked that up to see if -- I would be surprised
17 if it was, but perhaps it is.

18 MS. JORDAN: Not that I'm aware of, Your Honor,
19 but we do concede he has two petit larcenies and the
20 burglary second, violent.

21 THE COURT: Okay. I'm not going to let you go
22 into that one. I'll let you use the others.

23 MS. LYALL: Okay.

24 THE COURT: Okay. We will take a short break.

25 Do you need to go check on that?

1 MS. JORDAN: He should be in the room. I think we
2 were just short a detention officer as well. I'll see if
3 they let --

4 THE COURT: I'll give you a moment to go check on
5 him.

6 MS. JORDAN: Okay.

7 THE COURT: We will take a short break, if anyone
8 would like to take a short break, until we get the witness
9 in the courtroom.

10 Court is in recess briefly.

11 (Whereupon, proceedings were recessed)

12 (Whereupon, proceedings were reconvened)

13 THE COURT: Come to order then. I think we are
14 ready.

15 MS. JORDAN: I just want to make sure his
16 attorney -- I just asked if his attorney mentioned to him
17 about not stating in front of the jury that Jason had gotten
18 out of jail -- Justin had gotten out of jail or the DOC.

19 THE COURT: I appreciate your instructing him in
20 that fashion.

21 All right. Bring the jury in.

22 (The following takes place in the presence of the
23 jury panel)

24 THE COURT: All right, the record will reflect the
25 jury has returned to the courtroom.

1 The State may call its next witness.

2 MS. JORDAN: Your Honor, the State calls Jason
3 Tolison.

4 THE COURT: Bring Mr. Tolison into the courtroom,
5 please.

6 Mr. Tolison, step up over here, please, sir.
7 Right here, sir.

8 JASON TOLISON, having been first duly sworn,
9 testified as follows:

10 THE CLERK: Thank you. You can be seated.

11 THE COURT: State your name, please.

12 THE WITNESS: Jason Tolison.

13 THE COURT: Thank you.

14 Your witness.

15 DIRECT EXAMINATION BY MS. JORDAN:

16 Q. Jason, if you could do me a favor and speak as loud as
17 you can into that microphone. I need to make sure that
18 everybody here in the courtroom can hear you, okay?

19 A. Yes, ma'am.

20 Q. Okay. And all your answers need to be verbal, so you
21 have got to answer with words and not with head nods, or
22 uh-huh's, or anything like that, okay?

23 A. (Shaking head yes).

24 Q. Can you answer with a word?

25 A. Yes, ma'am.

1 Q. Okay. Thank you.

2 Jason, how old are you?

3 A. Twenty.

4 Q. How far did you go in school?

5 A. 9th grade.

6 Q. Okay. Do you have your GED or high school diploma?

7 A. No, ma'am.

8 Q. Jason, where are you currently living or housed at?

9 A. My mom.

10 Q. Where do you live now?

11 A. Spartanburg County.

12 Q. Okay. Are you a current resident of the Spartanburg
13 County detention facility?

14 A. Yes, ma'am.

15 Q. Okay. How long have you been housed at the jail?

16 A. Eighteen months.

17 Q. Okay. Would that be since April of 2012?

18 A. Yes, ma'am.

19 Q. Okay. Jason, how do you know Justin Reynolds?

20 A. He's my brother.

21 Q. Do you guys share parents, or share a parent?

22 A. Yes, ma'am.

23 Q. Do you share one parent or both?

24 A. One.

25 Q. Who is that?

1 A. My mom.

2 Q. Okay. What is the nickname that you have -- that you
3 call Justin?

4 A. "Krazy".

5 Q. What is your nickname?

6 A. "J-Baby".

7 Q. Okay. Do you know someone named Megan Margarita?

8 A. Yeah.

9 Q. How do you know her?

10 A. I dated her before and she was friends.

11 Q. How long have you known her?

12 A. Since school. A long time.

13 Q. Okay. Do you also know Stephanie Vaughn?

14 A. Yes, ma'am.

15 Q. How do you know her?

16 A. I dated her too.

17 Q. Okay. How long have you known her?

18 A. Since school. A long time.

19 Q. Okay. I'm going to go through a few more people with
20 you with the same questions.

21 Andre Scott, how do you know him?

22 A. Home boy.

23 Q. Okay. So you do know him?

24 A. Yes, ma'am.

25 Q. What name does he go by?

1 A. "Dre".

2 Q. Okay. How long have you known "Dre"?

3 A. For a long time.

4 Q. Okay. And you would consider him a friend?

5 A. Yes, ma'am.

6 Q. Marquise Duncan, do you know him?

7 A. Yes, ma'am.

8 Q. What is his nickname?

9 A. "Snoop".

10 Q. How long have you known him?

11 A. A long time.

12 Q. How do you know him?

13 A. He's a home boy.

14 Q. Okay. I'm going to ask you a couple of questions about
15 your prior record.

16 Do you have two convictions for petit larcenies from
17 Woodruff?

18 A. Yes, ma'am.

19 Q. Do you also have a conviction for burglary second
20 degree, violent?

21 A. Yes, ma'am.

22 Q. Okay. Were you charged in connection to the robbery
23 and shooting of Josh Barrineau?

24 A. Yes, ma'am.

25 Q. Okay. Have you previously entered a plea to multiple

1 charges in his case?

2 A. Yes, ma'am.

3 Q. Okay. In September of this year did you plead guilty
4 to attempted murder?

5 A. Yes, ma'am.

6 Q. Did you plead guilty to armed robbery?

7 A. Yes, ma'am.

8 Q. Did you plead guilty to grand larceny?

9 A. Yes, ma'am.

10 Q. Did you plead guilty to kidnapping?

11 A. Yes, ma'am.

12 Q. Did you also plead guilty to a charge of resisting
13 arrest?

14 A. Yes, ma'am.

15 Q. Okay. Will you be receiving a recommendation on your
16 sentence from the State based upon your truthful testimony
17 today?

18 A. Yes, ma'am.

19 Q. What is that recommendation?

20 A. Fifteen years.

21 Q. Okay. Is that a fifteen year sentence in the
22 Department of Corrections?

23 A. Yes, ma'am.

24 Q. Okay. So once you -- once you finish today, do you
25 expect to go home?

1 A. No, ma'am.

2 Q. Okay. Where do you expect to eventually go?

3 A. Prison.

4 Q. Okay. I'm going to take you to the evening hours of
5 April 7th, 2012.

6 Who were you with?

7 A. Everybody.

8 Q. You got explain to the jury who everybody is. I'm not
9 a huge fan of pronouns. If you could just state everybody's
10 name?

11 A. "Krazy".

12 Q. You said "Krazy"?

13 A. Yes.

14 Q. Who else?

15 A. "Snoop".

16 Q. "Snoop", okay.

17 Anyone else with you?

18 A. "Dre".

19 Q. Okay.

20 A. Stephanie and Megan.

21 Q. Where were all of you?

22 A. Kelly Acres.

23 Q. Okay. Do you know whose apartment you were at?

24 A. "Glimmer's".

25 Q. Okay. Was there also a small child there?

1 A. Yes, ma'am.

2 Q. Okay. What did y'all do at that apartment in Kelly
3 Acres that night?

4 A. Drank and smoke.

5 Q. Okay. At any point in time did anyone talk about doing
6 something else?

7 A. Yes, ma'am.

8 Q. What was -- who -- did "Krazy" or -- I'm sorry, Justin,
9 talk about doing anything?

10 A. Yes, ma'am.

11 Q. What did he talk about doing?

12 A. Rob somebody.

13 Q. You need to talk a little bit louder for me.

14 What did he talk about doing?

15 A. Robbery.

16 Q. At some point in time did Andre make a phone call?

17 A. Yes, ma'am.

18 Q. Okay. Did Stephanie also make a phone call after
19 Andre?

20 A. Yes, ma'am.

21 Q. After that phone call was made, what did you and the
22 boys or the guys do? And by the guys, I mean Justin, Andre,
23 and "Snoop"?

24 A. Go outside.

25 Q. Who was left inside the apartment?

1 A. Females.

2 Q. By females, do you mean Stephanie and Megan?

3 A. Stephanie and Megan.

4 Q. Okay. Did you stay outside?

5 A. Yes, ma'am.

6 Q. Who did you stay outside with?

7 A. Reynolds.

8 Q. Who?

9 A. Reynolds.

10 Q. Who -- and Reynolds is your brother?

11 A. Yes, ma'am.

12 Q. Okay. Did you see Josh Barrineau come to the
13 apartment?

14 A. No, ma'am.

15 Q. Did you see his vehicle pull up to the apartment?

16 A. Yes, ma'am.

17 Q. Okay. What did you and your brother do?

18 A. Take his -- take his stuff.

19 Q. You need to talk louder for me and as clear as you can
20 into the microphone.

21 Did you do anything at the front door at the apartment
22 at Kelly Acres?

23 A. No, ma'am.

24 Q. Did you at any time knock on any door?

25 A. Yes, ma'am.

1 Q. What door did you knock on?

2 A. The front door.

3 Q. Where was your brother?

4 A. Back.

5 Q. Okay. Once you knocked on the front door, what did you
6 do?

7 A. Run around to the back.

8 Q. Okay. Around back what did you find?

9 A. That dude.

10 Q. Who is that dude?

11 A. I don't know his name.

12 Q. Do you see him here in the courtroom today?

13 A. Yes, ma'am.

14 Q. Okay. Could you tell me what he's wearing?

15 A. He's in the wheelchair.

16 Q. He's in the wheelchair?

17 A. Yes.

18 Q. Okay. Who was in the back with -- his name is Josh.

19 Who was in the back with Josh?

20 A. Me and -- me and Reynolds.

21 Q. By Reynolds, are you referencing Justin Reynolds?

22 A. Yes.

23 Q. And that's -- is that -- is he seated in the courtroom
24 today?

25 A. Yes, ma'am.

1 Q. Could you tell me what he's wearing?

2 A. I can't see him.

3 THE COURT: You can lean forward.

4 BY MS. JORDAN:

5 Q. You can lean forward, if you need to.

6 A. Blue.

7 Q. Okay. Is he next to the lady with blond hair?

8 A. Yes, ma'am.

9 Q. And that's your brother?

10 A. Yes, ma'am.

11 MS. JORDAN: Just let the record reflect he
12 pointed to the -- or he acknowledged the clothing the
13 defendant was wearing and where he was seated.

14 THE COURT: The record shall so reflect.

15 You may proceed.

16 BY MS. JORDAN:

17 Q. Once you got into the backyard -- did you have a gun?

18 A. No, ma'am.

19 Q. Did Justin have a gun?

20 A. Yes, ma'am.

21 Q. What color was it?

22 A. I don't know.

23 Q. Okay. What happened once you got into the backyard?

24 A. The dude got shot.

25 Q. Before the dude got shot, did you take anything from

1 him?

2 A. Take his pills and his money and stuff.

3 Q. Did you take money from him?

4 A. Stuff out of his pockets.

5 Q. Okay. Stuff out of his pockets.

6 What was -- do you recall if y'all took a set of keys?

7 A. Yes, ma'am.

8 Q. Did you take a phone?

9 A. Yes, ma'am.

10 Q. Did you take some pills?

11 A. No, ma'am.

12 Q. Did you take money?

13 A. No, ma'am.

14 Q. When you left were his pockets full or empty?

15 A. Empty.

16 Q. Okay. What about his tennis shoes?

17 A. I didn't take them.

18 Q. Okay. Did anybody ask him to take those shoes off?

19 A. No, ma'am.

20 Q. So no one ordered him to took his shoes off?

21 A. Yes, ma'am.

22 Q. Who did?

23 A. (Witness pointing).

24 Q. You can't point to yourself. You have got to use
25 words.

1 A. Me.

2 Q. Okay. So you asked him to take his shoes off.

3 Did you take his shoes?

4 A. No, ma'am.

5 Q. Why not?

6 A. They couldn't fit.

7 Q. Okay. What happened once you took his stuff and

8 decided not to take his shoes?

9 A. Left.

10 Q. Before that -- before that what did your brother do to

11 him?

12 A. Smacked him with the gun.

13 Q. What happened with the gun?

14 A. It went off.

15 Q. What happened to Josh once the gun went off?

16 A. He fell out.

17 Q. Okay. Did you see him move after he fell?

18 A. No, ma'am.

19 Q. Where did you go?

20 A. Ran.

21 Q. Where did you run?

22 A. To the car.

23 Q. What type of car did he have?

24 A. I don't know the name of it.

25 Q. What color was it?

1 A. White.

2 Q. Was it a truck?

3 A. Jeep.

4 Q. Okay. An SUV-type vehicle?

5 A. Yes, ma'am.

6 Q. Okay. Who -- which door did you get into or which side

7 did you get in, passenger or driver's?

8 A. Passenger.

9 Q. Front or back?

10 A. Back -- I mean front.

11 Q. Okay. The front seat passenger.

12 Who got in the driver's seat?

13 A. Reynolds.

14 Q. By Reynolds are you referring to Justin --

15 A. Yes, ma'am.

16 Q. -- Reynolds.

17 What did you guys do once you got in the vehicle?

18 A. Left the complex.

19 Q. Okay. Did you return the vehicle to anybody?

20 A. No, ma'am.

21 Q. What did you do with the vehicle?

22 A. Burnt it up.

23 Q. Okay. How long did y'all keep it before you burned it

24 up?

25 A. Just -- we drove it to the spot down there.

1 Q. Okay. Did anybody else go with you, once you left?

2 A. Yes, ma'am.

3 Q. Who?

4 A. "Dre".

5 Q. Okay. Did he go in Josh's vehicle?

6 A. No, ma'am.

7 Q. How did he leave?

8 A. His vehicle.

9 Q. Okay. Where did he go with you guys?

10 A. Enoree.

11 Q. Okay. Is that where you left Josh's vehicle?

12 A. Yes, ma'am.

13 Q. Okay. Jason, I'm going to talk to you about previous
14 statements that you have made. Did you meet with law
15 enforcement after your arrest?

16 A. Yes -- no, ma'am -- yes, ma'am.

17 Q. Okay. Do you recall meeting with Chief Dawkins and two
18 other investigators?

19 A. Yes, ma'am.

20 Q. Okay. Where did you meet with them at?

21 A. At the county jail.

22 Q. Okay. When you met with them, did you give those
23 officers a written statement?

24 A. Yes, ma'am.

25 Q. Okay. In that written statement did you admit to any

1 part in the robbery?

2 A. No, ma'am.

3 Q. Did you admit to being present when Josh was shot?

4 A. Yes, ma'am.

5 Q. Did you admit to any involvement in it?

6 A. No, ma'am.

7 Q. Okay. Jason, you have also spoke with me and an
8 investigator and my victim advocate before, haven't you?

9 A. Yes, ma'am.

10 Q. And I believe your attorney was also present in that
11 meeting?

12 A. Yes, ma'am.

13 Q. When you were initially in there with me, did you admit
14 to any part of the armed robbery?

15 A. Yes, ma'am.

16 Q. At the very beginning did you?

17 A. No, ma'am.

18 Q. Okay. Did you eventually tell me about your
19 involvement in the armed robbery?

20 A. Yes, ma'am.

21 Q. Jason, why didn't you -- why -- why did you lie, for
22 lack of a better word, in your first written statement to
23 law enforcement and when you first met with me and people
24 from my office?

25 A. Scared.

1 Q. Okay.

2 MS. JORDAN: Your Honor, may I have a moment?

3 THE COURT: Yes, ma'am.

4 (Off the record)

5 (Back on the record)

6 BY MS. JORDAN:

7 Q. Jason, I'm going to skip back to something real quick.

8 When Josh was robbed and shot, was he robbed and shot
9 near his vehicle?

10 A. No, ma'am.

11 Q. Okay. And you stated that you had to run to his
12 vehicle?

13 A. Yes, ma'am.

14 Q. So he wasn't around it at the time that you robbed him?

15 A. No, ma'am.

16 Q. Okay. But who was around you and Josh at that time?

17 A. Reynolds.

18 Q. Reynolds. Okay.

19 Please answer any questions that Ms. Lyall may have.

20 THE COURT: Ms. Lyall, your witness.

21 MS. LYALL: Thank you, Your Honor.

22 THE COURT: Yes, ma'am.

23 CROSS EXAMINATION BY MS. LYALL:

24 Q. Mr. Tolison, you were also charged with the same
25 offenses that Mr. Reynolds was charged with?

1 A. Yes, ma'am.

2 Q. You were charged with armed robbery?

3 A. Yes, ma'am.

4 Q. Attempted murder?

5 A. Yes, ma'am.

6 Q. Kidnapping?

7 A. Yes, ma'am.

8 Q. And grand larceny?

9 A. Yes, ma'am.

10 Q. And you denied any involvement in these offenses
11 originally?

12 A. Yes, ma'am.

13 Q. And you were looking at a minimum of ten years and a
14 maximum of thirty years for armed robbery?

15 A. Yes, ma'am.

16 Q. You were looking at up to thirty years for attempted
17 murder?

18 A. Yes, ma'am.

19 Q. You were looking at up to thirty years for kidnapping?

20 A. Yes, ma'am.

21 Q. And you were looking at ten years for grand larceny?

22 A. Yes, ma'am.

23 MS. JORDAN: I object on that one, Your Honor. I
24 believe that the penalty is not a ten year sentence on that.
25 I believe it's under the five year provision.

1 THE COURT: All right.

2 BY MS. LYALL:

3 Q. Okay. So you were looking at five years for the grand
4 larceny?

5 A. Yes, ma'am.

6 Q. So you were looking at ninety-five years in prison?

7 A. Yes, ma'am.

8 Q. And while you were looking at this time and denying
9 your involvement you wrote a few letters to Stephanie Vaughn
10 from jail, is that correct?

11 A. Yes, ma'am.

12 Q. And in these letters you wrote a few things, such as "I
13 can't wait for this to be over with so I can come back home
14 to my little girl Tamila and my family. They need me out
15 there and miss me. You know what here all day and night."

16 A. Yes, ma'am.

17 Q. You also wrote things that "you know, it's all about to
18 end because I'm looking at life. And look at my little
19 girl, she just started talking and walking, and me, I don't
20 even know my little girl like that. Word, you know, your
21 babe, and you still got a chance out there to do right. You
22 still young. You've still got time. I don't know more my
23 little girl has did everything now. I miss everything."

24 MS. JORDAN: Your Honor, is she going to ask him a
25 question, or is she just testifying at this point?

1 MS. LYALL: I'm going to get to that, Your Honor.

2 THE COURT: Please do.

3 BY MS. LYALL:

4 Q. You said "about what I done miss out there, but I know
5 God is going to bless me with it all back." Is that also
6 true?

7 A. Yes, ma'am.

8 Q. And, finally, you stated to her "I'll do whatever it
9 take to get back to her because I love her."

10 A. Yes, ma'am.

11 Q. And you did do whatever it took?

12 A. Yes, ma'am.

13 Q. You are testifying here today?

14 A. Yes, ma'am.

15 Q. And you are not looking at life any more?

16 A. Yes, ma'am.

17 Q. You got fifteen years?

18 A. Yes, ma'am.

19 Q. Instead of ninety-five?

20 A. Yes, ma'am.

21 Q. Now, in your first statement to law enforcement you
22 told them that when y'all were all hanging out at Kelly
23 Acres that "Dre" came in, opens the door and walks the white
24 guy outside?

25 A. I didn't say that.

1 MS. LYALL: Your Honor, may I approach?

2 MS. JORDAN: Can he have a chance to review?

3 THE COURT: She's going to approach and show him,
4 I believe.

5 Go ahead, ma'am.

6 MS. LYALL: Thank you, Your Honor.

7 THE COURT: You may do so.

8 BY MS. LYALL:

9 Q. I'm going to show you your original statement from law
10 enforcement, if you would like to review the whole thing.
11 If not, you can review what I have underlined.

12 A. I didn't even write that. That ain't even my
13 handwriting.

14 Q. Is that your signature at the bottom?

15 A. That's my signature, but I didn't write that.

16 MS. JORDAN: Your Honor, I believe that was
17 written by an investigator.

18 THE COURT: I understand.

19 BY MS. LYALL:

20 Q. Did you sign this statement stating that this is your
21 statement to law enforcement?

22 A. I signed it.

23 Q. Under oath that this was your statement to law
24 enforcement?

25 A. That was my statement.

1 Q. Okay. And could you read this line?

2 A. I ain't -- I ain't said that.

3 Q. Under oath did you agree that that was your statement?

4 A. That's my statement.

5 Q. Okay. And in your statement did you say that "Dre"
6 opens the door and walks the white guy outside?

7 A. I never said that.

8 Q. Did you sign under oath that you said that?

9 A. Yeah.

10 Q. Yes?

11 A. Yes, ma'am.

12 Q. Okay. And you told Stephanie originally and the
13 prosecutors that "Krazy" hit Josh with the gun and the gun
14 went off?

15 A. Right. Yes, ma'am.

16 Q. Okay. Not that he shot him?

17 A. Yes, ma'am.

18 Q. And you dated Megan Margarita?

19 A. Stephanie -- both of them. I dated both of them, but I
20 was dating Stephanie at the time.

21 Q. You were dating Stephanie at the time this happened?

22 A. Yes, ma'am.

23 Q. And you continued to write her while you were in the
24 department -- you were in jail?

25 A. Yes, ma'am.

1 Q. Are you still talking to her now?

2 A. No, ma'am.

3 Q. But you continued dating her while you were in custody?

4 A. I stopped talking to her.

5 Q. But you continued writing her after this arrest?

6 A. No, ma'am.

7 MS. LYALL: Your Honor, may I approach the
8 witness?

9 THE COURT: You may.

10 BY MS. LYALL:

11 Q. Are these letters that you wrote to Stephanie?

12 A. Yeah, I wrote both of them. That was when I came to
13 jail, but afterwards I stopped writing.

14 Q. That was my question. Did you continue writing her
15 while you were in jail?

16 A. I was writing her the first part when I come to jail,
17 but then I stopped writing her.

18 Q. Okay. But after this happened in Kelly Acres you did
19 write Stephanie Vaughn? Y'all continued the relationship
20 for a little while you were in jail?

21 A. Yes, ma'am.

22 Q. And you had dated Megan Margarita?

23 A. Yes, ma'am.

24 Q. And you stated in your testimony that you were the one
25 that robbed Josh?

- 1 A. Yes, ma'am.
- 2 Q. You alone?
- 3 A. Yes, ma'am.
- 4 Q. But you said that you didn't take pills or money?
- 5 A. No, ma'am.
- 6 Q. What did you take?
- 7 A. His phone and keys.
- 8 Q. His phone and his keys?
- 9 A. (Shaking head yes).
- 10 Q. Is that yes?
- 11 A. Yes, ma'am.
- 12 Q. And that was the keys to his car?
- 13 A. Yes, ma'am.
- 14 Q. Okay. And his car was in the parking lot?
- 15 A. Yes, ma'am.
- 16 Q. And y'all were in the house -- between the two houses,
- 17 is that correct?
- 18 A. Yes, ma'am.
- 19 Q. And you wrote this first statement and said that you
- 20 stayed in the house the whole time?
- 21 A. Yes, ma'am.
- 22 Q. And then you met with prosecutors and said, again, you
- 23 had nothing to do with it?
- 24 A. Yes, ma'am.
- 25 Q. And then they offered you fifteen years instead of

1 ninety-five years and you are now saying that you did have
2 something to do with it and Justin Reynolds shot someone --
3 or hit him with a gun and the gun went off?

4 A. Yes, ma'am.

5 MS. LYALL: May I have a moment, Your Honor?

6 THE COURT: Yes, ma'am.

7 (Off the record)

8 (Back on the record)

9 BY MS. LYALL:

10 Q. Mr. Tolison, we went over the fact that you were
11 writing Stephanie these letters, correct?

12 A. Yes, ma'am.

13 Q. And I already showed you these letters and you said
14 that you had written them?

15 A. Yes, ma'am.

16 Q. And in this letter you said that -- you told Stephanie
17 that you wrote a statement and you said "I'm going to keep
18 it real because I love you," and that -- you told her that
19 you would say that she had nothing to do with it?

20 A. Yes, ma'am.

21 Q. You also threatened her -- called her and threatened
22 her to keep your name out of it?

23 A. Yes, ma'am.

24 Q. Is that because y'all are dating, protect each other?

25 A. Yes, ma'am.

1 Q. All right.

2 MS. LYALL: I have no other questions.

3 THE COURT: Redirect?

4 MS. JORDAN: Yes, sir.

5 THE COURT: You may.

6 REDIRECT EXAMINATION BY MS. JORDAN:

7 Q. Jason, how old is your daughter?

8 A. Two.

9 Q. How old do you think she will be when you get out?

10 A. Thirteen.

11 Q. So you are not expecting to walk out today, are you?

12 A. No, ma'am.

13 Q. Are you going to be around when your daughter starts
14 preschool?

15 A. No, ma'am.

16 Q. Are you going to be around when your daughter starts
17 elementary school?

18 A. Yes, ma'am.

19 Q. Are you going to be in her life on a day-to-day basis
20 when she goes to kindergarten?

21 A. No, ma'am.

22 Q. Are you going to be in her life when she probably
23 starts middle school?

24 A. Yes, ma'am.

25 Q. Where will you be during all this time period? Where

1 are you going at the end of all of this?

2 A. Prison.

3 Q. Okay. So you are not going to be around your daughter

4 for several years?

5 A. Yes, ma'am.

6 Q. And you know that?

7 A. Yes, ma'am.

8 Q. Okay. So your testimony today is not going to lead you

9 out the back door of this courthouse, is it?

10 A. No, ma'am.

11 Q. Who was with you, again, when you robbed Josh

12 Barrineau?

13 A. Reynolds.

14 Q. You got speak clearer for me.

15 A. Reynolds.

16 Q. Okay. Was Stephanie outside with you and your brother?

17 A. No, ma'am.

18 Q. Was Stephanie out there when he was shot?

19 A. No, ma'am.

20 Q. Who was the only person that night that had a gun?

21 A. Reynolds.

22 Q. How old are you?

23 A. Twenty.

24 Q. And you are going to receive a fifteen year sentence --

25 A. Yes, ma'am.

1 Q. -- for your cooperation?

2 A. Yes, ma'am.

3 Q. Okay. So you are going to spend a good chunk of your
4 life in the Department of Corrections?

5 A. Yes, ma'am.

6 Q. For your involvement in what happened the early morning
7 hours of April 8th?

8 A. Yes, ma'am.

9 MS. JORDAN: Nothing further.

10 THE COURT: Anything further?

11 MS. LYALL: No, Your Honor.

12 THE COURT: You may step down.

13 The State may call its next witness.

14 MS. JORDAN: The State calls Josh Barrineau.

15 THE COURT: Please come forward.

16 JOSHUA BARRINEAU, having been first duly sworn,
17 testified as follows:

18 THE COURT: All right. State your name, please,
19 sir.

20 THE WITNESS: My name is Josh Barrineau.

21 THE COURT: Thank you.

22 I would ask that you try to speak up. You don't
23 have the microphone available, so that everyone can hear
24 you.

25 Your witness.

1 MS. JORDAN: Thank you.

2 DIRECT EXAMINATION BY MS. JORDAN:

3 Q. Josh, could you tell me how old you are?

4 A. Thirty years old.

5 Q. What is your date of birth?

6 A. [REDACTED].

7 Q. How far did you go in school?

8 A. 10th.

9 Q. Did you get your GED or high school diploma?

10 A. No, ma'am.

11 Q. Going back to the evening of April 7th, 2012, where
12 were you at that evening?

13 A. I was on my way home.

14 Q. By home what do you mean?

15 A. On the way to my mom's.

16 Q. Okay. Is that your mom and your dad's home?

17 A. Yes.

18 Q. Where do they live?

19 A. Enoree.

20 Q. Okay.

21 A. My dad is the pastor at Enoree Church of God.

22 Q. Okay. Why were you going to their house that night?

23 A. Because I was going home to get ready and go for Easter
24 morning church.

25 Q. Okay. Did you stay at your parents' house that night?

1 A. No.

2 Q. Where did you -- why did you leave?

3 A. Because I had a phone call. "Dre" called me.

4 Q. Okay. Who is "Dre"?

5 A. Andre.

6 Q. How do you know him?

7 A. We partied together, hung out with girls.

8 Q. And tell the court what you -- or tell the jury what
9 you mean when you say you partied together.

10 A. We done drugs, drank and partied and sold drugs.

11 Q. Okay. Once "Dre" called you what did you do?

12 A. He told me, he said "I got some beer and two girls that
13 want to meet you," and said "can I give them your phone
14 number?" And I said yeah, so he gave them my phone number
15 and they called me and I went over there.

16 Q. Okay. Had you ever been -- did you know these two
17 girls before?

18 A. No.

19 Q. Had you ever met them prior to that night?

20 A. No, ma'am.

21 Q. When you went over there, was it -- do you recall if it
22 was before or after midnight?

23 A. It was after midnight.

24 Q. Okay. So was it light or dark outside?

25 A. It was dark.

1 Q. Okay. What address did you go to?

2 A. Woody -- the first time I went to the first road, which
3 was wrong. The girl must have seen me and she called the
4 phone and she said come down to the next road.

5 Q. Okay. When you got there what did you do?

6 A. I went in. She told me to come in. I wasn't going in.
7 I told her I didn't want to come in --

8 Q. Okay.

9 A. -- and she told me to come in.

10 Q. Okay. When you --

11 A. That was Stephanie.

12 Q. Okay. When you got inside, who was inside?

13 A. Stephanie and Megan.

14 Q. Were there any -- was Andre there?

15 A. No.

16 Q. Were there any men in the apartment at that time?

17 A. No, ma'am.

18 Q. Okay. Let me ask you this. Prior to that, or those
19 early morning hours of April the 8th, had you ever met
20 Justin Reynolds before?

21 A. No, ma'am.

22 Q. Had you ever met Marquise Duncan before?

23 A. No, ma'am.

24 Q. Had you ever met Jason Tolison before?

25 A. No, ma'am.

1 Q. Okay. So is it safe to say out of that entire group,
2 the only person that you knew was Andre Scott?

3 A. Yes, ma'am.

4 Q. And how long had you been known him?

5 A. Probably about a year or two.

6 Q. Okay. I'm going to take you back to -- tell me how you
7 got to Kelly Acres.

8 A. I drove my truck.

9 Q. Tell the jury a little bit about what your vehicle was.

10 A. I had a 2001 Chevy Extreme, sitting on 20's, windows
11 tinted. A nice vehicle.

12 Q. Okay. What do you mean by sitting on 20's?

13 A. Chrome rims.

14 Q. Okay. How much -- how long had you owned that vehicle?

15 A. Probably three or four months.

16 Q. Okay. How much did you pay for it?

17 A. I just paid 2,500 down on it and was making payments.

18 Q. Do you recall how much the payments were?

19 A. They were like 300, 380.

20 Q. Okay. How often?

21 A. Every month.

22 Q. Okay. Josh, when you went to Kelly Acres did you have
23 use of your arms?

24 A. Yeah, I was normal.

25 Q. Did you have use of your legs?

- 1 A. Yes, ma'am.
- 2 Q. Okay. Once you into the apartment what did you do?
- 3 A. I just talked to them, sitting there and chilling and
- 4 trying to call "Dre" to find out where he was, because he
- 5 was supposed to be over there with some beer and we was
- 6 going to chill out.
- 7 Q. Were you ever able to get "Dre"?
- 8 A. Every time I called him it went straight to voicemail.
- 9 Q. Okay.
- 10 A. And the girls was telling me "well, I just talked to
- 11 him. He's on his way. He's on his way."
- 12 Q. Okay. When -- did you have any -- did you have any
- 13 drugs on you that night?
- 14 A. Yes, ma'am.
- 15 Q. What did you have?
- 16 A. I had pills, crack cocaine.
- 17 Q. What did you have them in?
- 18 A. A pill bottle.
- 19 Q. What did the pill bottle look like?
- 20 A. It was wrapped in black electrical tape.
- 21 Q. Okay. And you know it's wrong to have those drugs?
- 22 A. Yeah.
- 23 Q. Do you know it's also wrong to sell those drugs?
- 24 A. Yes, ma'am.
- 25 Q. Okay. And you said you had a cell phone on you that

1 night?

2 A. Yes, ma'am.

3 Q. Did you also have keys?

4 A. Yes, ma'am.

5 Q. Did you have any money?

6 A. I had about 280 bucks.

7 Q. Okay. What was the lighting like inside the apartment?

8 A. A lamp.

9 Q. Okay. How long do you think that you were inside the
10 apartment with the girls?

11 A. Maybe an hour.

12 Q. Okay. Did you -- did you have any sort of weapon on
13 you that night?

14 A. No, ma'am.

15 Q. Did you have a gun?

16 A. No, ma'am.

17 Q. Did you have a knife?

18 A. No, ma'am.

19 Q. Okay. Did you at some point in time tell one of the
20 girls that you did have a gun?

21 A. On the phone I told them that I had had a gun and I
22 didn't want no trouble, you know, over there.

23 Q. Okay. Tell me what happened with the doors while you
24 were there.

25 A. Well, I was sitting down on the couch and I had asked

1 one of the girls for a cigarette. She gave me a cigarette
2 and we was sitting there talking and smoking a cigarette and
3 somebody beat on the door.

4 Q. Which door?

5 A. The front door.

6 Q. Okay. What happened?

7 A. And I opened up the door and nobody was there, so we
8 shut the door back. And she said some kid has been doing it
9 all day long, messing with it, knocking on the door and
10 trying to run in and out.

11 And I sit back down and I pulled my pill bottle out and
12 scattered my pills, and it happened again. Somebody banged
13 on the door. And when I went to open up the front door
14 somebody grabbed me from behind and put a gun to the back of
15 my head.

16 Q. When they -- when you say they grabbed you from behind,
17 how did they grab you?

18 A. Just grabbed me where I couldn't move and put a gun to
19 the back of my head and said "you are in the wrong hood now,
20 ain't you, nigger? You are not wrong hood now, ain't you,"
21 and walked me out to the side of the apartments.

22 And I was telling them "don't kill me," you know, "I
23 will give you anything you want." And they made me turn my
24 pockets inside out like that. They got my phone, my keys,
25 my dope and my wallet and my -- everything I had, and took

1 my shoes off to see if they fit and they didn't fit, so they
2 left them there.

3 And I laid down on the -- told me to lay down, and I
4 laid down. And the way I was laying down, I was laying down
5 on the hill and I seen a black figure sitting on the back
6 porch, just sitting there. And when the guy that robbed me
7 went and got in my truck, that black figure that was sitting
8 on the back porch come over there and took me and shot me in
9 the back of the neck. And once he shot me, I couldn't move
10 anything.

11 Q. Okay. This person who was seated over there, were you
12 able to look at him this entire time?

13 A. The whole time I got to see him walk to me and
14 everything, because of the way I was laying I was on a hill.

15 Q. Okay. What was the lighting like in that area outside
16 of the apartment?

17 A. Just your normal street lights and porch lights.

18 Q. Okay. Was -- were there any light from the moon that
19 night?

20 A. It was a full moon.

21 Q. So you had a chance to observe that person's face?

22 A. Yes, ma'am.

23 Q. When they were -- when you were being -- when you were
24 being robbed, did you resist in any way?

25 A. No, I didn't at all.

1 Q. Did you say anything to them?

2 A. I told them "don't kill me. I have kids."

3 Q. Okay. What were you wearing that night?

4 A. A red shirt and blue jeans and black boots.

5 Q. Okay. Did you also have a hat on?

6 A. Yeah, I had a black hat on.

7 Q. Josh, I'm going to show you what will soon be marked as
8 State's Exhibit No. 9.

9 (Boots marked as State's Exhibit No. 9 for
10 identification)

11 BY MS. JORDAN:

12 Q. Josh, I'm going to show you what's inside State's
13 Exhibit No. 9 and ask if you recognize those?

14 A. Those are my boots.

15 MS. JORDAN: Your Honor, at this point we move to
16 admit State's No. 9 into evidence.

17 THE COURT: Any objection?

18 MS. LYALL: No, Your Honor.

19 THE COURT: Without objection, it will be admitted
20 into evidence as marked.

21 (Whereupon, State's Exhibit No. 9 was entered into
22 the record as evidence)

23 MS. JORDAN: May I show them to the jury?

24 THE COURT: Yes, you may.

25 BY MS. JORDAN:

1 Q. Are these the shoes that you were wearing that night?

2 A. Yes, ma'am.

3 Q. Did they remain on your feet?

4 A. No, ma'am.

5 Q. Once you were shot, what happened?

6 A. I couldn't move.

7 Q. Did you hear anything that sounded familiar to you, as
8 far as your vehicle?

9 A. Yeah, I heard my vehicle take off.

10 Q. Okay. How close in time was that, can you approximate,
11 to the time that you were shot?

12 A. Right after I was shot I heard the vehicle take off.

13 Q. Okay. Josh, what is the next thing that you remember?

14 A. Waking up in the ICU.

15 Q. Okay. Did anybody come out and immediately help you?

16 A. No.

17 Q. Do you recall someone coming out and helping you when
18 it was light out?

19 A. No.

20 Q. Okay. When you woke up in ICU were you able to move?

21 A. No.

22 Q. On April the 19th did you get a visit from Officer
23 Dawkins with the Woodruff Police Department?

24 A. Yes, ma'am.

25 Q. Let me ask you a little bit about the ICU room. Which

1 hospital were you at?

2 A. Spartanburg Regional.

3 Q. Okay. Is there a television in there that's hooked up
4 to the news or cable?

5 A. No, ma'am.

6 Q. Okay. Prior to meeting with Officer Dawkins, did you
7 see any photographs of anyone involved in this case?

8 A. No, ma'am.

9 Q. Okay. When Officer Dawkins came to your room, were you
10 able to speak?

11 A. No, ma'am.

12 Q. Why?

13 A. Because I had a trach and I couldn't speak for six
14 months.

15 Q. Okay. How did you communicate with your family and
16 your doctors, or anyone?

17 A. They would read my lips, or nods, or clicks.

18 Q. Okay. And let me just ask you this. What movement do
19 you have in your body right now?

20 A. My shoulders and my neck.

21 Q. Okay. How long did you spend in the hospital?

22 A. Six months.

23 Q. Okay. Were you presented with lineups by Officer
24 Dawkins while you were at the hospital?

25 A. Yes, ma'am.

1 Q. How many did you look at?

2 A. Three papers.

3 Q. Okay. Did you look at all three of those papers at one
4 time, or individually?

5 A. One at a time.

6 Q. Okay. When you looked at these photographs, how many
7 were in each lineup?

8 A. It was a page of six.

9 Q. Okay. How -- when those were -- when the lineups were
10 shown to you, was anything handwritten on them?

11 A. No, ma'am.

12 Q. Okay. I'm going to show you -- I'm going to start with
13 State's Exhibit No. 6.

14 Josh, was State's Exhibit No. 6 shown to you?

15 A. Yes, ma'am.

16 Q. Who showed this to you?

17 A. The police.

18 Q. Okay. When it was shown to you, who was in the
19 hospital room with you?

20 A. My wife.

21 Q. Okay. Are you and your -- were you and your wife
22 together at that time?

23 A. No, we were separated.

24 Q. Okay. What's her name?

25 A. Tiffany Barrineau.

1 Q. Okay. When the officer showed you that lineup, did
2 he -- did he specifically tell you who to pick out?

3 A. No, ma'am.

4 Q. Okay. How did he show the lineup to you?

5 A. He asked me did I know him, or that's him, or -- yeah,
6 whatever -- or whatever. If I know them, I would tell him
7 uh-huh or uh-uh.

8 Q. And you are shaking your head, so is that how you told
9 the officer yes or no?

10 A. Barely. I barely could shake my head.

11 Q. Okay. And you knew Andre Scott prior to April the 8th
12 of 2012?

13 A. Yeah, he was supposed to be my home boy.

14 Q. Do you recognize State's Exhibit No. 6?

15 A. Yeah, that's Andre.

16 MS. JORDAN: Your Honor, at this point in time I
17 would move to admit State's Exhibit 6 into evidence.

18 THE COURT: Subject to prior objections?

19 MS. LYALL: Yes, Your Honor.

20 THE COURT: Any other objections?

21 MS. LYALL: No, sir, same objection.

22 THE COURT: It would be admitted as marked.

23 (Whereupon, State's Exhibit 6 was entered into the
24 record as evidence)

25 BY MS. JORDAN:

1 Q. Did you identify an individual in this lineup?

2 A. Yeah, Andre.

3 Q. Is that person circled?

4 A. Yes.

5 Q. Who did the circling of that?

6 A. Chief Dawkins.

7 Q. Is there some handwritten notes at the very top?

8 A. Yes, ma'am.

9 Q. When you were shown this to pick someone out, were
10 those notes there?

11 A. No, ma'am.

12 Q. Did Chief Dawkins also show you what's been marked as
13 State's Exhibit No. 7?

14 A. Yes, ma'am.

15 Q. Did he ask you if you could identify anybody in this
16 one?

17 A. Yes, ma'am.

18 Q. Okay.

19 MS. JORDAN: Your Honor, at this point in time we
20 move to admit State's 7 into evidence.

21 THE COURT: Same objections?

22 MS. LYALL: Yes, Your Honor.

23 THE COURT: All right, it will be admitted as
24 marked.

25 (Whereupon, State's Exhibit No. 7 was entered into

1 the record as evidence)

2 BY MS. JORDAN:

3 Q. What did the chief ask you in regards to this lineup?

4 A. Do I know this person, do I know this person, do I know
5 this person.

6 Q. Okay. Did you pick someone out?

7 A. Yes, ma'am.

8 Q. Is the person circled that you picked out?

9 A. Yes, ma'am.

10 Q. How long have you known this person before April the
11 8th?

12 A. Never met her until that night.

13 Q. Okay. I'm going to show you now what's been marked as
14 State's Exhibit No. 8 and ask if you recognize this?

15 Is this a lineup shown to you on April the 19th, 2012?

16 A. Yes, ma'am.

17 Q. Was it shown to you by Chief Dawkins?

18 A. Yes, ma'am.

19 Q. Was there any writing on it at the time that it was
20 shown to you?

21 A. No, ma'am.

22 MS. JORDAN: Your Honor, the State at this time
23 moves to admit State's No. 8 into evidence.

24 THE COURT: Again, subject to prior objections?

25 MS. LYALL: Yes, Your Honor.

1 THE COURT: It will be admitted as marked.

2 (Whereupon, State's Exhibit No. 8 was entered into
3 the record as evidence)

4 BY MS. JORDAN:

5 Q. Josh, when you were shown State's Exhibit No. 8, what
6 did the chief ask you?

7 A. "Do you know this one? Do you know this one? Do you
8 know this one?" And one that I know I said you "uh-huh."

9 Q. And where did you know this person from?

10 A. One that shot me. That's "Krazy".

11 Q. Is the person circled the person that you indicated to
12 Chief Dawkins?

13 A. Yes, ma'am.

14 Q. And just to get clarification, was there any
15 handwritten notification on there at the time that you
16 picked the person?

17 A. No, ma'am.

18 Q. Were you -- did anybody suggest to you who to pick in
19 either of these three lineups?

20 A. No, ma'am.

21 Q. Did anybody suggest a particular person in any of the
22 lineups?

23 A. No, ma'am.

24 Q. Did your estranged wife suggest to you anybody to pick
25 out?

1 A. No, ma'am.

2 Q. Josh, do you see the person here in the courtroom today
3 that shot you?

4 A. Yes, ma'am.

5 Q. Could you tell me where he is?

6 A. Right over there to my right.

7 Q. Okay. Is he --

8 A. Beside the blond wearing the blue shirt.

9 Q. Okay.

10 MS. JORDAN: If the record could reflect he's
11 pointing -- or he's acknowledged the defendant.

12 THE COURT: It would so reflect.

13 You may proceed.

14 BY MS. JORDAN:

15 Q. Josh, who cares for you now?

16 A. My parents.

17 Q. Okay.

18 MS. JORDAN: Your Honor, may I have a moment?

19 THE COURT: You may.

20 (Off the record)

21 (Back on the record)

22 BY MS. JORDAN:

23 Q. Josh, when you were out there, the person who you
24 identified as the defendant, how close was he to you when
25 you were shot?

1 A. Right up on me.

2 Q. Did you --

3 A. Point blank.

4 Q. Did you get a chance to see his face?

5 A. Uh-huh.

6 Q. Did you get a chance to see his eyes?

7 A. Uh-huh.

8 Q. His nose?

9 A. Yes.

10 Q. His forehead?

11 A. That's how I picked him out of the lineup. His eyes
12 far apart and his big nose and he was ugly.

13 Q. Did you --

14 I have no further questions for you at this time.

15 Please answer any questions that Ms. Lyall may have.

16 THE COURT: Your witness, Ms. Lyall.

17 MS. LYALL: Thank you, Your Honor.

18 THE COURT: Yes, ma'am.

19 CROSS EXAMINATION BY MS. LYALL:

20 Q. Josh, when you went over to the house that night, you
21 said that Andre called you?

22 A. (Shaking head yes).

23 Q. Is that a yes?

24 A. Yes, ma'am.

25 Q. Thank you. I'm sorry, you have to speak out loud.

1 And you had known him for, you said, about a year at
2 that time?

3 A. About a year or two.

4 Q. A year or two years?

5 A. Uh-huh.

6 Q. And you were coming over to hang out with some girls
7 and to sell drugs?

8 A. No, just coming to hang out and drink, chill with the
9 girls. That's what we normally done.

10 Q. Okay. And you brought drugs with you?

11 A. Yeah, I always had drugs on me.

12 Q. Okay. And when you got over there, you offered to sell
13 drugs?

14 A. No. I just asked if anybody wanted anything. Nobody
15 wanted any pills.

16 Q. So you were going to give away drugs then?

17 A. No. I just asked did anybody -- she know anybody that
18 wanted to buy some pills.

19 Q. Okay. So you were offering to sell drugs?

20 A. Yes.

21 Q. Okay. And that was, you said, crack cocaine and pills?

22 A. I had crack, pills, and cocaine.

23 Q. Okay. Crack cocaine and regular cocaine?

24 A. Uh-huh.

25 Q. Okay. And once you got there you said that there was

1 just two females in the apartment?

2 A. Sure.

3 Q. And that was Stephanie Vaughn and Megan Margarita?

4 A. Yes, ma'am.

5 Q. And you didn't see any males in the actual apartment?

6 A. No, ma'am.

7 Q. And you -- before this night, or even to this day, you
8 don't know Justin Reynolds or Jason Tolison?

9 A. No, ma'am.

10 Q. And you said at some point in the night someone grabbed
11 you from behind where you couldn't move with a gun to the
12 head and it was a male, or you think it was a male?

13 A. I know it was a male.

14 Q. Okay. But you couldn't see the person? You couldn't
15 distinguish who it was?

16 A. I had seen the person when they started robbing me.

17 Q. And you said that the person robbing you was Jason
18 Tolison?

19 A. Uh-huh.

20 Q. So you would assume that the person that pulled you
21 outside was Jason Tolison?

22 A. That's who pulled me outside.

23 Q. Okay. So the person that grabbed you from inside the
24 house was Jason Tolison?

25 A. And then he robbed me.

1 Q. Okay. So you didn't know that the person that grabbed
2 you from inside at the time was Jason Tolison?

3 A. Not until he started robbing me.

4 Q. Okay. But now you think it was Jason Tolison?

5 A. I know it was him because he started robbing me.

6 Q. Okay. And once you got outside, y'all went -- Jason,
7 Tolison took you between two complexes? They are like
8 duplexes?

9 A. Yeah, he took me outside the apartments.

10 Q. Okay. The two apartments, they are like little
11 house-type things?

12 A. Yes.

13 Q. And it's pretty dark out there, right?

14 A. No, it was full moon, and you got street lights, and,
15 you know, porch lights. Just like any apartment complex,
16 that's not going to be pitch dark.

17 Q. Okay. And --

18 MS. LYALL: Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 BY MS. LYALL:

22 Q. I'm showing you what's been previously marked as
23 State's Exhibits 1 through 5. Are these pictures of where
24 you were between the two apartments?

25 A. Uh-huh.

1 Q. And they look like two little houses?

2 A. Yes, ma'am.

3 Q. And would it be fair to say that this area is very
4 shaded by trees?

5 A. Yeah, it's shaded from the apartment, not the trees.

6 Q. Can you see trees heavily over this area?

7 A. Yeah, in front.

8 Q. The trees are shaded over the area where you were?

9 A. That's the apartment shaded right there.

10 Q. And a large tree over it?

11 A. Yeah, off in the back.

12 Q. And could you point in this picture where any street
13 lights are near this area?

14 A. No, I can't point. I'm quadriplegic.

15 Q. I'm sorry, can you acknowledge if you see any street
16 lights in this area?

17 A. No, I don't see no street lights.

18 Q. Okay. And --

19 A. But I see right there my boots right there are pretty
20 lit up, but you can try and go by --

21 Q. Well, this would be daylight, but can you acknowledge
22 if you see any street lights anywhere in this area?

23 A. No, but everybody knows any complex, apartment complex,
24 is not going to be pitch dark. You have porch lights and
25 you have street lights.

1 Q. Well, we are talking about this complex in the direct
2 area where you were.

3 A. I'm talking about that complex too.

4 Q. I just want to know if you could see any street lights
5 in this area?

6 A. No, not right there I don't.

7 Q. And that's where you were?

8 A. Yeah, but you can turn the camera around right around
9 to the right or the road and there is your street lights
10 where the road is that goes by the apartments.

11 Q. And do you see any porch lights on these houses?

12 A. I can't see that. I can't see that.

13 Q. No?

14 A. I can't see it. I know there is porch lights there
15 because they were there.

16 Q. Okay.

17 A. Do you know of any apartments that does not have porch
18 lights?

19 Q. I'm talking about these specifically that where you
20 were found.

21 So you say that you had never seen Justin Reynolds
22 before and that it was at night, is that correct?

23 A. That's right.

24 Q. And as we can see from the pictures, there are no
25 street lights?

1 A. From your pictures, yeah, there is none.

2 Q. From the State's pictures.

3 A. Yeah.

4 Q. There are no lights from the buildings, and it's
5 heavily shaded by trees?

6 A. Uh-huh.

7 Q. Is that correct?

8 A. Yes, ma'am.

9 Q. And you say that Justin Tolison is the one that grabbed
10 you from -- Jason Tolison is the one that grabbed you from
11 inside and was robbing you?

12 A. That's correct.

13 While I was laying on my side I seen "Krazy", which is
14 Justin Tolison (sic), sitting on the back porch. And after
15 his brother jumped in my car he walks over and shoots me and
16 then jumps in my car.

17 Q. You also stated that when Jason Tolison was robbing
18 you, that he got you down on your stomach?

19 A. No, I never said that.

20 Q. You said that --

21 A. I was laid down -- when I was laid down, I was laid
22 down on my side, because I was on an embankment like.

23 Q. You said that you were put down on the ground.

24 A. Yeah, on the back.

25 Q. You were on your back?

1 A. I was on my back, but I was on the side on a hill.

2 Q. You were on your back, but someone managed to shoot you
3 in your back?

4 A. I was on the side of a hill, so I was on my side.

5 Q. So someone came over and managed to get around on your
6 side and shoot you down on your side?

7 A. Yeah.

8 Q. Okay.

9 A. I wouldn't be here if they didn't. I would be able to
10 hug my kids if they didn't. I would be able to hug my
11 momma. I would be able to be as normal like you if they
12 didn't.

13 Q. Now, you also stated a few moments ago that after you
14 were shot, you didn't hear anything, is that correct? And
15 the next thing that you knew that you woke up in the ICU?

16 A. I heard my car take off.

17 Q. You heard your car take off and you woke up in the ICU?

18 A. Yes.

19 Q. Do you remember talking to an investigator from the
20 solicitor's office, Investigator Rick Gregory, April 18th of
21 this year and you gave him a statement?

22 A. When?

23 Q. April 18th of this year.

24 A. After I got out of the hospital?

25 Q. Yes.

1 A. Yeah.

2 Q. Do you remember telling him that you stated that you
3 heard "Dre's" voice and the females talking, but you
4 couldn't make out what they were saying?

5 A. Yes.

6 Q. So you did hear stuff after it happened?

7 A. Yeah.

8 Q. And you heard "Dre" and females outside?

9 A. Yes. And I was trying to holler and I couldn't holler.
10 I couldn't say nothing. I couldn't move.

11 Q. Now, you have also been convicted of petit larceny and
12 obtaining property by false pretenses?

13 A. Yes.

14 Q. And that was in 2010?

15 A. Yeah. I'm no angel --

16 Q. Okay.

17 A. -- but I didn't deserve this. I didn't deserve this.
18 I don't think nobody deserves this. I would have rather
19 been dead --

20 MS. LYALL: One moment, Your Honor.

21 A. -- than be like this.

22 (Off the record)

23 (Back on the record)

24 THE WITNESS: Can I say something?

25 THE COURT: Sir, you have to be responsive to

1 questions. There wasn't any questions asked. Thank you.

2 (Off the record)

3 (Back on the record)

4 MS. LYALL: I have no other questions at this
5 time, Your Honor.

6 THE COURT: Ms. Jordan, redirect?

7 MS. JORDAN: No, sir.

8 THE COURT: You may move down, sir.

9 MS. JORDAN: Your Honor, may we have just a brief
10 break at this time.

11 THE COURT: We will.

12 All right. We will be in recess for a short
13 period of time.

14 As always when you leave the courtroom, I'll ask
15 you not to discuss anything about this case until such time
16 as I have asked you to begin your deliberations.

17 You may retire to the jury room.

18 (The following takes place outside the presence of
19 the jury panel)

20 THE COURT: All right, this court would be in
21 recess for about ten to fifteen minutes.

22 (Whereupon, proceedings were recessed)

23 (Whereupon, proceedings were reconvened)

24 THE COURT: Is the State ready to proceed?

25 MS. JORDAN: Yes, sir, Your Honor, if I could have

1 a moment to locate something.

2 THE COURT: Okay.

3 Defense ready?

4 MS. LYALL: Yes, Your Honor.

5 THE COURT: Let me know when you are ready, Ms.

6 Jordan.

7 (Off the record)

8 (Back on the record)

9 MS. JORDAN: Judge, could I also just inform the
10 court that it's going a lot faster than I had anticipated.
11 I have a witness who's a doctor over at Spartanburg Regional
12 Medical Center that I intend to call. He's in surgery this
13 morning and won't be available until about 2:30 this
14 afternoon.

15 THE COURT: Okay.

16 MS. JORDAN: I just want to make the court aware
17 of that.

18 I also have a witness, Tiffany Barrineau, whom we
19 heard briefly from yesterday. She doesn't have a car and so
20 we have had people in our office drive up to Oconee County
21 to get her. She is also not back yet, so there may be two
22 witnesses that I may need call after lunch, if she is not
23 back by --

24 THE COURT: That would be fine.

25 Do you have a witness now?

1 MS. JORDAN: Yes, sir.

2 THE COURT: Okay.

3 MS. JORDAN: I have a few more to go.

4 THE COURT: Let's go ahead and take those now.

5 MS. JORDAN: Okay.

6 THE COURT: That's fine. Thank you for the
7 information.

8 Are you ready?

9 MS. JORDAN: Yes, sir.

10 THE COURT: Bring the judge in.

11 (The following takes place in the presence of the
12 jury panel)

13 THE COURT: The record will reflect that the jury
14 has returned to the courtroom.

15 At this time the State may call its next witness.

16 MS. JORDAN: Thank you, Your Honor.

17 The State calls Investigator Robert Talanges.

18 THE COURT: Come forward, sir, to my left and be
19 sworn.

20 INVESTIGATOR ROBERT TALANGES, having been first
21 duly sworn, testified as follows:

22 THE CLERK: You may be seated.

23 THE COURT: Be seated, sir.

24 Once you are seated, state your name, please.

25 THE WITNESS: Robert Charles Talanges.

1 THE COURT: Thank you.

2 Your witness, counsel.

3 MS. JORDAN: Thank you.

4 DIRECT EXAMINATION BY MS. JORDAN:

5 Q. Where are you employed?

6 A. Spartanburg County Sheriff's Office.

7 Q. What is your current position there?

8 A. I work for the forensics ID division with the sheriff's
9 office.

10 Q. How long have you been employed as a police officer?

11 A. Just over twenty-four years.

12 Q. What are some of the various titles or departments that
13 you have worked in in that career?

14 A. First of all I started off with the City of Woodruff
15 for about a year and ten months. I went from there to the
16 City of Spartanburg, where I was a patrol officer. Then I
17 went to become an AFIS operator/crime scene investigator.

18 Q. Could you just take a moment right there and explain to
19 the jury what AFIS stands for?

20 A. Automated Fingerprint Identification System. It's --
21 any latent prints that are lifted off at a scene or an
22 object that can be run through or has enough minutia points
23 to be identified through the computer system. That's the
24 database that's out there.

25 Q. And I apologize. If you could continue telling them

1 now?

2 A. From the City of Spartanburg I went to Spartanburg
3 County, where I'm presently employed at right now.

4 Q. How long have you been at Spartanburg County?

5 A. Almost ten years.

6 Q. Okay. How long have you been in the ID department?

7 A. I started out doing crime scene back in 1997.

8 Q. Okay. Could you tell the jury what an agency assist
9 is?

10 A. Agency assist is any other agency, other than the home
11 agency, which is Spartanburg County, which would be
12 Woodruff, Wellford, Inman, and any other municipality that
13 needs our assistance or our expertise.

14 Q. Okay. Did you -- were you working back on April the
15 8th of 2012?

16 A. Yes, I was.

17 Q. Did you have an occasion to assist some officers from
18 Woodruff?

19 A. Yeah, we did respond to that call.

20 Q. Okay. Where did you respond?

21 A. It's Kelly Acre Apartments off of Kelly Road.

22 Q. Okay. And what county is that in?

23 A. That's Spartanburg County.

24 Q. When you arrived, who was there?

25 A. Woodruff Police Department was there. They had the

1 scene already secured, taped off with evidence tape and --
2 myself actually.

3 Q. Was the victim, Joshua Barrineau, still on the scene
4 when you arrived?

5 A. No, ma'am.

6 Q. Okay. What did you do when you arrived?

7 A. First of all, upon arrival, the first thing we do is we
8 photo document the scene, document 360 and any physical
9 evidence that we see.

10 Q. And what time did you arrive, roughly?

11 A. Early morning.

12 Q. Okay.

13 A. Daylight hours.

14 Q. Okay. Do you recall what the ground looked like in
15 that area that morning?

16 A. The location that was between unit number 207 and 209,
17 there is a little -- two separate buildings. They're
18 duplexes. Behind that you got an open grass area. Towards
19 the fence line and to the far back there is a wood line
20 area.

21 Q. Okay.

22 A. It's a grassy knoll area.

23 Q. When you arrived there, what did you notice in that
24 area?

25 A. I just -- other than being taped off, you had items

1 that were laying on the physical ground, which were, of
2 course, black boots, a ball cap, and a red shirt.

3 Q. Okay. Did you collect any of those items as part of
4 your agency assist out there that day?

5 A. Everything that was evidence marked and photographed
6 and collected, that's correct.

7 Q. And so what's already been marked and admitted as
8 State's Exhibit No. 9, did you collect those from the scene
9 that day?

10 A. Yes, I did.

11 Q. I'm going to show you what will soon be marked as
12 State's Exhibit No. 10 and 11 and ask if you could identify
13 those?

14 (Chicago Bulls Ball Cap marked as State's Exhibit
15 No. 10 for identification0.

16 (Red Shirt marked as State's Exhibit No. 11 for
17 identification).

18 A. This is a red baseball cap, Chicago Bulls.

19 This is a red shirt that was cut off by EMS. I forget
20 what the -- there was some kind of writing on it, but this
21 was also collected there.

22 BY MS. JORDAN:

23 Q. And I'm going to ask, if I could, if Officer Bishop
24 could pass the knife to you, if you don't have one, so you
25 could open that?

1 Now I'm just going to ask you if you can look in there
2 and see if that item that's inside there is the item
3 reflected on the outside?

4 A. Yes.

5 Q. Where did you collect this item from?

6 A. That was on the ground behind the building at 207, 209
7 area.

8 Q. Okay.

9 MS. JORDAN: Your Honor, at this time we move to
10 admit State's Exhibit No. 10, which is the Chicago Bulls
11 hat.

12 THE COURT: Any objection?

13 MS. LYALL: No, Your Honor.

14 THE COURT: Without objection it would be admitted
15 into evidence as marked.

16 (Whereupon, State's Exhibit No. 10 was entered
17 into the record as evidence)

18 THE COURT: You may proceed.

19 MS. JORDAN: Thank you.

20 BY MS. JORDAN:

21 Q. If you will do the same thing with State's Exhibit 11.

22 If you will just look inside and see if that item
23 inside the bag is the item that was marked on the outside?

24 A. It's going to be the red shirt.

25 Q. And where did you collect that shirt from?

1 A. The same location, not too far from the ball cap.

2 Q. Okay.

3 MS. JORDAN: Your Honor, at this time we move to
4 admit State's No. 11, the red shirt, into evidence.

5 THE COURT: Any objection?

6 MS. LYALL: No, Your Honor.

7 THE COURT: Without objection it will be admitted
8 into evidence as marked.

9 (Whereupon, State's Exhibit No. 11 was entered
10 into the record as evidence)

11 THE COURT: You may proceed.

12 MS. JORDAN: Thank you.

13 BY MS. JORDAN:

14 Q. Did you -- you stated that you also photographed the
15 area?

16 A. Yes, ma'am.

17 Q. Okay. I'm going on show you what's already been marked
18 and admitted as State's Exhibit No. 1 through 5 and ask if
19 you recognize those?

20 A. Yes, ma'am.

21 Q. Okay.

22 A. Yes, ma'am, these are photos of the incident location.

23 Q. Okay. Once you were there and you photographed, did
24 you also mark the items that were present?

25 A. The items of evidence are going to be collected. They

1 weren't marked.

2 Q. As part of your agency assist, did you go anywhere else
3 in reference to this case?

4 A. I responded to Spartanburg Regional Medical Center,
5 photographed what I could of the victim and collected other
6 clothing.

7 Q. Okay. I'm going to show you what's been marked as
8 State's Exhibit No. -- or I apologize.

9 (Jeans, Belt and Socks marked as State's Exhibit
10 No. 12 for identification)

11 BY MS. JORDAN:

12 Q. What's now been marked as State's Exhibit No. 12 and
13 ask if you can identify by your handwriting on the front
14 what that is?

15 A. This item is going to be a pair of blue jeans with
16 brown belt and two white socks.

17 Q. Okay. Could you -- did you collect those items?

18 A. Yeah, from 101 East Wood Street, which is Spartanburg
19 Regional Medical Center, the ICU area.

20 Q. What time did you collect them?

21 A. 10:10 a.m..

22 Q. Okay. What date?

23 A. It's going to be 4-8-2012.

24 Q. Okay. I'm going to ask if you could just open and look
25 inside and see if what's inside is what was reflected on the

1 outside?

2 A. It's still in the Spartanburg Regional plastic bag.

3 Blue jeans, brown belt with socks.

4 Q. Okay.

5 MS. JORDAN: Your Honor, at this time the State
6 moves to admit Exhibit No. 12 into evidence.

7 THE COURT: Any objection?

8 MS. LYALL: No, Your Honor.

9 THE COURT: Without objection, it will be admitted
10 into evidence as marked.

11 (Whereupon, State's Exhibit No. 12 was entered
12 into the record as evidence)

13 MS. JORDAN: Thank you.

14 BY MS. JORDAN:

15 Q. Did you also in, I believe it was October of this year,
16 take another look at what was previously marked as State's
17 Exhibit No. 9?

18 A. Yeah, I received a telephone call from the solicitor's
19 office. They wanted the boots processed for any latent
20 prints. They were processed for latents.

21 Q. Who did you receive those shoes from?

22 A. Woodruff Police Department.

23 Q. Were they still sealed in the same condition that they
24 were when you sealed them?

25 A. Yes, they were.

1 Q. Okay. Explain to the jury what fuming is.

2 A. Fuming is a technique to try to fix or raise latent
3 prints on material or off an object. It's basically crazy
4 glue heated up, which turns into a gas. The gas affixes
5 to -- your fingerprints are made of water, which is
6 perspiration, and oil. It affixes to the oils which
7 crystalizes them and that's where you get your latent prints
8 from.

9 If there is any prints on the objects. Like this is a
10 textured leather object. Smooth objects are better, but
11 it's a possibility you can get prints. And I tried every
12 method I can, because if you don't try, you know what your
13 results are going to be.

14 Q. Did you fume State's Exhibit No. 9?

15 A. Yes, I did.

16 Q. Were you able to recover any fingerprints from State's
17 Exhibit No. 9?

18 A. No, none whatsoever.

19 Q. Okay. Would the type of leather have any impact on
20 your ability to obtain fingerprints?

21 A. Yes, it is. Smooth leather is a whole lot -- smooth
22 leather is more affable for prints, where extra leather,
23 like these boots, would not be.

24 Q. Okay. Would the fact that the shoes may have remained
25 outside for several hours during the night and early morning

1 hours have any impact on the ability to find prints also?

2 A. No.

3 Q. Okay. Do you -- do you normally find fingerprints at
4 every crime scene?

5 A. No, you don't.

6 Q. Okay. Please answer any questions that Ms. Lyall may
7 have.

8 THE COURT: Your witness.

9 MS. LYALL: Thank you, Your Honor.

10 THE COURT: Yes, ma'am.

11 CROSS EXAMINATION BY MS. LYALL:

12 Q. And you stated you have been an officer for twenty-four
13 years?

14 A. Yes.

15 Q. And you have been doing crime scenes since 1997?

16 A. Since '97, yes, ma'am.

17 Q. And you are trained in doing fingerprints?

18 A. Latent prints.

19 Q. Right.

20 A. Crime scene processing. I have been through some
21 reconstruction classes, yes.

22 Q. So basically since 1997 you go to crime scenes and you
23 are there to look for evidence, process the scene, find any
24 evidence that would link someone to that crime to figure out
25 what basically happened?

1 A. That's correct.

2 Q. So you arrived at this scene at Woody Court an April
3 8th to look for evidence?

4 A. Yes, ma'am.

5 Q. Okay. And the Woodruff Police Department asked you
6 here to assist them in doing that?

7 A. That is correct.

8 Q. Okay. And you picked up some items of clothes that we
9 have seen here today?

10 A. Yes, ma'am.

11 Q. But at that time when you got there no suspects had
12 been arrested, to your knowledge?

13 A. That is correct.

14 Q. Okay. So it would have been very important for you to
15 get evidence for the State to find a suspect?

16 A. That is correct.

17 Q. Okay. And you didn't take any fingerprints at the
18 scene?

19 A. None whatsoever.

20 Q. You didn't take any fingerprints of the back door where
21 this incident occurred?

22 A. I didn't know where the incident occurred at. All we
23 knew is -- I dealt with a wooded -- or, excuse me, a grassy
24 area behind two buildings.

25 Q. Okay. And you didn't take any fingerprints of those

1 buildings?

2 A. No, ma'am.

3 Q. There is such a thing as touch DNA. You can swab areas
4 to see if DNA is present around that area?

5 A. Yes, ma'am.

6 Q. And you didn't do that either?

7 A. The only swab that I did were a red substance at the
8 location.

9 Q. And that would have been for the victim?

10 A. Well, it was a red substance at the location.

11 Q. Okay.

12 A. Whose it is is unknown.

13 Q. And that substance did not come back to Justin
14 Reynolds?

15 A. I have no idea if it came back at all.

16 Q. Okay. And you didn't find any bullet casings --

17 A. No.

18 Q. -- at the crime scene?

19 A. That's correct.

20 Q. And you didn't find a gun at the crime scene?

21 A. That's correct.

22 Q. So would it be fair to say that you found nothing at
23 this crime scene that would place Justin Reynolds at this
24 crime scene?

25 A. The only thing I collected was evidence that was left

1 behind, which was boots, shirt, ball cap, and a red
2 substance.

3 Q. Which belonged to Josh?

4 A. Well, I had no idea who it belonged to. I was just
5 working the scene.

6 Q. Okay. And you didn't go any further with your
7 investigation?

8 A. No, ma'am.

9 MS. LYALL: I have no other questions.

10 THE COURT: Ms. Jordan, redirect?

11 MS. JORDAN: Quick question, Your Honor.

12 THE COURT: Yes, ma'am.

13 REDIRECT EXAMINATION BY MS. JORDAN:

14 Q. Did you collect everything that was in that grassy area
15 that morning?

16 A. Yes, ma'am.

17 MS. JORDAN: Nothing further.

18 THE COURT: Any other questions, Ms. Lyall?

19 MS. LYALL: No, Your Honor.

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

21 Do you wish to excuse the witness?

22 MS. JORDAN: I would, Your Honor.

23 THE COURT: Any objection?

24 MS. LYALL: No, Your Honor.

25 THE COURT: You are free to go. Thank you for

1 coming today, sir.

2 The State may call its next witness.

3 MS. JORDAN: The State calls Chief Darrell
4 Dawkins.

5 THE COURT: Come forward, sir, to be sworn,
6 please.

7 CHIEF DARRELL DAWKINS, having been first duly
8 sworn, testified as follows:

9 THE CLERK: Thank you. You may be seated.

10 THE COURT: Have a seat, sir.

11 And once you are seated, state your name.

12 THE WITNESS: Darrell Dawkins.

13 THE COURT: Thank you.

14 Your witness.

15 DIRECT EXAMINATION BY MS. JORDAN:

16 Q. Where are you currently employed?

17 A. Woodruff Police Department.

18 Q. How long have you been employed there?

19 A. Almost nineteen years.

20 Q. Have you spent your entire law enforcement career in
21 Woodruff?

22 A. Yes.

23 Q. What are some of the various titles that you have held
24 there?

25 A. I started as crime prevention officer, and then to

1 lieutenant, then chief.

2 Q. And what is your current position at the Woodruff
3 Police Department?

4 A. Sergeant of crime prevention.

5 Q. Okay. Were you -- what was your title back on April
6 the 12th -- April the 8th of 2012?

7 A. Chief of police.

8 Q. Okay. Did you have an occasion to get called out to
9 Woody Court or the Kelly Acres area that morning?

10 A. Yes, ma'am.

11 Q. What did you see when you arrived?

12 A. I arrived at the scene, there were -- Mr. Barrineau had
13 been removed from the scene.

14 I remember it was Easter. I was preparing to go to
15 church.

16 Officer Johnson had contacted me in reference to the
17 shooting incident, and the area was being secured and we was
18 making contact on getting ID to come out and process the
19 scene.

20 Q. Okay. At the time that you were out there, did you
21 have any indication as to which apartment, if any, that this
22 may have started in?

23 A. Some, because we had had some problems at one of the
24 apartments there --

25 Q. Okay.

1 A. -- but we wasn't for sure. There was no ID on the
2 subject and we just didn't have enough information to -- we
3 was in the process of gathering information trying to
4 determine, first, who the victim was, and then go on from
5 there.

6 Q. Okay. I'm going to go ahead and just jump ahead to
7 April the 19th of 2012. On that date did you have an
8 occasion to go to Spartanburg Regional?

9 A. Yes, ma'am.

10 Q. Once there who did you meet with?

11 A. First I had spoken with Mr. Barrineau's wife.

12 Q. Okay.

13 A. I went to speak with Mr. Barrineau.

14 Q. Okay. What type of room was Mr. Barrineau in at the
15 time?

16 A. It was ICU. One of the rooms there in the ICU unit.

17 Q. Okay. And who else was present?

18 A. Ms. Barrineau, his wife.

19 Q. Is her first name Tiffany?

20 A. I believe so, yes.

21 Q. What was the purpose of your visit that day?

22 A. We had by that time determined some suspects that we
23 had believed were involved and then we put a lineup together
24 and wanted to allow Mr. Barrineau to view those lineups.

25 Q. Okay. How many lineups did you show him that day?

1 A. Three.

2 Q. Did you have any others prepared that day?

3 A. I had a fourth prepared.

4 Q. Were you able to show that to him?

5 A. No, ma'am.

6 Q. Why?

7 A. Before I could present the fourth one they had a --
8 came in and had to do a procedure upon Mr. Barrineau.

9 Q. Okay. But you were able to show him three?

10 A. Yes, ma'am.

11 Q. Okay. Could you just talk to the jury and tell them
12 about the procedure that you used when you showed these
13 lineups to Josh Barrineau?

14 A. Yes, ma'am.

15 It's a standard technique that we use when we compose a
16 six picture lineup and we present to him. The difference in
17 this was that he was unable to speak, so he was
18 acknowledging through head nodding, through a movement of
19 his head. And it took time to go through each individual
20 picture to acknowledge and ask if he knew who those -- if he
21 identified anyone on the lineup.

22 Q. Okay. And I believe that each lineup you said you had
23 six photographs?

24 A. That's correct.

25 Q. Did you show him those all -- did you show him all

1 three lineups with eighteen pictures at one time?

2 A. Oh, no, ma'am. What I did is I placed all three down,
3 face down, and each individual lineup was taken one set at a
4 time and presented to him.

5 Q. Okay. How did you come about a way for him to answer
6 whether or not he recognized anybody in the lineup?

7 A. Like I stated, I spoke with Ms. Barrineau to try to
8 determine his physical condition at the time. Came back, he
9 still had movement in his head and he could acknowledge
10 through nod, because he had a trach and was unable to speak
11 at the time.

12 Q. Okay. I'm going to hand to you what's previously been
13 marked and admitted into evidence as State's No. 6, 7 and 8.

14 Can you demonstrate to the jury how you showed each
15 lineup? And you can just do it with one of the lineups, how
16 you showed the lineup to Josh.

17 A. Yes, ma'am.

18 Again, as I stated, when I presented this to him, I
19 would take -- and knowing that he was acknowledging through
20 movement of his head, go from picture to picture. And even
21 if he had indicated on that picture will make a full follow
22 through on all pictures included and not stop. For
23 instance, if he would have acknowledged on that picture, I
24 would not have stopped, and I continued through all pictures
25 involved.

1 Q. Did you at any point in time with any of the three
2 lineups suggest to him who to pick out?

3 A. No, ma'am.

4 Q. Did you linger for any extra period of time on certain
5 photographs?

6 A. No, ma'am.

7 Q. What questions did you ask Josh when you showed him
8 each lineup?

9 A. Just to state when I came upon an individual that he
10 was aware of to indicate by nodding his head.

11 Q. When you would say that he was aware of, did you
12 reference any specific occasion?

13 A. Oh, in reference to the incident that occurred and
14 that -- in the beginning before I started the procedure
15 presented those that we had possible suspects and that we
16 wanted him to take a look at the lineups and see if he could
17 identify anybody from these photos.

18 Q. Okay. And in each one of the lineups there is some
19 handwritten notes at the top. Were those handwritten notes
20 there when you showed the lineups to Josh?

21 A. No, ma'am. When the lineup was first presented, the
22 writing on there, as stated, is my signature on the back and
23 Ms. Barrineau also, as she was a witness in the room as
24 well. When presented only the print showing the date and
25 picture, there was no handwriting until after the fact.

1 The first indication was once that person was
2 identified, that photo was circled at the completion of all
3 and then I would assist in this worksheet.

4 Q. Since this was an unusual circumstance, as far as
5 Josh's ability to verbalize, once you circled, did you get
6 him to acknowledge that you circled the correct photos?

7 A. That's correct.

8 Q. Now, you stated earlier that Ms. Barrineau was in the
9 room at the time?

10 A. Yes, ma'am.

11 Q. Okay. Did you -- do you recall in any way that she
12 suggested or pointed out to him whom he should pick out?

13 A. No, ma'am.

14 Q. Okay. Did anybody while you were in there suggest to
15 him who to pick out of the lineup?

16 A. No, ma'am. The only three individuals were Ms.
17 Barrineau, Mr. Barrineau, and myself.

18 Q. Okay. And when he picked people out of the lineup, was
19 there -- how did you gauge his level of certainty?

20 A. There wasn't any hesitation once I got to that
21 individual. There wasn't any hesitation when I -- as far
22 as -- the amount of time spent on each one. And then what I
23 would do is once I acknowledged -- basically the time -- it
24 wasn't a set time when I looked to acknowledge that it was
25 on that individual and then looked for some kind of

1 significant movement towards that individual.

2 Q. Okay. And as to those three photo lineups, is the
3 person that he picked out in the same position in any of
4 those lineups?

5 A. No, ma'am.

6 Q. Is that something that's done just as a precaution?

7 A. It's pretty standard to try to not have -- to have a
8 mix, so that there is no set person, for instance, to deter
9 any situation such as that.

10 Q. Okay.

11 MS. JORDAN: Your Honor, if I may have a moment?

12 THE COURT: Yes, ma'am.

13 (Off the record)

14 (Back on the record)

15 BY MS. JORDAN:

16 Q. While you were showing the lineup, did you give the
17 names of any of the individuals before he picked out
18 someone?

19 A. No names. No names at all.

20 Q. Please answer any questions Ms. Lyall may have.

21 THE COURT: Ms. Lyall, your witness.

22 MS. LYALL: Thank you, Your Honor.

23 THE COURT: Before she starts, I want to point out
24 to you the -- when they worked on the heating and air, it's
25 in the ceiling up here, so you may hear some banging up

1 there. Hopefully that means they are fixing the problem.
2 We will see.

3 I'm sorry, Ms. Lyall, you may proceed.

4 CROSS EXAMINATION BY MS. LYALL:

5 Q. Sergeant Dawkins, when you were giving this lineup or
6 these lineups, you said it was not an ordinary way to get a
7 lineup?

8 A. As far as the acknowledgement of the person who was,
9 you know, in that lineup.

10 Q. Right.

11 A. Just his inability to speak.

12 Q. Okay. So normally when you give a lineup, the person
13 can speak, they can circle the person themselves, they can
14 tell you why they are circling the person, things of that
15 nature?

16 A. Yes, ma'am.

17 Q. But in this case you had to hold the lineup, you had to
18 point to each person, and you had to actually look at Josh
19 and see what he was doing?

20 A. Yes, ma'am.

21 Q. So you had to pay special attention to his face as you
22 are pointing to each picture?

23 A. Yes, ma'am.

24 Q. So would it be fair to say you are really having to
25 concentrate on his face and what he's doing while you are

1 pointing these different photos out?

2 A. Yes, ma'am, while he is focusing on the pictures, it
3 was important for me to focus on his reaction.

4 Q. Okay. And it's not normal to have someone else in the
5 room while someone is doing a lineup?

6 A. Well, not so much as a family member, but because of
7 the circumstances where he was in ICU, his condition at the
8 time, I felt it was important also that I always have --
9 when lineups are done have a witness, and usually it's an
10 officer that was conducting that at the station, or
11 something of that nature, but because of the circumstances,
12 that his wife would have to see that that happened.

13 Q. So normally it's an independent person, such as an
14 officer?

15 A. Yes.

16 Q. But in this case his wife was in the room?

17 A. Yes, ma'am, she was in the room.

18 Q. Okay. And you -- how long did you say that you have
19 been an officer?

20 A. About nineteen years.

21 Q. About nineteen years.

22 And would you say it's generally important to write a
23 report in a case like this?

24 A. Yes, ma'am.

25 Q. And it's generally important to write a report so

1 everyone can know what happened at the time, so when it
2 comes to court everyone is able to remember what actually
3 happened?

4 A. Well, usually in lineups a report is not generated on a
5 lineup.

6 Q. Well, you took a trip to the hospital?

7 A. Uh-huh.

8 Q. You spoke to the victim in the case?

9 A. Yes.

10 Q. You spoke to the victim's wife in the case?

11 A. Yes, ma'am.

12 Q. You presented what's extremely important in this case
13 three lineups?

14 A. Uh-huh.

15 Q. And you didn't write a report?

16 A. Well, the -- as far as Ms. Barrineau's involvement, the
17 case was solely as a witness to the lineups, and I was
18 letting the lineups, as far as the acknowledgement of her
19 being a witness for the lineup and her verification as well
20 as how the procedure was done to stand.

21 Q. And you didn't feel that that was important enough to
22 write a report?

23 A. No.

24 MS. LYALL: I don't have any other questions at
25 this time.

1 THE COURT: Ms. Jordan, redirect?

2 MS. JORDAN: Nothing further, Your Honor.

3 THE COURT: You may step down, sir.

4 Do you wish to excuse the witness?

5 MS. JORDAN: I do, Your Honor, or he can stay,
6 either one.

7 THE COURT: Okay. Any objection to his leaving?

8 MS. LYALL: No, Your Honor.

9 THE COURT: All right, you are free to go. You
10 are free to stay, officer. Thank you very much.

11 THE WITNESS: Thank you.

12 THE COURT: You may call your next witness.

13 MS. JORDAN: The State calls Tiffany Barrineau.

14 THE COURT: Ma'am, come forward and be sworn,
15 please.

16 TIFFANY BARRINEAU, having been first duly sworn,
17 testified as follows:

18 THE CLERK: You may be seated.

19 THE COURT: Have a seat, ma'am.

20 State your name.

21 THE WITNESS: Tiffany Barrineau.

22 THE COURT: Thank you.

23 Ms. Jordan, your witness.

24 MS. JORDAN: Thank you.

25 DIRECT EXAMINATION BY MS. JORDAN:

1 Q. Tiffany, how old are you?

2 A. Thirty-one.

3 Q. How do you know Josh Barrineau?

4 A. He is my husband.

5 Q. Are y'all currently together or separated?

6 A. No, separated.

7 Q. How long have you been separated?

8 A. About three years.

9 Q. Okay. Do you have any children with Josh?

10 A. Yes, three.

11 Q. How old are they?

12 A. Five, seven, and thirteen.

13 Q. Are they boys, girls, or --

14 A. Two boys, one girl.

15 Q. Okay. Did you have an occasion to visit Josh at
16 Spartanburg Regional Medical Center on April 19th, 2012?

17 A. Yes.

18 Q. Why did you go there?

19 A. To see how he was doing.

20 Q. Okay. Do you recall if Darrell Dawkins came that day?

21 A. Yes.

22 Q. Okay? When you -- were you present in the room when
23 Officer Dawkins showed the victim several lineups?

24 A. Yes.

25 Q. Okay. When you were in there, did you in any way

1 suggest who should be picked out?

2 A. No.

3 Q. Did you make any indication to Josh as to any of the
4 lineups whom he should pick?

5 A. No.

6 Q. Did you sign the lineups once they had been completed?

7 A. Yes.

8 Q. Okay. But you in no way indicated who should be picked
9 out?

10 A. No.

11 Q. Okay. Please answer any questions that Ms. Lyall may
12 have.

13 THE COURT: Your witness, Ms. Lyall.

14 MS. LYALL: Thank you, Your Honor.

15 CROSS EXAMINATION BY MS. LYALL:

16 Q. Prior to the officer coming in to do the lineup that
17 day, you had been outside of the ICU?

18 A. Yes.

19 Q. And you had seen the news and the newspaper regarding
20 this incident?

21 A. Yes.

22 Q. So you had seen who the suspects were in this case?

23 A. Yes.

24 Q. You had seen their pictures?

25 A. Yes.

1 Q. And did you tell the officer this when he came to do
2 the lineup?

3 A. No.

4 Q. Did he ask you that?

5 A. No.

6 Q. But he allowed you to stay in the room while he did a
7 lineup?

8 A. Yes.

9 Q. Have you been convicted of a shoplifting case?

10 A. Yes.

11 Q. And when was that?

12 A. It's been a week ago, I think.

13 Q. Okay.

14 MS. LYALL: I don't have any other questions.

15 THE COURT: Redirect?

16 MS. JORDAN: Just briefly, Your Honor.

17 REDIRECT EXAMINATION BY MS. JORDAN:

18 Q. Tiffany, did you show any pictures to Josh prior to
19 this lineup?

20 A. No.

21 Q. Did you talk to him about any of the pictures you saw
22 prior to this lineup?

23 A. No.

24 MS. JORDAN: Nothing further, Your Honor.

25 MS. LYALL: No, Your Honor.

1 THE COURT: All right, ma'am, you may step down.
2 Do you wish to excuse the witness?

3 MS. JORDAN: Yes, sir.

4 THE COURT: Any objections?

5 MS. LYALL: No, Your Honor.

6 THE COURT: You are free to go, ma'am, if you
7 would like. Thank you very much.

8 The State may call its next witness.

9 MS. JORDAN: Your Honor, my next witness is the
10 doctor and it was the one we talked to you about earlier.

11 THE COURT: All right. Ladies and gentlemen of
12 the jury, the next witness who testifies is a physician from
13 Spartanburg Regional Medical Center. He's in surgery this
14 morning. My understanding he will be here and available,
15 did you say at two o'clock?

16 MS. JORDAN: My understanding is 2:30, Your Honor.

17 THE COURT: 2:30.

18 So we are going to take a rather long break for
19 lunch in order to have that witness testify when we can get
20 him here, so I'm going to allow you to leave the courthouse,
21 of course, during that period of time.

22 I'll give you the same instructions that you have
23 had when you have left the courthouse before; that is,
24 again, don't attempt to gather any information about this
25 case on your own. Don't listen to, watch or read media

1 reports concerning the case. Don't discuss the case with
2 anyone, even among yourselves. Don't allow anyone to
3 contact you about this case. And if they do, please report
4 that upon your return.

5 I'll ask you to be back in the jury room at -- you
6 said 2:30?

7 MS. JORDAN: Yes, sir, Your Honor.

8 THE COURT: 2:30 this afternoon. We should be
9 able to begin short thereafter.

10 Thank you very much for your attention this
11 morning. You are free to go.

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

14 THE COURT: All right, court is in recess until
15 2:30. Thank you very much.

16 (Whereupon, proceedings were recessed)

17 (Whereupon, proceedings were reconvened)

18 THE COURT: All right, is the State ready to go
19 forward?

20 MS. JORDAN: Yes, sir, Your Honor.

21 THE COURT: Defense ready?

22 MS. LYALL: Yes, Your Honor.

23 THE COURT: All right. Let's bring the jury in.

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

1 THE COURT: All right, the record will reflect
2 that the jury has returned to the courtroom.

3 I hope everyone had a good long lunch and you are
4 ready to get started this afternoon.

5 I will inquire of you if any of you had any
6 difficulty in complying with the court's instructions during
7 your absence from the courthouse, please stand.

8 (No response).

9 THE COURT: It appears that all jurors have been
10 able to comply thus far.

11 At this time the State is still in the
12 presentation of its evidence.

13 You may call your next witness.

14 MS. JORDAN: Thank you, Your Honor.

15 The State calls Dr. Charles Morrow.

16 THE COURT: Come forward, sir, to my left to be
17 sworn, please.

18 DR. CHARLES MORROW, having been first duly sworn,
19 testified as follows:

20 THE CLERK: Have a seat, please, sir.

21 Once seated state your name.

22 THE WITNESS: Charles Morrow.

23 THE COURT: Thank you.

24 Ms. Jordan, your witness.

25 MS. JORDAN: Thank you.

1 DIRECT EXAMINATION BY MS. JORDAN:

2 Q. Dr. Morrow, how old are you?

3 A. Forty-seven.

4 Q. What is your occupation?

5 A. I'm a trauma surgeon.

6 Q. Okay. Could you just give the jury a brief background
7 of your educational history?

8 A. I graduated from The Citadel and then went to medical
9 school at the University of South Carolina.

10 I did a residency in general surgery here in
11 Spartanburg.

12 I did a fellowship in trauma in critical care in
13 Orlando, and then returned to Spartanburg in 2001, where I
14 currently serve as the program director for the surgical
15 training program, as well as the program director for the
16 trauma center.

17 Q. Okay. Are you a member of any professional boards or
18 groups?

19 A. I'm a member of the American College of Surgeons. The
20 Eastern Association For Surgery and Trauma. The American
21 Association For Surgery and Trauma. The Society of Critical
22 Care Medicine. Those are the major ones.

23 Q. Okay. Do you, as part of your license, have to attend
24 any continuing education courses each year?

25 A. I have to do both continuing medical education as well

1 as re-certification. In the past two years I have been
2 re-certified in both general surgery and surgical critical
3 care. And then I maintain my certification with annual CME
4 obtained.

5 Q. Okay. And you stated that you are currently employed
6 at Spartanburg Regional?

7 A. That's correct.

8 Q. And how long again was that, or has that been?

9 A. I have been attending at that facility since 2001.

10 Q. Okay.

11 MS. JORDAN: Your Honor, at this time we would
12 move to admit Dr. Morrow as an expert in the field of trauma
13 surgery and critical care treatment.

14 THE COURT: Any objection to that designation?

15 MS. LYALL: Yes, Your Honor.

16 May we approach?

17 THE COURT: You may.

18 (Whereupon, the lawyers approached the bench for
19 an off-the-record discussion)

20 THE COURT: Is there an objection to him being
21 qualified?

22 MS. LYALL: No, Your Honor.

23 THE COURT: Ladies and gentlemen, let me explain
24 to you what we are doing at this point in time.

25 Generally under the Rules of Evidence, and I have

1 referred to those rules before in my discussions with you,
2 under the Rules of Evidence the witnesses, that would be lay
3 witnesses, are not allowed to state opinions about matters.
4 They are required to testify concerning facts that are
5 within their knowledge or the knowledge that they claim.
6 There is an exception to that general Rule of Evidence, and
7 the exception to that rule involves witnesses who are
8 designated as experts.

9 Now, expert witnesses are people, who because of
10 their training or work experience or their proficiency
11 within some profession, art or field, because of that
12 special knowledge they are designated as experts within that
13 field.

14 Now, that designation allows that witness not only
15 to state facts within their knowledge, but also to draw
16 conclusions or opinions from the facts that they have. They
17 also are allowed to state the reasoning why they hold the
18 opinions they have within that field. So there is an
19 exception to that general rule that allows these witnesses
20 to state opinions within the field of their expertise.

21 So at this point in time, without objection, I
22 will qualify the witness as an expert within his field or
23 profession. That would allow him to state opinions within
24 that field.

25 Now, later on when I charge you concerning the

1 law, I will discuss that particular designation with you and
2 how you have a right to treat that information in more
3 detail. So I'll discuss that with you again during my
4 charge, but at this time I will qualify the witness as an
5 expert within his profession.

6 You may proceed.

7 MS. JORDAN: Thank you, Your Honor.

8 BY MS. JORDAN:

9 Q. Were you working on April the 8th of 2012?

10 A. I was.

11 Q. Okay. Where were you working?

12 A. Spartanburg Regional, trauma center.

13 Q. Did you have an occasion to come into contact with Josh
14 Barrineau?

15 A. I did.

16 Q. How did you come into contact with him?

17 A. I was the attending trauma surgeon on call that day and
18 Josh was brought in by the EMS unit, or maybe the helicopter
19 that day.

20 Q. Okay.

21 A. And had suffered a gunshot wound to the neck, and so
22 that would qualify him as the highest level for trauma
23 center, and we were notified and met him at the emergency
24 room when he got there.

25 Q. Okay. What type of treatment did he immediately

1 receive when he came into the trauma department or emergency
2 room?

3 A. The most important part when a patient such as he comes
4 in is establishing an airway. If you can imagine, he was
5 shot in the back of the neck and the bullet went through the
6 spinal column. You actually could feel it underneath the
7 skin in front of the neck. It went through the back of his
8 mouth, not -- if you open your mouth you couldn't see it
9 there. It was a little lower down the neck, but not so far
10 down that it went through his esophagus. So if you can
11 imagine, kind of the base of the neck -- or base of the
12 mouth. And so the most important thing was getting to the
13 incident we could provide him oxygen and make sure he could
14 breath adequately.

15 One of the side effects of having a spinal cord injury
16 that high is that it takes out the nerves that controls the
17 muscles that allow him to take a deep breath. And so
18 immediately at the time he was shot he was no longer able to
19 take regular deep breaths, and so that was our most
20 important concern was taking over that for him.

21 Q. Did Josh have surgery that day?

22 A. He -- we had to establish an airway. He had -- all
23 toll, when I went back and looked at his chart, he had sixty
24 pages of operative notes from multiple procedures done
25 throughout his hospital course. And so he ultimately ended

1 up with a tracheostomy tube, which is -- you know, instead
2 of having a breathing tube that goes through your mouth and
3 down your windpipe, it actually goes straight through the
4 neck into your windpipe. And that's just to allow it to be
5 easier for him to breath as he starts to develop the muscle
6 strength to do that on his own again.

7 Q. What were the -- what was the damage to Josh's spinal
8 column?

9 A. It was at the level of the fifth cervical vertebrae.
10 So, again, you know, if you think of the back of your neck,
11 it went -- it went through the round part of the vertebrae
12 and it shattered that.

13 The blast effect and the bullet injured the spinal cord
14 and so that was damaged beyond repair at that point, so
15 paralyzed from that level down, and then soft tissue at the
16 back of his mouth.

17 Not only did he require multiple surgeries to stabilize
18 his spine, just -- there is no chance that there is going to
19 be any treatment that will fix the spinal cord, but we
20 needed to stabilize the spine just so that when he sits up,
21 that his head doesn't slump forward, and so there was
22 surgeries for that.

23 There was also multiple surgeries for the tracheostomy.
24 He required a filter to keep him -- if he does develop a
25 blood clot in his leg, to keep it from flowing up the

1 bloodstream into his lung. He ended up with multiple
2 bronchoscopies, where we put a fiberoptic tube down into the
3 lungs and suctioned things out.

4 I think, like I said, all toll close to sixty pages of
5 operative notes.

6 Q. Does he -- does Josh have any rods in his spine?

7 A. Those procedures are done by the neurosurgical team
8 and -- I'm not sure that they put rods in any more. They
9 put plates in. They did two different surgeries to
10 stabilize his spine with those plates.

11 What they do is -- normally in you and I, your spine
12 are relatively mobile. They will bend back and forth. In
13 his case they fused them all together so they wouldn't bend
14 and then they put a plate across it in the front and in the
15 back so that it would reenforce that fusion so that it
16 couldn't bend and that's what allows him to sit up straight.

17 Q. Did Josh have any trouble weaning from the ventilator
18 that he was on?

19 A. He had significant trouble. He was in the hospital for
20 six months, or so, and the majority of that was spent
21 learning to come off the vent.

22 The spinal cord injury weakened his muscles to the
23 extent where normally you can use your diaphragm and you can
24 use the intercostals or the muscles in between your ribs to
25 help you breath. He didn't have all that musculature to

1 work with and so he had to retrain part of his muscles to
2 actually build them up so that he could breath. Between
3 that and the multiple bouts of pneumonia that he suffered
4 from, it took a long time for him to come off the vent.

5 Q. Were there any -- or were there some daily procedures
6 that Josh had to endure while he was at the hospital?

7 A. Sure. You know, the normal things that you would
8 expect in someone who has a spinal cord injury, they are
9 going to go through physical therapy every day.

10 Whereas you and I might go to physical therapy, and
11 that's a lot like working out, physical therapy for him is
12 not that enjoyable. It's most of the time pretty
13 uncomfortable. Very painful and I can imagine pretty
14 disheartening sometimes as well.

15 Not only did he do that, but every few days he ended up
16 having to have this bronchoscopy. You don't get put to
17 sleep --

18 MS. LYALL: Objection, Your Honor. May we
19 approach?

20 THE COURT: Yes, you may.

21 (Whereupon, the lawyers approached the bench for
22 an off-the-record discussion)

23 THE COURT: Ladies and gentlemen of the jury, this
24 is one of the occasions that I need to take up something
25 outside of your presence, so I'm going to ask you to step

1 back to the jury room.

2 As always I'll ask you not to begin discussions
3 until such time as I have instructed you to do so.

4 You may retire.

5 (The following takes place outside the presence of
6 the jury panel)

7 THE COURT: Ms. Lyall?

8 MS. LYALL: Your Honor, I would object to the
9 relevance of this testimony. They are testifying to that
10 he -- rehabilitation steps.

11 I also believe that the prejudicial impact
12 outweighs any probative value at this point.

13 I do believe him testifying to his actual injury
14 in the case is probative, but testifying to what he's
15 currently testifying to I don't believe is relevant at all
16 to an attempted murder case.

17 THE COURT: Ms. Jordan?

18 MS. JORDAN: Your Honor, one of the -- one of the
19 charges in this case is attempted murder and I bear the
20 burden of proving that. And I think in order to prove that,
21 the jury needs to -- and I know that they can see what his
22 injuries are, but they need to know what the injuries are
23 and the treatment that he went through for six months. I
24 mean, it just -- it's part and parcel of an attempted
25 murder.

1 I'm not in here trying an assault and battery
2 third, assault and battery second, or anything like that.
3 I'm showing that they created -- or he did an assault and
4 battery with the intent to kill and I think the jury has the
5 right to know what the damage inflicted on him did to his
6 body.

7 THE COURT: Well, we are getting into the steps of
8 rehabilitation and things of that nature.

9 Now, if you want to ask this witness as to whether
10 or not this was a potentially fatal shot, things of that --

11 MS. JORDAN: I do -- I do plan on asking that.

12 THE COURT: Okay. So I don't -- I don't have a
13 problem with going there. And obviously the jury has
14 observed the victim and the injuries he's received.

15 MS. JORDAN: Yes, sir.

16 THE COURT: But what steps he went through in
17 rehabilitation -- if this were a damages case, that would be
18 something that would be very relevant.. This is not a
19 damages case, so I'm going to sustain the objection to the
20 point that -- unless the rehabilitative factors somehow
21 indicated a threat to his life or a possibility of some type
22 of death. He's an expert. He can testify as to that, but I
23 haven't heard that foundation laid at this point in time.

24 MS. JORDAN: Okay. And, judge, if --

25 THE COURT: So I'll sustain the objection to that.

1 MS. JORDAN: If this for -- for further objections
2 or anything, I can tell the court what my next four or five
3 questions are going to be, if that would help.

4 THE COURT: All right.

5 MS. JORDAN: My next question was going to be as
6 far as Joshua's prognosis, will he ever have the ability to
7 use his arms or legs again.

8 THE COURT: Do you object?

9 MS. LYALL: As long as the doctor stays on point
10 that -- I mean, I think the jury can see him, that he's
11 confined to a wheelchair.

12 THE COURT: All right. I don't hear an objection
13 at this point in time. She can object to the answer.

14 MS. JORDAN: The next one was during Josh's
15 roughly six months stay in the hospital were there times
16 when he almost passed due to his injuries.

17 THE COURT: I would rule that relevant.

18 MS. JORDAN: The next to the last is based upon a
19 reasonable degree of medical certainty, did Josh's injuries
20 have an impact on his overall life span.

21 MS. LYALL: I would object to that question.

22 THE COURT: I'll sustain that objection.

23 MS. JORDAN: And, finally, Your Honor, based on a
24 reasonable degree of medical certainty, did Josh's injuries
25 create a risk of great bodily injury or potentially death.

1 THE COURT: I'll allow that question.

2 MS. JORDAN: I will stick to those three questions
3 and then --

4 THE COURT: All right.

5 MS. JORDAN: -- be done with the doctor.

6 THE COURT: All right, bring the jury in.

7 (The following takes place in the presence of the
8 jury panel)

9 THE COURT: The record will reflect the jury has
10 returned to the courtroom.

11 I have made several rulings concerning the
12 testimony of this witness, so I'll allow the State to
13 proceed pursuant to those rulings.

14 You may proceed.

15 MS. JORDAN: Thank you, Your Honor.

16 BY MS. JORDAN:

17 Q. Dr. Morrow, as to Josh's prognosis, will he ever have
18 the ability to use his arms or legs again?

19 A. No.

20 Q. Now, during Josh's roughly six month stay in the
21 hospital, were there times when he almost passed due to his
22 injuries?

23 A. The most significant time was the time of his
24 admission. The ability to establish his airway and get his
25 blood pressure stabilized was a life threatening time

1 sensitive moment for him.

2 Q. And, finally, Dr. Morrow, based upon a reasonable
3 degree of medical certainty, did Josh's injuries create
4 great bodily injury or a substantial risk of death?

5 A. Absolutely.

6 Q. Please answer any questions that Ms. Lyall may have.

7 THE COURT: Ms. Lyall?

8 MS. LYALL: I have no questions.

9 THE COURT: Sir, you may step down. Thank you
10 very much.

11 Do you wish to excuse the witness?

12 MS. JORDAN: Yes, sir, I do.

13 THE COURT: Any objections?

14 MS. LYALL: No, Your Honor.

15 THE COURT: You are free to go. Thank you for
16 coming this afternoon.

17 The State may call its next witness.

18 MS. JORDAN: Your Honor, at this point in time the
19 State rests.

20 THE COURT: Ladies and gentlemen of the jury, that
21 completes the presentation of evidence by the State in this
22 matter.

23 There are some things I have to take up with the
24 attorneys before we move on with the trial, so, again, I'm
25 going to ask you to step back to the jury room. And as

1 always, I'll ask you not to discuss the case until I have
2 asked you to do so.

3 You may retire at this time.

4 (The following takes place outside the presence of
5 the jury panel)

6 THE COURT: Any motions from the defense at this
7 time?

8 MS. LYALL: Yes, Your Honor.

9 At this time I would move for a directed verdict,
10 specifically on the kidnapping and armed robbery, as the
11 victim in the case stated that another party, specifically
12 Jason Tolison, was the person that came into the house,
13 grabbed him, took him out of the house and robbed him. Mere
14 presence of my client would not equate guilt. And he
15 clearly stated my client did not take part in the robbery,
16 that he was sitting some distance away. He did not touch
17 any of his belongings. He did not touch his pockets and he
18 was not the person that came in the house and grabbed him.
19 I don't feel that that's evidence sufficient to go to the
20 jury and I would ask for a directed verdict on those two
21 charges.

22 I also brought this up earlier, but specifically
23 regarding the armed robbery and the grand larceny, grand
24 larceny is a lesser included offense of armed robbery. When
25 there is an armed robbery, it's a taking of goods with a

1 weapon involved.

2 In this case they are claiming the armed robbery
3 was a taking.

4 THE COURT: Are you saying grand larceny is the
5 lesser included of armed robbery?

6 MS. LYALL: I believe it is, Your Honor.

7 THE COURT: I think there is cases on point
8 against that.

9 MS. JORDAN: Your Honor, I think it's State v.
10 Parker, at 351 S.C. 567.

11 MS. LYALL: Okay.

12 THE COURT: There are cases that say that that's
13 not the case.

14 MS. LYALL: Okay.

15 Well, Your Honor, the statute for both of these
16 are very similar, and they are claiming that an armed
17 robbery is a taking at gunpoint of specific items in this
18 case. The specific items that they are claiming that were
19 taken are money, drugs, and keys. The keys that were taken
20 are the keys to the specific item that they are claiming in
21 the grand larceny. The grand larceny is of the vehicle that
22 was in the parking lot directly up above where this incident
23 took place. I don't believe that they can claim that the
24 keys were taken in the armed robbery and the car was not
25 taken at the same time. Everyone who testified --

1 THE COURT: Well, I'm looking at the indictment.
2 The indictment alleges under grand larceny the taking of the
3 vehicle.

4 MS. LYALL: Correct, but I don't think that they
5 can claim that the taking of the keys and the taking of the
6 car that happened at the same time are not part of the same
7 crime. They have split it up, even though the keys belonged
8 to the vehicle and everything else was taken at the same
9 time as the vehicle.

10 THE COURT: I'll hear from the State on that
11 point.

12 MS. JORDAN: Your Honor, on that point my
13 contention is this, as the indictment states. It's goods or
14 money as to the armed robbery, and the vehicle as to the
15 grand larceny.

16 In an armed robbery it's taking from the person or
17 the presence of. And it's our contention that they took the
18 keys -- the keys to the vehicle, I'll stay with that. They
19 took the keys to the vehicle, but the vehicle wasn't taken
20 from his person or his presence. Jason testified that he
21 had to run to the vehicle to get into the vehicle to leave.

22 It's my contention that they are two separate
23 offenses. And as the court has noted, that under case law
24 armed robbery -- or grand larceny is not a lesser included
25 of armed robbery, based upon the notation that there is a

1 value amount involved in the grand larceny but not one
2 involved in the armed robbery.

3 Josh clearly stated that he paid 250 -- or \$2,500
4 for the vehicle and making monthly payments. I think that
5 we have evidence before the jury as to the value of the
6 items for the grand larceny in question.

7 I think -- I think -- it's my contention that we
8 are entitled to go to the jury with both of those charges,
9 with the grand larceny and with the armed robbery.

10 THE COURT: I'll deny the motion. I would allow
11 both charges to go to the jury.

12 It is my -- as a matter of fact, just in thinking
13 about it, people steal vehicles quite often without the
14 keys, and the keys aren't -- taking of the keys are not an
15 element of the taking of a vehicle.

16 So I see that's two different events. They just
17 happened in different locations. The victim was not near or
18 around his car when it was taken, so I would allow both to
19 go to the jury.

20 And the indictment specifically alleges the Blazer
21 on grand larceny. It does not allege the taking of the
22 keys, so I'll deny that motion.

23 Any other motions?

24 MS. LYALL: I made --

25 THE COURT: Did you want to respond to the

1 question concerning the testimony by the victim that he was
2 taken by someone else?

3 MS. JORDAN: Yes, sir.

4 That is an inconsistency that I have always seen
5 in this case, in that Josh has stated that Jason was the one
6 who took him out of the house and robbed him as his brother
7 Justin looked on the with the gun.

8 And as the court knows, there were three people
9 who identified Justin, or "Krazy" as he's known, as the
10 person who came in, took him out, and came back around.
11 Megan Margarita identified him. Stephanie Vaughn identified
12 him. And his own brother Jason stated that while he knocked
13 on the front door, Justin ran around the back and got him
14 out and pulled him out.

15 Your Honor, I have also already requested a hand
16 of one charge, and I believe that the hand of one applies in
17 this case, that I don't have to prove that this defendant
18 was the one who took each of those items out of his pants.
19 I have to prove that there was, you know, basically a
20 meeting of the mind and that the hand of one is the hand of
21 all, or the act of one is the act of all. And that is the
22 theory in this case as to all of the charges.

23 Jason testified that his brother mentioned that
24 then he wanted to commit a robbery. I believe that there is
25 sufficient evidence, especially when taking it in the light

1 most favorable to the nonmoving party as to each and every
2 charge that we have put before the jury. And there are
3 some -- there are some questions and inconsistencies that
4 Ms. Lyall will have I'm sure ample opportunity to argue you
5 to the jury.

6 THE COURT: All right. It's my finding that the
7 fact that there is inconsistent testimony concerning who
8 actually performed what parts of this particular event. I
9 realize those inconsistencies do exist. However, there is
10 testimony from competent witnesses placing the defendant as
11 the person who removed the victim from the home and also
12 participating in the robbery and the shooting, so I'll deny
13 the motion. I think there is sufficient evidence for a jury
14 to decide.

15 Now, I would like to inquire of your client
16 concerning his right to testify in this matter?

17 MS. LYALL: Yes, Your Honor.

18 THE COURT: Madam Clerk, please swear the
19 defendant for me.

20 THE CLERK: Yes, sir.

21 JUSTIN REYNOLDS, having been first duly sworn,
22 testified as follows:

23 THE CLERK: Thank you.

24 THE COURT: You can be seated, sir.

25 Mr. Reynolds, at this time I'm going to explain to

1 you your rights -- some of your rights under the
2 Constitution.

3 I will tell you that if you do not understand what
4 I tell you now, or if you want additional explanation, I'll
5 give you an opportunity to ask for that when I have
6 completed my discussion.

7 Do you understand, sir?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: All right. We have reached the stage
10 of this trial where you have the right to present your
11 defense.

12 You have the right at this time to offer
13 testimony, if you choose to do so.

14 You also have the right to claim certain
15 protections that are given to you by the Fifth Amendment to
16 the United States Constitution. That Amendment reads, in
17 part, that no person shall be compelled in any criminal case
18 to be a witness against himself.

19 Now, this means that you cannot be required to
20 testify in this case.

21 You certainly have the right to testify, if you
22 wish to, in your own defense. However, no one can force you
23 or make you testify.

24 The right to remain silent or to refuse to testify
25 is a personal right. No one can give up that right and

1 testify, except yourself.

2 If you decide to testify, I will inform you that
3 your testimony will be subject to the same rules that govern
4 any other witness who might testify. That means that you
5 would be examined by your lawyer on the stand. Then you
6 would be cross-examined by the State's attorney on the
7 stand.

8 I will tell you that should you have convictions
9 on your record which involve dishonesty or false statements,
10 or if there are convictions for crimes which are punishable
11 by imprisonment for more than one year and this court makes
12 the determination that the probative value of admitting that
13 evidence outweighs the prejudicial effect to you, if that
14 ruling were made, then the solicitor would be able to
15 introduce those parts of your record to attack your
16 credibility.

17 Now, if you decide to testify, the decision on
18 your part must be freely, voluntarily and intelligently
19 made. That means you have knowledge of the protections
20 given to you by the Fifth Amendment and you also have
21 knowledge of the consequences of a decision to testify,
22 should you decide to do that.

23 Now, I will inform you that if you decide not to
24 testify, that I will instruct the jury that the fact that
25 you did not testify could not be given any consideration by

1 them whatsoever and that there would be absolutely no
2 prejudice to you because of the fact that you did not
3 testify. In fact, my instruction to the jury would be that
4 they could not even discuss that fact, the fact that you did
5 not testify, in any manner whatsoever during their
6 deliberations.

7 Now, the decision as to whether or not to testify
8 is left entirely up to you. However, you have the right to
9 consult with your lawyer about that decision, your family,
10 your friends, or anyone else you would like to discuss that
11 decision with, but the final decision is yours, and yours
12 alone.

13 Now, Mr. Reynolds, did you understand what I just
14 explained?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Do you have any questions about what I
17 have explained to you?

18 THE DEFENDANT: No, sir.

19 THE COURT: Have you had an opportunity to discuss
20 this decision with your lawyer?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Have you had an opportunity to discuss
23 it with anyone else you would like to discuss it with?

24 THE DEFENDANT: No, sir, but, I mean -- my
25 rights --

1 THE COURT: Well, is there anyone else you would
2 like to discuss it with at this time?

3 THE DEFENDANT: No, sir.

4 THE COURT: All right, sir.

5 Do you wish to discuss this any further with your
6 lawyer?

7 THE DEFENDANT: No, sir.

8 THE COURT: Do you wish to testify in this case?

9 THE DEFENDANT: No, sir.

10 THE COURT: All right. Now, does the defense wish
11 to call any other witnesses?

12 MS. LYALL: No, Your Honor.

13 THE COURT: So you intend to rest when we bring
14 the jury back in?

15 MS. LYALL: I do, Your Honor.

16 THE COURT: All right. The State has requested
17 specifically a charge on the hand of one hand of all. I do
18 intend to offer my standard charge on that particular
19 subject.

20 Is there any other specific requests for charge,
21 from the State?

22 MS. JORDAN: No, sir, Your Honor, but would it be
23 possible to hear the State's charge on malice as it relates
24 to attempted murder?

25 THE COURT: You want to hear what my charge might

1 be?

2 MS. JORDAN: Yes, sir.

3 I know that there is a few different charges out
4 there and I'm --

5 THE COURT: All right. We will get to that in
6 just a minute.

7 MS. JORDAN: Okay.

8 THE COURT: Any specific requests for charge
9 from --

10 MS. LYALL: Yes, Your Honor.

11 Since you are charging hand of one, we would also
12 request the mere presence.

13 THE COURT: I think that's included in that.

14 MS. LYALL: Okay.

15 THE COURT: Why don't we take a few minutes and go
16 back in chambers.

17 MS. JORDAN: Okay.

18 THE COURT: Ma'am?

19 MS. LYALL: I said okay.

20 THE COURT: We will have a charge conference and
21 we will talk about those things and then we will come back
22 out and I'll put it on the record.

23 Court will be in recess for just a few minutes.

24 I'll ask the attorneys to join me in my chambers.

25 (Whereupon, proceedings were recessed)

1 (Whereupon, proceedings were reconvened)

2 THE COURT: We have completed the charge
3 conference. I have informed the attorneys that I will
4 provide a written copy of that charge to them and allow them
5 to review it.

6 Because of the time, I am going to allow argument
7 and charging in the morning at nine o'clock.

8 I will submit a copy of that proposed charge to
9 you and we will take further comment in the morning.

10 At this time I will bring the jury back in and ask
11 if you have any evidence and allow you to rest on the record
12 and then I'll instruct the jury concerning what's to happen
13 in their absence from the courthouse.

14 Bring the jury in.

15 (The following takes place in the presence of the
16 jury panel)

17 THE COURT: All right, the record will reflect
18 that the jury has returned to the courtroom.

19 When we took our earlier break the State had
20 completed the presentation of its evidence in the case, and
21 at this time the defense has the right to present any
22 evidence it chooses to present.

23 Does the defense wish to call witnesses?

24 MS. LYALL: No, Your Honor.

25 At this time the defense rests.

1 THE COURT: All right. Ladies and gentlemen, that
2 will then complete the presentation of evidence in this
3 case.

4 Now, I told you when the case started that when we
5 reached this stage of the proceeding the attorneys would be
6 allowed to make their final or closing arguments to you,
7 followed by my charge on the law. I have had a brief
8 meeting with the lawyers about the length of time they think
9 that that will take and it's about 3:30 in the afternoon.
10 So if we were to do that this afternoon, I would suspect
11 that you would get the case for deliberations after five
12 o'clock and then deliberations might go into the evening, so
13 I think the better course to follow here is to have you
14 return at nine o'clock in the morning. We will argue and
15 charge immediately and then the case will be turned over to
16 you for your deliberations, which should give you ample time
17 during business hours and however you wish to proceed in
18 order to deliberate in this matter. So I think that's the
19 better course to follow.

20 So at this point in time I'm going to release you
21 for the remainder of the afternoon. I will ask you to be
22 back in the jury room at nine o'clock in the morning.
23 Shortly thereafter we will begin the closing arguments and I
24 will charge you concerning the law.

25 As always when you leave the courthouse -- you

1 could probably tell me what I'm going to say, but I will
2 tell you, don't attempt to gather any information on your
3 own. Don't listen to, watch, or read media reports. Don't
4 discuss the case with anyone at this point in time, or any
5 other time. Don't allow anyone to discuss the case with
6 you. And should anyone try to contact you about your
7 service on this jury, please report that and I assure you I
8 will take the appropriate action, should that occur.

9 So I'll ask you to be back in the jury room at
10 nine o'clock. We expect to start promptly, so be there
11 promptly, and we will get the case into your hands as
12 quickly as we can.

13 Thank you very much. I hope you have a good
14 evening and you are free to go at this time.

15 (The following takes place outside the presence of
16 the jury panel)

17 THE COURT: All right, court will be in recess
18 until nine o'clock in the morning.

19 The defendant remains in custody.

20 Thank you very much.

21 (Whereupon, proceedings were adjourned to December
22 4th, 2013)

23

24

25

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS

3
4 THE STATE) TRANSCRIPT OF RECORD
5 - vs -) 2012-GS-42-03307
6 JUSTIN DARNELL) 2012-GS-42-03308
7 REYNOLDS,) 2012-GS-42-03309
8 DEFENDANT.) 2012-GS-42-03314 (COUNT I)
9 DECEMBER 4, 2013) 2012-GS-42-03314 (COUNT II)
10 SPARTANBURG, SOUTH CAROLINA

11 (VOLUME III)

12 B E F O R E:

13 THE HONORABLE ROGER L. COUCH, JUDGE. ; And a Jury.

14
15 A P P E A R A N C E S:

16 JENNIFER JORDAN, ASSISTANT SOLICITOR
17 ABEL GRAY, ASSISTANT SOLICITOR
18 ATTORNEYS FOR THE STATE

19 MARY STUART LYALL, ASSISTANT PUBLIC DEFENDER
20 ATTORNEY FOR THE DEFENDANT

21 MICHAEL R. WATTS
22 CIRCUIT COURT REPORTER
23
24
25

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1 (PROCEEDINGS, December 4th, 2013)

2 THE COURT: All right, we are on the record in the
3 case of State versus Reynolds.

4 We have completed a charge conference. I have
5 provided the attorneys with a written copy of my charge. I
6 have informed them that it's my intention at the close of
7 the charge to provide the written copy to the jury. I will
8 allow them to reserve objections until after I have given my
9 verbal charge and before it is submitted to the jury. We
10 will discuss that at that time.

11 I do not recall that the defense introduced any
12 evidence into the case.

13 MS. LYALL: No, Your Honor, we did not.

14 THE COURT: So that means the State will be going
15 first.

16 Are you prepared to do that?

17 MS. JORDAN: I always like last position, but,
18 yes, sir.

19 THE COURT: I understand you like that, but I
20 don't think that's what the rules allow.

21 MS. JORDAN: It doesn't.

22 THE COURT: You will be going first and then Ms.
23 Lyall will be going second.

24 Anything we need to take up before we bring the
25 jury in, from the State's position?

1 MS. JORDAN: No, sir, Your Honor.

2 THE COURT: Anything from the defense?

3 MS. LYALL: No, Your Honor.

4 THE COURT: All right. Let's bring the jury in.

5 (The following takes place in the presence of the
6 jury panel)

7 THE COURT: The record will reflect that the jury
8 has returned to the courtroom.

9 I hope everyone had a good evening.

10 As always, when you left the courthouse, I will be
11 checking if any of you have had any difficulty in complying
12 with the court's instructions thus far, I would ask that you
13 please stand.

14 (No response).

15 THE COURT: It appears that all jurors have been
16 able to comply with my instructions during your absence from
17 the courthouse.

18 I told you that upon your return we would be going
19 into the phase of the trial where the attorneys are allowed
20 to give their closing arguments or summations to you and at
21 this time the State will be going first.

22 You may proceed, Ms. Jordan.

23 MS. JORDAN: Thank you, Your Honor.

24 Ladies and gentlemen of the jury, I have a good
25 friend and she's a co-worker of mine who loves to talk about

1 puzzles and how she likes to make puzzles and build puzzles
2 and how puzzles are a lot like trials. She and I agree on
3 that, because when you start out with a puzzle, you open the
4 box and you throw it all out there, it's kind of like a
5 kaleidoscope. You have a ton of different images out there
6 that don't make sense at that point, but as you gradually
7 put the pieces of the puzzle together, you get the big
8 picture. You get what's there, and that's a trial.

9 You start out blank slate and you hear from people
10 up here on the witness stand. You see photographs. You see
11 some of the evidence that we have and you take all of that,
12 you put it together, puzzle and picture at the end, or the
13 verdict.

14 I'm going to spend just a couple of minutes
15 talking to you about the law in the case before I go into
16 the facts.

17 One of the biggest law -- or the law that I want
18 to talk to you about first is something in our law called
19 the hand of one. It's called the hand of one is the hand of
20 all. It states that if a crime is committed by two or more
21 people who are acting together in committing the crime, the
22 act of one is the act of all.

23 A person who joins with another to accomplish an
24 illegal purpose is criminally responsible for everything
25 done by the other person which occurs as a natural

1 consequence of the act done by the carrying out of the
2 common scheme or plan.

3 So the hand of one -- the hand of one person is
4 the hand of all when they are working in concert together to
5 accomplish their common scheme or their plan. The hand of
6 one is the hand of all. I would like you to keep that in
7 mind as you think about this case and all the different
8 pieces of the puzzles fit together.

9 The judge is also going to talk to you about the
10 credibility and the believability of the witness. He talked
11 about it in his opening charge, where basically credibility
12 is believability. It's -- and that it's your duty to
13 analyze and to evaluate the evidence and determine which
14 evidence convinces of its truth. He's going to tell you
15 that you can believe some of what a witness said, all of
16 what a witness said, or none of what a witness said, but
17 that's your job to judge the credibility and believability
18 of every person who took the stand.

19 He's also going to tell you that the State has the
20 burden of proof in this case, and I do, and it's the burden
21 of proof beyond a reasonable doubt. Notice the word is
22 reasonable. Nowhere in there does it say beyond any and all
23 doubt. Beyond a reasonable doubt.

24 I believe the judge will give you a couple
25 different definitions of that. One of them is would it

1 cause you to hesitate to act? Or, does it leave you firmly
2 convinced of the defendant's guilt? That's the burden that
3 I have, and that's the burden that I believe I have met as
4 to each and every charge the defendant is facing.

5 The charges. As I told you earlier, there are
6 several charges, and you are going to hear about some lesser
7 included offenses that you are going to have, you know, the
8 potential to reach. They all arise out of that same set of
9 facts; April 7th through April 8th, 2012.

10 Armed robbery. Armed robbery is basically just
11 the taking of something or some -- the taking of something
12 from a person's presence or from the person while armed with
13 a deadly weapon.

14 Keep in mind, the hand of one, the hand of all.

15 The next is kidnapping. Kidnapping is basically
16 what you think it's going to be. It's a list of various
17 things that could constitute kidnapping. It's unlawfully
18 seize -- knowing and unlawfully seized, confined, inveigled,
19 decoyed, kidnapped, abducted, or carried away another person
20 without authority of law. A bunch of different words in
21 there. We don't have to prove every one of them. We just
22 have to prove one of those. Kidnapped, carried away.

23 There is also, when you listen to the judge's
24 charge on kidnapping, there is no particular time limit on
25 it. There is no magic number that says to be guilty of

1 kidnapping you have to have had the person for five minutes,
2 ten minutes, two days, two years.

3 There is also, when you listen to the judge's
4 charge on the law as to kidnapping, there is nothing that
5 tells you that it has to be of a certain distance or the
6 person has to be carried away, kidnapped, or anything a
7 certain distance. There is no element in kidnapping as to
8 that, just that they have to be carried away or kidnapped,
9 but there is no element as to time or distance.

10 The next is grand larceny. In this case the grand
11 larceny is as to Josh's vehicle. We have to prove that they
12 took it away with the intent to deprive the owner
13 permanently of that object and that the value of the car was
14 over \$2,000. You heard Josh testify that he paid \$2,500 for
15 the car. He still owed money on it and was making monthly
16 payments.

17 Keep in mind the hand of one, the hand of all.

18 The last one -- or the last set that I'm going to
19 talk about is attempted murder. Attempted murder is the
20 attempt -- an intent to kill another with malice
21 aforethought.

22 Malice is going to be defined by the judge. He's
23 going to tell you that it's hatred, ill will, or hostility
24 towards another person. And you don't have to take my word
25 for any of this, because the judge is going to tell you

1 that. Hatred, ill will, or hostility towards another
2 person.

3 It's also the intent on doing a wrongful act
4 without just cause or excuse and with the intent to commit
5 an injury, or under circumstances that will infer an evil
6 intent.

7 Malice is -- malice also requires or has the
8 statement of aforementioned. And basically what that states
9 is that there is -- just like kidnapping, there is no
10 specific time frame on how long they had to have the malice.
11 I don't have to prove that five hours before this happened
12 he had malice towards Josh. All I have to prove was that
13 when the act was committed he had malice towards Josh. When
14 the trigger was pulled there was malice with his intent to
15 kill.

16 The judge is also going to charge you, and you
17 will see it as the second charge on the attempted murder,
18 about possession of a weapon during the commission of a
19 crime of violence. I'll tell you this. Attempted murder is
20 a crime of violence as defined by our statute. If you find
21 that he was guilty of attempted murder, the next question
22 would be was he in possession of a weapon at the time of
23 that crime.

24 With attempted murder, the judge is going to give
25 you a couple of other options; that if you do not find the

1 defendant guilty of attempted murder, you can consider two
2 other choices -- or three other choices; the third, of
3 course, being not guilty; the second being assault and
4 battery of a high and aggravated nature. So if you are not
5 satisfied that I have met the burden of proof as to
6 attempted murder, step down and look at assault and battery
7 of a high and aggravated. That is injury, or great bodily
8 injury, or likely to produce great bodily injury or death
9 with an assault and a battery.

10 In connection to the weapons charge, I will tell
11 you that the judge is going to let you know that assault and
12 battery of a high and aggravated nature is also a violent
13 crime. So if you were to find him not guilty of attempted
14 murder, but guilty of assault and battery of a high and
15 aggravated nature, you can also consider the weapons charge
16 as to that.

17 The next option you are going to have as to the
18 attempted murder, the next step down from assault and
19 battery of a high and aggravated is assault and battery
20 first degree. That's an assault and battery with an injury
21 that occurs and it occurred during the kidnapping, a
22 robbery, or a theft. I will let you know that we will not
23 hear that that is a violent crime and will not have the
24 option of the weapons charge on that one.

25 When you are thinking about all those charges,

1 keep in mind that the hand of one is the hand of all. Think
2 of these things. Think of the plan. Think of the location.
3 Think of how Josh got to be there that day. Think of where
4 he was shot, the back of the neck. That's a kill shot.

5 Now, let's talk about the other pieces of the
6 puzzle. You have got the law. It gives you the framework.
7 Let's talk about the witnesses that you have heard from.

8 The first one was John Duncan. Mr. Duncan was
9 just out there doing his morning routine. He loved to go
10 get coffee and he loved to chit chat at the Little Cricket.
11 He left at 6:30 in the morning, drove. He noticed as he was
12 leaving Kelly Acres, which is here in Spartanburg County,
13 that there was some stuff laying over -- some pants and some
14 shoes laying over there. He kept going. On his way back
15 it's a little bit lighter. I think he said it was about
16 7:15, a little bit lighter out there, and he notices there
17 is something attached to those pants. Nothing is attached
18 to the shoes. I think it's very interesting that he
19 remembers the exact position of how those shoes were in
20 relationship to Josh's body that day. They were not on him.
21 They were off to the side. Just like Josh told you, they
22 took his shoes off of him. They must have decided they
23 didn't like them; didn't fit, didn't want them and left them
24 there.

25 He also told you that he saw dried blood on Josh's

1 face as he laid there. He called 911.

2 Michael Scroggs is a former EMS worker who came on
3 the scene with a partner, and when he got there he saw the
4 defendant -- I'm sorry, he saw Josh laying out there. Think
5 of how he described his pants pockets. His pants pockets
6 were out and empty.

7 We know Josh started out in that early morning
8 hours with stuff. He told you he had pills. He had drugs
9 on him. Stephanie told you he had drugs on him. Megan told
10 you he had drugs on him. You know he had car keys, because
11 he drove over there. He talks about the phone that he had
12 that he was using to communicate with Stephanie to get to
13 Kelly Acres. He also talked about when he had the phone and
14 he kept trying to call "Dre" when he was there waiting to
15 say where "Dre" was. Then he told you he had money on him.
16 None of that was found on Josh that morning. His pockets
17 were empty, turned inside out. Jason told you they took his
18 stuff. They took his stuff before Justin walked over and
19 shot him in the back of the neck.

20 Michael also told you that Josh's skin was cold.
21 His nose was too full of blood to insert a tube. He tried
22 to speak, but he could not. They found a hole in the back
23 of his neck and a small object protruding from the front of
24 his neck near his Adams apple.

25 Darrell Johnson, an officer with the Woodruff

1 Police Department testified. He arrived on the scene,
2 confirmed what the EMS worker told you. Pants pockets empty
3 and out. No ID. They didn't know who he was. Nothing. No
4 keys, no drugs, no money, no phone. Josh had nothing on him
5 when help came that early morning.

6 Officer Johnson also talked to you about the hole
7 in the back of Josh's neck and how he even noticed also an
8 object protruding from the front near his Adams apple.

9 He told you that they looked around, they didn't
10 find any shell casings. They looked. There was nothing
11 there.

12 Ms. Lyall is going to make a huge point about the
13 fact that there is not much physical evidence in this case,
14 and there is not. This case is based upon a lot of
15 eyewitness testimony and people who were involved. In an
16 ideal world I would have a video. It would be HD and have
17 sound. I would have DNA. I would have fingerprints,
18 gunshot residue, ballistics. I would have it all, but
19 that's not the world that we're in. The officers looked for
20 the stuff. It wasn't there. I'll tell you where a lot of
21 things were; with Jason and Justin when they left. They
22 took it with them, except for the shoes. They didn't like
23 them, didn't fit. For some reason they just left them
24 there.

25 Stephanie Vaughn. I will say this. She is

1 scared, she's young, and no offense to her, but she's not
2 that intelligent. I think scattered throughout this entire
3 trial is a lot of bad choices, and she made a lot of them
4 too. I don't even know that she completely understood the
5 word consideration. She will get consideration for the
6 testimony that she gave I believe on Monday afternoon.

7 I would like to focus on the last thing that
8 Stephanie said on the witness stand. When I asked her "why
9 did you talk to the police? Why did you talk to me? Why
10 did you sit on this witness stand and talk to the jury?"
11 Because she thought the truth needed to be told and she told
12 it to you.

13 I know Ms. Lyall is going to make a lot about the
14 fact that she gave four statements. Think of those four
15 statements and what you heard about them. Two of those she
16 said "Krazy", who we know is the defendant, came in, pulled
17 and took Josh out. Grabbed him, took him out. "Krazy" in
18 one statement. "Krazy" in a second statement. The same
19 thing she told you from this witness stand.

20 There were two other statements and you heard the
21 summary of those. They were about phone calls that she got.
22 One of them in particular was about a phone call that she
23 got from Jason, or "J-Baby", who you also heard from and who
24 is the defendant's brother. She was threatened by them --
25 or by him. I apologize. She was threatened by "J-Baby" or

1 Jason, "don't put my name in a statement," but that didn't
2 stop her. Her fear and how scared she was did not stop her
3 from going to the police and telling them what had happened
4 and telling them the truth and it didn't stop her from
5 coming in here. Yes, she got -- or she will get
6 consideration, but she told you she wanted the truth to be
7 told.

8 She talks about how "Dre", or Andre, made the
9 first contact with Josh, or white boy as they called him.
10 Think about it. Josh told you he knew "Dre". Josh told you
11 he's not an angel. He knew "Dre" because they partied
12 together, they did drugs and they hooked up with girls.

13 When someone comes up with a plan to rob a drug
14 dealer, guess who they call? They call a drug dealer. They
15 don't pick up the phone and call the local choir boy, the
16 local Boy Scout, or anything like that. They rob the person
17 they know has what they want.

18 Jason told you his brother talked about a robbery
19 that day. That's what they were going to do. They just had
20 to pick their victim. "Dre" was there. "Dre" knew him.
21 He's no angel. You don't call the Boy Scouts when you want
22 drugs, money, and whatever else he may have had on him that
23 day.

24 I'd like to think it was like the phone call or
25 the initial contact with Josh is kind of like the setup,

1 like the setup for the dance. You got to get prepared for
2 it. They make a phone call and they wait. At that point in
3 time they pass Josh off to Stephanie. Stephanie gives him
4 an address; helps him get to Kelly Acres; helps redirect him
5 when he goes to the wrong -- not the wrong entrance, but the
6 wrong road inside the apartment complex; gets him to the
7 house.

8 Do you remember, too, what Stephanie talked about,
9 that at some point that evening "Dre" made this sign, a gun
10 sign. And Justin said "that's me. That's me." I got that
11 covered is how I take that. It's just another step in the
12 plan for this to go out.

13 Josh gets there. None of the guys are there, just
14 the two girls and the baby in the back. Yet again bad
15 choices. There is a one year old at that house. Josh goes
16 in and --

17 I'm not standing here telling you that Stephanie
18 is the mother of the year. She's not. Not at all. She's
19 got a one year old and she's pregnant.

20 There is a knock at the door, the first knock.
21 That's a test. Let's see if somebody comes to it. Let's
22 see if somebody answers. They did. The plan is in action.

23 The second knock. Josh wants to put his pills up.
24 So Josh and Stephanie go to the front door where the knock
25 was. Someone comes from behind with a gun, grabs Josh,

1 takes him out. Stephanie told you who it was; Justin.

2 She even talks about how she remembers getting
3 burned by a cigarette as he came by to get Josh. And to me
4 that's one of those things that gives you a little bit of
5 the ring of truth, because it's a feeling that goes along
6 with what was happening then. She remembered that as he
7 came in, as he picked up -- as he put his arms around Josh
8 and took him out of that apartment she got hit with a
9 cigarette. It's a feeling she connects to that. She knew
10 Justin. She knew that's who came in that house. She told
11 you guys, told the police; Justin.

12 She heard a gunshot.

13 Also remember, too, that she told you that she
14 knew what car Josh drove up in, because I think she had gone
15 out and met him and brought him in. She told you she looks
16 out the front and she sees two black individuals getting
17 inside of his vehicle. Two.

18 "I thought the truth should be told." Her need to
19 tell the truth outweighed her fear, and she told you that,
20 just as she told the cops, just as she told you guys on
21 Monday.

22 Megan Margarita. Young. Bad choices also. I
23 mean, like I said, I think it's a common theme that runs
24 through this entire case is the bad choices that everybody
25 makes. She's young, but one thing that's key about her is

1 that she's got no dog in this fight. She wasn't charged.
2 She's not getting any consideration. She's here to tell you
3 what happened.

4 What did she tell you? She told you one thing,
5 that she was so scared after this that she left Woodruff and
6 moved two hours away. She left and moved two hours away.
7 Before she left, she did give the police one statement. Do
8 you recall in that statement who she said came in and took
9 Josh? "Krazy" or Justin.

10 When she was over two hours away she wrote another
11 statement and sent it in. In that statement, the same
12 thing; Justin came in and took Josh. Common theme; Justin.

13 She wrote two statements. Stephanie wrote four,
14 and you are probably going to hear those numbers a lot. Two
15 and four and inconsistent and inconsistent back. They are
16 not inconsistent as far as who came in and who took Josh
17 out.

18 She also listened -- I'll give Megan credit for
19 this. She listened to what she was asked. Apparently I
20 asked her "did you look out the door, the back door?"

21 She said "no."

22 Ms. Lyall delved a little further into that and
23 said "now, didn't you say at some point in time before this
24 that you looked out the door or you went out the door?"

25 She said "yes."

1 She goes "well, you just told Ms. Jordan that you
2 didn't."

3 She goes "no, she asked me did I look out the
4 door. I went out the door and I looked." She wanted to
5 make sure you guys knew the truth. What did she say she saw
6 out there? Josh and two black individuals.

7 She told the officers that Justin -- in the
8 statement that "Justin grabbed him and I don't know what
9 happened after that." She didn't say "I don't know what
10 happened. Justin grabbed him." She says "Justin grabbed
11 him. I don't know what happened after that." She wasn't
12 out there with Josh, Jason and Justin. She told you what
13 she did know.

14 She also told you that the defendant had a gun
15 when he came in and got Josh. "That's me" right there. You
16 saw her. Tears. She was genuine. She was scared. She was
17 scared, but she still came in here and she told you the
18 truth. She was so scared that this was somebody that moved
19 away two hours when this happened. No dog in this fight.
20 None at all. The defendant took the victim out of the
21 apartment and the defendant had a gun.

22 Jason Tolison, let's talk about him. Jason is
23 Justin's brother. Blood brother. They both shared the same
24 mom. He's getting consideration for his testimony. He told
25 you. He pled guilty to grand larceny, attempted murder,

1 armed robbery, kidnapping, and a resisting arrest charge,
2 and he's getting consideration. He's getting fifteen years.
3 It's fifteen years in the Department of Corrections. A
4 fifteen year sentence.

5 When he left this courtroom you noticed he didn't
6 go out the back door unshackled and not in that orange
7 jumpsuit. He went out the same way and in the same style he
8 came in; through that door, shackled, chained, orange
9 jumpsuit. He's not going home.

10 She may make fifteen years sound like it's not
11 much. He's twenty. He's twenty and he has a two year old.
12 He's going to get to see that child grow up from the inside
13 of the Department of Corrections during a fifteen year
14 sentence.

15 So, yes, he is getting consideration, but think of
16 what it is. I think back on chunks of time in my life and
17 what I did in those periods of time. Fifteen years is a
18 long time. Twenty years old, two year old.

19 Justin told you -- I'm sorry, Jason told you that
20 Justin was talking about doing a robbery that night. He
21 knew about how to get the plan started. He wanted to do a
22 robbery.

23 Remember that "Drew" -- "Dre", I apologize, "Dre"
24 knew Josh, so there was their target. Robbery, target.
25 Justin, got that or "that's me".

1 He admitted he knocked on the front door while his
2 brother went around to the back door and got Josh. He was
3 the knocker. He says he knocked, went around, met his
4 brother and his brother had Josh. You know there was a
5 knock at the front door and someone came in the back. Jason
6 told you who did both.

7 He meets him around there, joins him, robs Josh.
8 Takes Josh's -- I believe he said he took keys and his
9 phone, and we know other items were taken also. Hand of
10 one, hand of all. His brother was there.

11 He told you, too, his brother had a gun. "My
12 brother had the gun."

13 I said "what did you do with the keys" -- or "what
14 did you do after you took his stuff?"

15 I asked him about the shoes; made him take them
16 off, but they didn't take his shoes. Had the keys. So what
17 does he do? He said he goes to the vehicle and his brother
18 joins him. They knew which vehicle it was, because I think
19 they watched him walk in. They watched Josh pull up. They
20 knew that was his white Blazer. They knew that that was one
21 more thing they were going to get at the end of this. Not
22 just drugs and money anymore, they were getting a car. He
23 tells you he gets in the passenger seat. Who gets in the
24 driver's seat? Justin.

25 Megan told you that when she went out the back --

1 I'm sorry -- yeah, Megan told you when she went out the back
2 door and looked, two black individuals with Josh.

3 Stephanie tells you that she sees Josh's car, and
4 she knows it's his car, two black individuals getting in it;
5 Jason and Justin.

6 Jason talked to you about what his brother did.
7 His brother had the gun and his brother comes over and he
8 says shoots him, or gets close enough to hit him with the
9 gun and the gun goes off. He's close enough to him. And
10 think, Josh remembers how close he was, because eleven days
11 after this happened Josh picks him out. He picks out Justin
12 from a lineup.

13 And this is where I'll talk a little bit more
14 about the credibility and believability of a witness. I
15 don't know this gun went off. But if it did, he's one
16 unlucky guy, because the chances that he shot him in the
17 back of the neck and went through the spinal cord and landed
18 right here, unlucky. I would hate to be standing next to
19 him in a lightening storm, if that were true.

20 I think the facts show, based upon the planning,
21 the location of the shot and his actions of walking up to
22 Josh and shooting him, that he intended to kill him. Ill
23 will, hatred, evil act, that was his intent. He intended to
24 kill him. They had taken a lot of the evidence or a lot of
25 the stuff. They had taken the keys, the phone, ID, the

1 money, all that stuff. He wasn't going to leave Josh there.
2 He couldn't leave a witness. Kill shot.

3 And like I said, Jason is getting consideration,
4 but it's fifteen years. Fifteen years. Not a cake walk.
5 The Department of Corrections.

6 Let's talk about Josh. And I think Josh put it
7 best when he told you that he's not an angel. He knows he
8 made bad choices. He knows he did. He's not an angel, but
9 he didn't deserve this.

10 We have -- we have laws. You guys have heard a
11 lot about them. You are going to hear a lot more about
12 them. We also have places that deal with people who break
13 those laws. That's what this room is for in this house, the
14 courtroom and the courthouse to deal with that. That's
15 where he should have been dealt with for what he was doing.
16 Bad choices, he was making them. Not your poster child for
17 the good choices that you are going to make in your life.
18 Not at all, but we deal with those in here, in this setting.

19 One of the things that I always think about or
20 that comes to mind when I don't have an angel sitting over
21 there as my victim is that the Pledge of Allegiance ends
22 with four words, "in justice for all." When you look at
23 that, you don't see an asterisk at all that tells you that
24 it's only for the good people, it's only for the people who
25 follow the rules, it's only for all of those who don't break

1 the rules, don't do anything wrong. It's for the Mother
2 Teresa's of our life, not for him. There is no asterisk
3 there and there is nothing in those last four words that
4 tell you "and justice for all," but the ones who are kind of
5 making the bad choices and not getting it right. It's
6 "justice for all," period. That's him.

7 Based on what all you have heard, they dispensed
8 their own justice that night. And don't be mistaken. They
9 weren't out there like Robin Hood robbing from the rich to
10 give to the poor. They were robbing from the drug dealers
11 because he had what they wanted. There is no good
12 citizenship here, or anything like that. Nowhere near Robin
13 Hood. You rob drug dealers because they got what you want.

14 Like I said, Josh didn't hide the fact he had
15 drugs on him and what his intentions were to go over there
16 that night. Not an angel.

17 He drove over there. No keys were found on him.
18 His car was gone. No drugs on him. No phone on him. Jason
19 and Justin.

20 He told you that when he was there he tried to
21 call "Dre" to see where "Dre" was. He tried to call "Dre"
22 to see where "Dre" was. He told you. "I told one of the
23 girls, maybe it was both of the girls, that I had a gun on
24 me," but he didn't have any weapons. No gun. No knife. He
25 was going to party, maybe sell some drugs and maybe hook up.

1 Not an angel.

2 He did tell you that he knew also after he was
3 shot heard his car drive away.

4 He picked three different people out of three
5 different lineups eleven days after this happened. He
6 picked out Andre. He knew him.

7 He picked out Stephanie. He met her that night.
8 He was around her a lot longer than he was around him. He
9 picked her out.

10 He also tells you that he picked out, and you
11 saw -- you saw the lineup. He picks out Justin. He wasn't
12 around Justin a long period of time, but he tells you that
13 he sees the person who shot him. He's laying on the ground.
14 The person comes up to him and shoots him.

15 At that point in time, ladies and gentlemen, he
16 had already been drug out of the house. And I would say
17 this. He is inconsistent with the other three witnesses, as
18 far as who took him out of the house. He was grabbed from
19 behind, gun to his head, taken outside. Two people involved
20 when he was out there. He is inconsistent with that. I
21 will give you that. He's inconsistent with who took him
22 out, but the three people who knew Justin Reynolds, they
23 were not and they told you who it was. "It was Justin. It
24 was Justin. It was Justin."

25 Josh was taken out from behind with a gun to his

1 head. When he's out there he sees the two people. He sees
2 the person with the gun walk over after he's been robbed,
3 after he's been kidnapped, walks over to him and shoots him.

4 Ms. Stuart is right -- or Ms. Lyall is right. In
5 these pictures you don't see lights on. There are no lights
6 on in these pictures. These pictures are taken during the
7 day. They are taken in the morning. You are not going to
8 see lights in them, but think about it, common sense. Like
9 Josh stated, apartment buildings have street lights.
10 Apartment buildings have porch lights. And you will see
11 there is buildings all around. Buildings, and there is some
12 tree areas, but there is buildings. Common sense,
13 apartments. Street lights. Porch lights. Josh even told
14 you about the moonlight that's out there.

15 He got close enough to shoot him in the back of
16 the neck. Good shot.

17 I also think, too, that when you are in a
18 heightened sense -- you are in a more heightened sense of
19 awareness when stuff is going on, when your life is in
20 danger. And you know it was. He told you "I told him don't
21 kill me. I got kids. Take what you want." He was focused
22 on surviving and the person with the gun, the person he
23 identified eleven days later at the hospital.

24 You heard from Chief Dawkins. You heard from
25 Tiffany. Nobody suggested who to pick him out. He hadn't

1 seen any pictures, news, anything like that, and he picked
2 out Justin Reynolds, because he saw him when he walked over
3 to him, shot him in the back of the neck and kept on going.
4 Eleven days later and in here. Justin Reynolds.

5 And like I said, he is inconsistent as far as who
6 took him out of the apartment. He was grabbed from behind,
7 taken out at gunpoint. The three people who knew Justin
8 told you it was Justin.

9 Jason told you he knocked on the front door,
10 walked around the back and met up with him. Took his stuff.
11 Took his car. Shot him. Can't leave a witness.

12 Something that they didn't plan on Mr. Duncan
13 finding him and him getting to the hospital.

14 Ms. Stuart has made a big -- or Ms. Lyall has made
15 a big difference about -- or a big deal about the fact that
16 Chief Dawkins did this lineup at the hospital in ICU and
17 that he left a family member in there, but you heard from
18 the family member. She didn't suggest for him who to pick
19 out. Nobody did.

20 I think Chief Dawkins did a good job in adjusting
21 to the situation that he was in. He had the victim who
22 couldn't speak. He figured out how to communicate with him
23 and he got the job done. He told you he didn't suggest who
24 to pick out. He just went through each and every one them
25 and looked for his response.

1 The same thing with Tiffany. No one suggested who
2 he needed to pick out, but eleven days later it was him.
3 The eyes, the nose, it was him.

4 Robert Talanges from the sheriff's office told you
5 that he went out there and he did an agency assist. He
6 collected some items, took some pictures, and went to the
7 hospital and collected some more items.

8 And I know this is where Ms. Lyall is going to go
9 back to the fact that there is no other physical evidence.
10 They looked. It wasn't there. It was outside. Grassy
11 area, April 1st (sic), about two a.m. in the morning until
12 about 7:15, 7:30. Wet. Probably some dew on the ground,
13 maybe. Cold. Nothing is there so they took it. Well, they
14 took what they wanted. Apparently they didn't like Josh's
15 shoes. They did take his shoes off, which gave Josh more
16 time to sit there and look about who was doing stuff, who
17 was out there with him, and who eventually took the gun and
18 shot him.

19 Like I said, in an ideal world I would have all
20 the physical evidence in the world, but I don't. Witnesses
21 who were there, who were part of it, and people who came
22 into play afterwards, that's what we have got.

23 Even without the physical evidence that she's
24 going to tell you I don't have, and that you don't have,
25 there is enough to convict Justin Reynolds of all the

1 charges he's got before you. The State has proven it beyond
2 a reasonable doubt, because when you take all of those
3 people and you put them together, all of those pieces of the
4 puzzle, that little kaleidoscope becomes clearer and you get
5 a better image of what's in front of you. And what you
6 have, bordered out with the law that you have got in here of
7 the hand of one, the credibility, each and every one of the
8 charges and all the elements that have to be proven for
9 those, they're all there in that puzzle. Sure, it's not the
10 prettiest puzzle, not the prettiest puzzle out there at all,
11 but it's there.

12 He's guilty of armed robbery.

13 He's guilty of attempted murder. Intended to kill
14 with malice aforethought. Shot in the back of the neck.
15 That's a kill shot. Attempted murder.

16 He's guilty of grand larceny. Jason told you they
17 left in Josh's vehicle, took it away, intended to deprive
18 him of it. It was burned. Over 2,000 bucks. That's him.

19 Kidnapping. That's him right there.

20 All of those charges, including the weapons
21 charge, are in that puzzle, in that not pretty pretty
22 piece -- or not pretty picture of the puzzle, but they are
23 there.

24 Megan and Stephanie were scared, but they still
25 came forward. The truth was greater than their fears.

1 The puzzle is complete. The hand of one is the
2 hand of all. He's guilty of each and every charge that you
3 have before you. That's what that picture tells you when
4 you put it altogether. Thank you.

5 THE COURT: Ms. Lyall, for the defense.

6 MS. LYALL: Thank you, Your Honor.

7 There is only a few things that we know for
8 certain in this case, things that everybody agrees on.

9 One, that Josh Barrineau came to the house that
10 night to do some drugs and to sell some drugs.

11 Two, that somebody removed him from the house.

12 And three, that a bullet was lodged in the back of
13 his neck and he became paralyzed.

14 However, pretty much all of the other facts and
15 evidence in the case are disputed at this point. The reason
16 why they are disputed is because pretty much everyone that
17 took the stand in the past couple of days have given
18 different variations of the story. The how, the why, the
19 where, the what, everyone has given you different versions
20 of these events.

21 Ladies and gentlemen, reasonable doubt can come
22 from the evidence, the lack of evidence, and the conflict in
23 the evidence. And first I would like to go over the
24 conflict in the evidence, because there seems to be a lot of
25 that in this case.

1 First we have an extreme conflict in the evidence,
2 considering the parties can't even agree on the simplest of
3 things in this case, the first being how did Josh get to the
4 house. Who called him?

5 We first heard from Stephanie. She gave a sworn
6 statement to the police saying that "Krazy", Justin
7 Reynolds, and "J-Baby", Justin Tolison (sic), got her to
8 call Josh over to the house. Then when you heard her on the
9 stand she said "well, that's not true. I lied in that first
10 statement." "Dre", Andre Scott, is actually the one that
11 called him. Then she said "well, yeah, but then I called
12 him too." That was in her second statement and then that's
13 what she testified to.

14 The solicitors say she only wants to tell the
15 truth, but she has so many different versions of the truth,
16 how can we really tell which one is her actual version of
17 the truth?

18 Megan got up on the stand and said that "Krazy",
19 Justin Reynolds, is the one that told her to call Josh.
20 Then she said that she was in a bedroom with Marquise
21 Duncan, her boyfriend, the entire time and that Jason is the
22 only one that came into the bedroom. Then she later changed
23 her mind and said she came out and she is not really sure
24 who was the one that actually called Josh over to the house,
25 that there was a group of people around the phone.

1 If this group of people can't even determine who
2 called Josh over to the house, how can we determine what
3 really happened in this event? This is conflict in the
4 evidence and conflict in the evidence is reasonable doubt.

5 Who had the gun? We have Stephanie saying that
6 Josh had a gun in the house. She said that he told her he
7 had a gun and then when there was a knock on the front door,
8 that she said "Josh, get your gun, I'm scared because I have
9 a baby in the house," and he got up and followed her.

10 Then we have Josh saying that he did say he had a
11 gun, but he didn't actually have one.

12 Then we have Stephanie also -- Stephanie and Megan
13 also saying they did not see any of the boys, including
14 Justin Reynolds, Jason Tolison, Andre Scott, that they
15 didn't see any of them with a gun and that there was no
16 mention of a gun by any of them, but then we also have Jason
17 Tolison saying he did see Justin Reynolds with a gun. None
18 of them can agree on who had a gun at any point of time in
19 the night. This is conflict in the evidence and conflict in
20 the evidence is reasonable doubt.

21 For a very, very important conflict in this case,
22 who grabbed Josh from the apartment? Stephanie and Megan
23 say that Justin Reynolds grabbed Josh from the apartment.

24 Let me talk about something that's very important
25 at this point, getting a little bit off topic, but the judge

1 is going to instruct you a little later about motives to lie
2 and relationships between people. You have heard that at
3 the time this happened that Jason Tolison and Stephanie
4 Vaughn were in a relationship. You have also heard that
5 Jason Tolison and Megan Margarita were previously sleeping
6 together. You have also heard that Megan Margarita and
7 another co-defendant, Marquise Duncan, were currently
8 sleeping together when this happened.

9 The solicitor just got up here and said Megan
10 Margarita has no dog in this fight, no reason to lie, yet
11 she was sleeping with a co-defendant.

12 Stephanie also who got up here said that she is
13 just looking for the truth in this, has given multiple
14 statements in this case, has admitted to lying on the stand,
15 and has -- was also sleeping with a co-defendant in this
16 case, a co-defendant that has gotten a lesser sentence in
17 this case. He was looking at the rest of his natural life
18 in prison and will now only be serving fifteen years in
19 prison.

20 You also heard that both Jason and Stephanie admit
21 they promised each other to keep each other's names out of
22 these statements to the police.

23 Jason wrote Stephanie a love letter from jail
24 after this happened saying "don't worry baby, I'll keep you
25 out of this. I'll keep you out of trouble."

1 Stephanie admitted on the stand that when she got
2 that threatening phone call from Jason, Jason telling her
3 "you better keep my name out of this," she said "don't
4 worry, I did."

5 These two girls are who we are relying on to say
6 that Justin Reynolds was the one that rushed into that
7 house.

8 Josh got on the stand, and although the solicitor
9 said he had an inconsistent statement about who grabbed him,
10 it wasn't inconsistent at all. He said that Jason Tolison
11 grabbed him from inside that house, took him outside and
12 robbed him, and that it was Jason Tolison alone. He said
13 that he saw Justin Reynolds sitting off to the side. He was
14 very clear on that point that it was not Justin Reynolds
15 that grabbed him from inside the house and it was not Justin
16 Reynolds that robbed him. There was no inconsistency in
17 that statement. He was very consistent that it was Jason
18 Tolison that grabbed him.

19 The two females that said it was Justin Reynolds
20 have a very clear motive to lie in this case. They are
21 protecting their boyfriends and don't want their boyfriends
22 to go to prison for the rest of their lives. This is an
23 extreme conflict in evidence in this case and conflict in
24 evidence is reasonable doubt.

25 The next big question is who caused the bullet to

1 go into the back of Josh's neck? The reason I word it that
2 way I'll go over in a few moments.

3 Stephanie and Megan were not witnesses to this and
4 cannot testify to what happened outside. Both of them
5 testified that they were inside the house and heard a
6 gunshot. Neither of them testified that they saw either
7 Jason Tolison, or Justin Reynolds, Andre Scott, or Marquise
8 Duncan with a gun. They don't know what happened outside.
9 The only thing that was ever said about a gun was Stephanie
10 said she thought Josh had a gun. But once everyone went
11 outside, they have no idea what happened.

12 What we do know is that Josh was shot in the back
13 of the neck. A bullet went into the back of his neck. If a
14 gun -- he also said it was at point blank range. If a gun
15 is pressed at the back of your neck, you can't tell who is
16 behind that gun. You cannot see directly behind your neck.
17 That is physically impossible.

18 It was also extremely dark out there. The
19 solicitor went over these pictures with you and these
20 pictures will go in the back with you. I went over these
21 photos with Josh and asked him -- he said that there was
22 street lights out there, that there were lights on the
23 buildings, and I went over these photos with him and asked
24 him to point out where the street lights and where these
25 lights were. I realized these photos were taken during the

1 day, but it makes it easier to see if there actually were
2 street lights. There are none in these photos. There are
3 no street lights. There are no porch lights.

4 What makes it even more evident that there were
5 none is that Megan Margarita got up on the stand and
6 testified that she stepped out of the back porch, looked
7 outside. She couldn't even make out who the people were.
8 She knows these people and all she could see were two black
9 figures. If she knows the people and can't even identify
10 them, how could a person that's never met these people
11 identify them? That makes no sense.

12 Eleven days after this event Sergeant Dawkins
13 comes to the ICU with lineups. Now, two of the lineups are
14 people that Josh already knows. One of them has Stephanie
15 Vaughn, who Josh has hung out with in a lit apartment for
16 over an hour. And another is of Andre Scott, who Josh
17 testified he's known for one to two years. Clearly he would
18 be able to pick these people out of a lineup.

19 What Sergeant Dawkins did is not in police
20 procedure. He testified to that on the stand. It is not
21 normal to allow a family member to sit in the room with
22 someone while they are picking someone out of a lineup, a
23 family member that testified they have seen all the news
24 reports, seen newspapers that had Justin Reynolds flashed
25 all over them, his picture as a suspect in the case.

1 Now, they didn't testify to this, but what are the
2 odds that these family members did not discuss this, show
3 pictures to, bring your cell phone in, or anything for
4 eleven days after this incident? If you were in the
5 hospital -- if I was in the hospital, certainly your family
6 would show you pictures of what happened and what was going
7 on with your case.

8 This is not proper procedure and I would submit
9 that he was able to pick him out because he had seen him
10 previously in newspaper and print ads. I would say that
11 there was no view. It was too dark for him to pick anyone
12 out, and that they were just black figures that night.

13 The only two witnesses, as I said, to the bullet
14 being lodged in the back of his neck were actually Josh and
15 Jason Tolison. Those are the two witnesses that you can
16 consider, because those are the two that testified.

17 Now, Jason Tolison called Stephanie Vaughn on the
18 night that this happened. He also testified -- talked to
19 the solicitor's office later and then he testified in court.
20 On all of these occasions he said that after he was done
21 robbing Josh, that Jason came up off of the steps -- that
22 Justin came up off of the steps, walked over, and as they
23 were leaving that Justin hit him with a gun and that the gun
24 accidentally went off. That is not attempted murder.

25 You will hear the judge go over the attempted

1 murder statute. Attempted murder requires an intent to
2 kill. Hitting someone with a gun and the gun discharging is
3 not an intent to kill.

4 Now, the judge will go over some lesser included
5 offenses that you may also consider, but consider that the
6 only witness that has told you what happened said that Josh
7 was hit with a gun.

8 Now, Josh says that a bullet went into him at
9 point blank range. That's actually not inconsistent with
10 what Jason says happened, because Josh would not know the
11 difference between being hit with a gun and the bullet going
12 into the back of his neck and actually being shot at point
13 blank range. So I would submit to you that what happened in
14 Jason's view is not attempted murder. This is conflict in
15 the evidence and conflict in the evidence is reasonable
16 doubt.

17 Now, I am going to go over another thing that can
18 be considered, which is lack of evidence in this case. Lack
19 of evidence can be considered when looking at reasonable
20 doubt.

21 Remember when Investigator Talanges testified. He
22 was in charge of processing this scene. They actually
23 called him in from the sheriff's department because they
24 wanted someone qualified to help them out to come in and
25 make sure that they got the right people for this crime.

1 The solicitor's office says they would love to
2 have all the necessary evidence in this case, but
3 Investigator Talanges didn't even try. He came in, he
4 picked a few items off of the ground.

5 I asked him if he tried to fingerprint the
6 buildings right next to where this happened. He said no,
7 didn't do it. That could have told us where people were
8 when this happened; if Justin was actually there. He didn't
9 find a gun. He didn't really even look. It sounded like he
10 just walked over there, picked up the items that were
11 literally where Josh was and then left the scene.

12 The only fingerprinting he ever did was months, if
13 not a year later, when the solicitor's office asked him to
14 go back to evidence, pull the boots out and fingerprint
15 them. You would think he could have at least done that when
16 this crime happened. He didn't fingerprint the boots when
17 this happened? We would possibly know -- there could have
18 been fingerprints on these boots the day this happened and
19 he didn't even bother to collect evidence.

20 We have no shell casings, no gun, no fingerprints,
21 no touch DNA. He didn't even bother to look for any of this
22 stuff. Nothing -- no direct physical evidence links Mr.
23 Reynolds to this case. Lack of evidence is reasonable
24 doubt.

25 Now, the solicitor kept saying over and over and

1 over again hand of one is hand of all.

2 Now, I want y'all to pay particular attention when
3 the judge goes over this, because mere presence at the scene
4 of a crime is not sufficient to convict one as a principal
5 on the theory of aiding and abetting. You cannot be
6 convicted of a crime by just being at the crime scene, by
7 just sitting there watching it happen, by -- in this case,
8 if you do believe that Justin Reynolds was sitting on the
9 porch step, that is not enough to convict him of these
10 crimes. They keep just saying hand of one, hand of all.
11 That is not the entire law. Present at the crime scene is
12 not enough to convict Mr. Reynolds of these crimes.

13 Both Josh and Jason Tolison were very clear that
14 Jason Tolison, and Jason Tolison alone, kidnapped and
15 committed the armed robbery of Josh on that night in April.

16 Now, the solicitor kept calling this case a puzzle
17 and she said it's not a very pretty puzzle, and it most
18 certainly isn't. This puzzle is all over the place.
19 Everyone has a different version of events, places different
20 people doing different things.

21 I submit that this puzzle does not go together.
22 If you try to put it together, you dump all the pieces out
23 and you try to put it together, you are actually going to
24 find out that this is five different puzzles and you can't
25 put it together. There is way too much reasonable doubt to

1 find Justin Reynolds guilty of any of these crimes. You
2 have different people being pointed out as the person doing
3 the kidnapping. You have different people being pointed out
4 as the person doing the robbery. You have different people
5 being pointed out as to how or why the shooting happened.
6 There is way too much doubt in this case to find Justin
7 Reynolds guilty of anything in this case.

8 This is an extremely serious case and I hope that
9 you take your time to go over all of the evidence. And at
10 the end of that, I hope that you consider everything that I
11 have said, and for these reasons we ask that you find Mr.
12 Justin Reynolds not guilty of all of these crimes. Thank
13 you.

14 THE COURT: Ladies and gentlemen, that completes
15 the closing arguments by both attorneys. I'm going to begin
16 my charge, and I note my charge is some over thirty pages
17 long, so it's going to take awhile for me to go through all
18 of that, so we are going to take a short break and let you
19 stretch your legs so you can be fresh for that. The law is
20 fairly technical and hard to listen to.

21 I'll ask you again as you leave the courtroom
22 briefly not to discuss the case with anyone, even among
23 yourselves, until such time as I have asked you to begin
24 your deliberations.

25 You may retire to the jury room for a short break.

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

3 THE COURT: Court will be in recess. I'll remain
4 on the bench.

5 If the attorneys want to come up and take a look
6 at the verdict form --

7 MS. JORDAN: Yes.

8 THE COURT: -- and see if you have got any issues.

9 MS. JORDAN: Could I have a few minutes in
10 addition to run to the restroom?

11 THE COURT: Okay.

12 (Whereupon, proceedings were recessed)

13 (Whereupon, proceedings were reconvened)

14 THE COURT: All right, come to order, please.

15 Let's bring the jury in.

16 (The following takes place in the presence of the
17 jury panel)

18 THE COURT: The record will reflect the jury has
19 returned to the courtroom.

20 We have reached the stage of the trial where it's
21 my obligation in charging you concerning the law to be
22 applied in this case.

23 At the beginning of the trial I went over with you
24 the indictments in this matter and I will be giving these
25 indictments to you to take back into the jury room with you

1 so that you can review them as you consider the charges that
2 are contained in the indictments, but I do want to go over
3 them with you briefly.

4 There are four different documents. One of those
5 documents contains, in fact, two counts, two different
6 charges within the documents.

7 The first one that I will discuss with you is case
8 2012-GS-42-3307. That is for the offense of kidnapping.

9 That indictment charges that the defendant, Justin
10 Darnell Reynolds, did, in Spartanburg County, on or about
11 April 8th of 2012, commit the offense of kidnapping.

12 I'm not going to read it to you in detail. You
13 certainly can do that as you consider the indictment, but it
14 does state that they did, in fact, seize, or confine, or
15 inveigle, or decoy, or abduct, or carry away the victim,
16 Joshua Barrineau, without authority of law and in violation
17 of the South Carolina Code Section that provides for that
18 offense.

19 The next indictment in the case is case number
20 3308, 2012-3308. It is for the offense of armed robbery.

21 That indictment alleges that this defendant,
22 Justin Darnell Reynolds, did, in Spartanburg County, on or
23 about April 8th of 2012, commit a robbery while armed with a
24 pistol, a dirk, slingshot, metal knuckles. It goes through
25 all of the possible elements of the offense. Again, you can

1 read that as you consider that charge. And it alleges that
2 that was done in violation of the Code Section that applies
3 to that particular offense.

4 The next indictment is case number
5 2012-GS-42-3309. The offense is grand larceny.

6 And that indictment alleges that this defendant
7 did, in Spartanburg County, on April 8th of 2012, carry or
8 take away the goods of Joshua Barrineau, that being a 2001
9 Chevrolet Blazer, in violation of the Code Section that
10 provides for that.

11 The final indictment is 3314-A, and that
12 indictment is the one that contains the two counts. Count I
13 is attempted murder. - Count II is possession of a firearm
14 during the commission of a violent crime.

15 Count I alleges that this defendant did, in
16 Spartanburg County, on or about April 8th of 2012, intend
17 and attempt to kill the victim, Joshua Barrineau, again in
18 violation of the Code Section that provides for that
19 offense.

20 Count II alleges that Justin Darnell Reynolds did,
21 in Spartanburg County, on or about April 8th of 2012,
22 possess or display a firearm during the commission or the
23 attempted commission of a violent crime, that violent crime
24 being attempted murder.

25 Now, ladies and gentlemen, again I'll give you

1 those indictments. You will have them in the jury room and
2 you can consider them during your deliberations in this
3 case.

4 The indictments are the documents that charge the
5 defendant with those offenses.

6 And I will remind you the fact that a defendant
7 has been arrested, charged and indicted in the case, those
8 facts and those documents are not evidence in this case and
9 cannot be considered by you as evidence of guilt in the
10 case, nor does the indictment create any presumption or
11 inference of guilt. The documents I just went over with you
12 are simply the formal written instruments which contain the
13 charges made against the defendant. It informs this court
14 of the charges to be tried. It informs the defendant of the
15 charges that have been lodged against him.

16 Now, there are multiple offenses alleged in these
17 various indictments, and the charges I have gone over with
18 you on each indictment. Again, you will have a chance to
19 see those when you review the indictment, but each
20 indictment and each count in the case charges a separate and
21 distinct offense. You, the jury, must decide each
22 indictment and each count separately on the evidence and the
23 law applicable to that particular allegation, uninfluenced
24 by your decisions as to the other indictments.

25 In other words, a defendant may be convicted or

1 acquitted on any or all of the offenses that are charged.
2 And you will be asked to write a separate verdict of guilty
3 or not guilty as to each indictment and each count, and I'll
4 explain to you, even in some cases perhaps lesser included
5 offenses in one particular instance. I'll explain that to
6 you in more detail in just a minute.

7 Now, to the indictments and the allegations that
8 are contained in them the defendant has pled not guilty.
9 That plea places the burden of proof upon the State to prove
10 the defendant guilty. You see, a person charged with the
11 commission of a criminal offense in South Carolina is never
12 required to prove himself innocent. I charge you that it is
13 an important rule of law that a defendant in a criminal
14 trial, and it's no matter what the seriousness of the crime
15 might be, will always be presumed to be innocent of the
16 crime for which the indictment was issued, until and unless
17 guilt has been proven to you, the jury, by evidence that
18 satisfies you of that guilt beyond a reasonable doubt.

19 Now, the presumption of innocence that belongs to
20 each defendant in this court doesn't end when you begin your
21 deliberations. It accompanies the defendant throughout the
22 trial until you reach a verdict. And if you reach a verdict
23 of guilt, it must be based on evidence that satisfies you of
24 that guilt beyond a reasonable doubt.

25 The presumption of innocence sometimes has been

1 described like the robe that judges wear into the courtroom.
2 It remains about the defendant's shoulders. It's there at
3 the beginning of the trial. It remains about the
4 defendant's shoulders throughout the trial. It accompanies
5 the defendant into your deliberations. It remains about the
6 defendant's shoulders during your deliberations, until such
7 time as that cloak or that robe has been stripped from him
8 by evidence that satisfies you of the defendant's guilt
9 beyond a reasonable doubt.

10 Now, the presumption of innocence is not just a
11 legal theory. It's not just a legal phrase. It's a
12 substantial right that every defendant is entitled to,
13 unless you, the jury, are satisfied from the evidence of the
14 defendant's guilt beyond a reasonable doubt.

15 Now, you have heard me use that phrase a couple of
16 times already in the charge: The State has the burden of
17 proving the case beyond a reasonable doubt. You may ask
18 yourself well, just what is a reasonable doubt? What is
19 meant by a reasonable doubt? And I will tell you that a
20 reasonable doubt has been defined under case law in this
21 state, and other states, as that kind of doubt that would
22 cause a reasonable person to hesitate to act. And the State
23 has the burden of proving the defendant guilty beyond a
24 reasonable doubt.

25 Now, I want to caution you, because some of you

1 may have been involved in different kind of cases in courts
2 before and I want to be sure that you understand the
3 differences between the different courts and the different
4 standards of proof and what applies to this case and doesn't
5 apply to this case. I'm referring to the fact that in civil
6 cases, that's cases where people are seeking monetary
7 damages, the standard of proof that someone has to reach in
8 order to be entitled to a verdict is by the greater weight
9 of the evidence, sometimes called the preponderance of the
10 evidence. What that means in a civil case where monetary
11 damages are being sought is that the Scales of Justice, and
12 everybody has seen that, or can imagine that, tilts ever so
13 slightly in favor of either the plaintiff or the defendant.
14 And that would entitle those parties, the side to which that
15 tilting occurs, to be entitled to a verdict.

16 Now, the standard of proof is different in a
17 criminal case. The standard of proof is proof beyond a
18 reasonable doubt.

19 Now, proof beyond a reasonable doubt is that kind
20 of proof that would leave you firmly convinced of the
21 defendant's guilt.

22 Now, there is very few things that go on in
23 people's lives that can be proven beyond any doubt
24 whatsoever, and that's not the standard of proof to which
25 the State is held in this case. They do not have to prove

1 their case beyond any possible doubt.

2 I will tell you that if, based on your
3 consideration of the evidence, if you are firmly convinced
4 that the defendant is guilty of the crimes charged, you must
5 find the defendant guilty.

6 However, on the other hand, if you think there is
7 a real possibility that the defendant is not guilty, you
8 must give the defendant the benefit of the doubt and find
9 the defendant not guilty.

10 Now, during the trial you and I have certain
11 duties to perform. As the trial judge it's been my job to
12 preside over the trial of the case and I have had the duty
13 of ruling on some questions concerning the evidence and
14 things of that nature, the appropriateness of questions.
15 And I'll tell you, and I don't recall of anything that I
16 specifically ruled out of evidence, but you should consider
17 only the evidence that went into the record of this case.
18 Any matters that I ruled out of order or struck from the
19 record should not be considered by you at all in reaching a
20 verdict in this case. In other words, only the evidence
21 that was admitted into the record should be considered by
22 you in reaching your verdict in this case.

23 I have the additional duty to charge you
24 concerning the law to be applied in this case. And I
25 mentioned at the beginning of the trial I am the sole and

1 exclusive judge of the law in this case, just as you are the
2 sole and exclusive judges of the facts in this matter. It's
3 your duty as jurors to accept the law as I give it to you
4 and apply that law to the facts as you determine those facts
5 to be.

6 If you have any idea as to what the law is or what
7 it ought to be when you came into the courtroom, please
8 leave those notions outside of the jury room before you
9 begin your deliberations. Under the oath that you have
10 taken as jurors, it's your responsibility to take the law
11 exactly as I give it to you, apply that law to the facts as
12 you determine them to be. In every case tried before a jury
13 in this courtroom the jury becomes the sole and exclusive
14 judge of the facts.

15 Now, please don't take from anything that I might
16 have said during this trial or anything that I might even
17 say during this charge concerning the law to indicate to you
18 that I have an opinion one way or the other as to how you
19 determine the facts in this case. The law doesn't allow me
20 an opinion on the facts and I have no opinion as to how you
21 should determine the facts in this case. So don't take from
22 anything that I may have said in ruling on any issues or in
23 exercising my responsibilities as the presiding officer to
24 indicate otherwise, because, again, I will tell you I have
25 no opinion as to how you determine the facts in this case.

1 It's your duty as jurors to determine the effect,
2 the value, the weight and the truth of the evidence that you
3 have heard that was presented during this trial, and that's
4 a matter solely for you, the jury, to determine.

5 Now, there is two types of evidence which are
6 generally presented during a trial and you have the right to
7 consider. And you may say well, what do you mean by types
8 of evidence? Let me see if I can explain that to you.

9 The two types of evidence that we refer to under
10 the law is what we call direct evidence and circumstantial
11 evidence.

12 Now, direct evidence is testimony of a person who
13 claims to have actual knowledge of the facts that they are
14 testifying about, such as an eyewitness or a person who
15 actually experienced the events about which that person
16 testifies and they offer testimony directly on the fact that
17 they seek to be proven.

18 Circumstantial evidence, on the other hand, is
19 proof of a chain of facts or circumstances that indicate the
20 existence of another fact. It's been described under the
21 law as evidence which immediately establishes collateral
22 facts from which a main fact could be inferred.

23 Now, that's a lot of fancy lawyer language and I
24 like to use a fairly simple example as to what we mean by
25 proof of a fact by circumstantial evidence.

1 Let's say last night before you went to bed you
2 walked to the window in your bedroom, you looked outside,
3 and it may have been a beautiful night, the stars shining,
4 everything is nice. You went to bed, slept well all night,
5 didn't wake up at all. The next morning you got up and
6 walked to that very same window and looked outside. And
7 while the sun was shining outside, you noticed that there is
8 water dripping from all the trees, the grass in front of the
9 house is wet. There might be puddles in the driveway or in
10 the road outside. Now, you slept all night. You didn't see
11 it rain. You didn't hear it rain, so you didn't directly
12 experience what happened that night, but from the chain of
13 facts that you have observed that you know to be true you
14 could infer or reasonably deduce that at some time during
15 the night it rained. So that's what we mean about proof by
16 inference from a chain of facts or circumstances or proof
17 from collateral facts from which a main fact can be
18 inferred. So circumstantial evidence is based on inference
19 and not on personal knowledge or observation.

20 The law doesn't make a distinction between the
21 weight or the value that you, the jury, can give to either
22 direct or circumstantial evidence, nor is there a greater
23 degree of certainty required of circumstantial evidence than
24 of direct.

25 I will tell you that you, the jury, should weigh

1 all of the evidence in this case, both direct and
2 circumstantial. And if after weighing all of the evidence
3 you are not convinced of the defendant's guilt beyond a
4 reasonable doubt, you must find the defendant not guilty.

5 However, on the other hand, if you are firmly
6 convinced of the defendant's guilt beyond a reasonable
7 doubt, you must find the defendant guilty.

8 Now, in doing your job as the finders of fact it's
9 going to be necessary for you to determine the credibility
10 or the believability of the witnesses who have testified in
11 this case and the testimony that they have offered.
12 Credibility simply means that. It means believability.
13 It's your duty as jurors to analyze and evaluate the
14 evidence and determine which evidence convinces you of its
15 truth.

16 Now, in determining the believability of witnesses
17 who testified in a case, you should use your own good common
18 sense. You have the right to believe one witness over
19 several, or several over one. You can believe part of, all
20 of, or none of what a witness may have testified.

21 You have the right to consider such factors as
22 whether or not a witness may have exhibited to you an
23 interest, a bias, or a prejudice in the outcome of the case,
24 or perhaps some other motive in testifying.

25 You have the right to consider the appearance and

1 the manner in which the witness has testified on the witness
2 stand.

3 Use your own good common sense and weigh and
4 evaluate the evidence that you have heard and determine what
5 evidence convinces you of its truth.

6 Now, I told you -- we had one witness who was
7 declared to be an expert in the case, and I told you I would
8 talk to you a little bit more about that during my charge.
9 And I explained at that time that the Rules of Evidence
10 don't allow witnesses to offer opinions or conclusions,
11 generally. An exception to that rule exists for people who
12 are found or determined to be an expert within a field.
13 That's a witness who, because of their education or
14 experience, has become an expert in an art, a science, or a
15 profession. And as to those witnesses they may state an
16 opinion as to any relevant or material matter in which the
17 witness claims to be an expert, and they can state the
18 reasons why they hold those opinions.

19 You should consider the testimony given by an
20 expert witness just like any other evidence or any other
21 testimony in the case. You give it the weight you think it
22 deserves. You have the right as a finder of facts to
23 determine whether or not the expert witness' testimony is
24 based on sufficient education or experience, or you have the
25 right to decide whether or not the reasons given in support

1 of the opinions are sound. You have the right to disregard
2 an opinion by an expert witness in its entirety, if you so
3 choose.

4 An expert witness' testimony is not to be given
5 greater weight just because we have declared the person to
6 be an expert. And you are not required to accept an
7 expert's opinion, even though it might not be contradicted
8 by other evidence.

9 Again, you are the sole judges of the facts, so
10 you give the testimony of all the witnesses, including
11 expert witnesses, the weight you think that testimony
12 deserves.

13 Now, I'm going to instruct you and emphasize to
14 you that the fact that the defendant did not testify in this
15 case is not a factor to be considered by you in any way in
16 your deliberation or your consideration of the question of
17 guilt or innocence of the defendant. It must not be
18 considered by you in any manner whatsoever.

19 A defendant has a Constitutional Right to remain
20 silent and the assertion of that right must not be
21 considered by you in your deliberations.

22 I will repeat, that under your oath you are to
23 draw no conclusions whatsoever from the fact that the
24 defendant did not testify. The fact that the defendant did
25 not testify should not even be discussed by you in the jury

1 room.

2 The burden of proof in this case is, as I have
3 stated, is solely upon the State. The defendant is not
4 required to prove his innocence. The burden of proof
5 remains upon the State throughout the trial to prove guilt
6 beyond a reasonable doubt.

7 Now, in South Carolina if a crime is committed by
8 two or more people who are acting together in committing a
9 crime, the act of one is the act of all.

10 A person who joins with another to commit an
11 unlawful act is criminally responsible for everything done
12 by the other person which happens as a probable or natural
13 consequence of the acts done in carrying out the common plan
14 and purpose.

15 For example, two people can be found guilty of
16 committing an offense when only one of the two had the
17 instrumentality used to commit the offense and only one of
18 them actually used the instrumentality to commit the crime.

19 If two or more people are acting together,
20 assisting each other in committing the offense, the act of
21 one is the act of all. It's sometimes been said that the
22 hand of one is the hand of all.

23 Prior knowledge that a crime is going to be
24 committed, without more, is not sufficient to make a person
25 guilty of a crime. Mere knowledge that another person is

1 going to commit a crime, even if the defendant is present
2 when the crime is committed, is not sufficient to convict a
3 defendant as a principal.

4 Guilt as a principal is shown by actual or
5 constructive presence at the scene as a result of a prior
6 arrangement. Therefore, a finding of a prior arrangement,
7 plan, or common scheme is necessary for a finding of guilt
8 as a principal.

9 The State must prove beyond a reasonable doubt by
10 competent evidence the theory of the hand of one is the hand
11 of all.

12 Now, a principal in a crime is one who either
13 actually commits the crime or who is present aiding,
14 abetting, or assisting in the committing of the crime.

15 When a person does an act in the presence of and
16 with the assistance of another, the act is done by both.

17 Where two or more acting with a common plan or
18 intent are present at the commission of a crime, it doesn't
19 matter who actually commits the crime, all are guilty of the
20 crime. Again, the hand of one is the hand of all.

21 To be present at the commission of a crime means
22 to be sufficiently near to aid, abet, and assist in the
23 commission of the crime.

24 I will tell you, however, that mere presence at
25 the scene of a crime is not sufficient to convict one as a

1 principal on the theory of aiding and abetting.

2 Intent is also a necessary element, for there must
3 have been a common design or intent to commit the crime, and
4 the crime must have been committed pursuant, thereto, with
5 the person aiding and abetting by some overt act.

6 Intent means intending the result which actually
7 occurs, not accidentally or involuntarily.

8 An intent may be shown by acts and conduct of the
9 defendant and other circumstances from which you might
10 naturally and reasonably infer intent.

11 Again, the State must prove the elements of the
12 hand of one is the hand of all beyond a reasonable doubt.

13 Identification is another issue in this case; that
14 is, the identification of the defendant as the person who
15 committed the crime. The State has the burden of proving
16 identity beyond a reasonable doubt. You must be satisfied
17 beyond a reasonable doubt of the accuracy of the
18 identification of the defendant before you may convict the
19 defendant.

20 Identification testimony is an expression or
21 belief or impression of a witness.

22 You must determine the accuracy of the
23 identification of the defendant. You may consider, or must
24 consider, the believability of the identification witness in
25 the same way as other witnesses. You may consider whether

1 the witness had an adequate opportunity to observe the
2 offender at the time of the offense. This can be affected
3 by factors, such as how long or short a time is available,
4 how far or close the witness was, lighting conditions, and
5 whether the witness had the chance to see or know the person
6 in the past.

7 Once again, I instruct you the burden of proof is
8 upon the State. It extends to every element of the crime
9 charged. And this specifically includes the burden of
10 proving beyond a reasonable doubt the identity of the
11 defendant as the person who committed the crime.

12 If, after examining the testimony, you have a
13 reasonable doubt as to the accuracy of the identification,
14 then you must find the defendant not guilty.

15 Now, in just a few minutes I'm going to start
16 going over the various crimes that the defendant in this
17 case has been charged with, and in each of those crimes
18 there will be an element. These are the things that have to
19 be proven to prove the crimes. That's what's referred to as
20 elements.

21 One of the elements you will notice will be an
22 intent element. And in order to establish criminal
23 liability, criminal intent is generally required. For
24 example, that's the mental state required to be proven by
25 the State for a particular crime to have occurred. And as

1 you listen to those crimes, listen to what mental state was
2 required in order for the person to have committed the
3 crime. And it may be such things as intent, knowledge,
4 recklessness. In some cases, not this one, but it could
5 even be criminal negligence.

6 Criminal intent must be proven by the State beyond
7 a reasonable doubt. And criminal intent is always a matter
8 which must be determined by the jury from the circumstances
9 surrounding the situation and the events. You see, there is
10 no way at the time an event occurs that you can look in
11 somebody's brain and tell exactly what they intended to do
12 or prove that by some scientific method. That's not
13 possible. So for that reason criminal intent is always a
14 matter that's determined or inferred from the circumstances
15 that are shown to have existed at the time of the event.
16 That's how you make a determination of whether or not the
17 element of intent was present.

18 So it's not necessary to establish intent by
19 direct evidence or positive evidence, but intent can be
20 established by inference, the same way as any other fact,
21 taking into consideration the acts of the parties and all of
22 the facts and circumstances of the case.

23 I will tell you that criminal intent is a mental
24 state, it's a conscious wrongdoing, and it's up to you to
25 determine what the defendant intended to do, based on the

1 circumstances that have been shown to have existed and as
2 are found by you.

3 Also I'm going to point out that there were
4 several witnesses -- and it has been put into the evidence
5 that several witnesses may have made prior statements which
6 are not consistent with the witness' present testimony. You
7 may use this evidence to decide whether to believe the
8 witness. You may also consider the evidence of the earlier
9 contradictory statements to determine the truth of those
10 statements. It's up to you, the jury, as the finders of
11 fact to decide whether to believe the earlier statements or
12 the testimony given at trial.

13 If a witness is shown to have knowingly testified
14 untruthfully concerning any matter, you may consider this in
15 determining whether to trust the witness' testimony as to
16 other matters. You may reject all of the testimony of that
17 witness, or give part of the testimony the weight that you
18 think it deserves.

19 Again, you are the sole judges of the facts, and,
20 again, you are the sole judges of the credibility of the
21 witnesses.

22 Also persons testified in this case who have past
23 criminal records. A person who has a past criminal record
24 is competent to testify during a trial. A past record does
25 not affect the ability of that witness to testify. A past

1 record may only be considered by you, if at all, in
2 determining the witness' believability or credibility again.

3 Remember, you are the sole judges of the facts in
4 this case. You are the sole judges of the believability of
5 any and all of the witnesses who testified during this
6 trial.

7 There was also some testimony introduced
8 concerning penalties that persons can serve for the crimes
9 alleged in the indictments. And I will instruct you that in
10 determining the guilt or the innocence of a defendant you
11 cannot consider any possible penalty for any particular
12 crime. The punishment for the crime is a matter for me, the
13 judge, to determine and should never be considered by you in
14 any way whatsoever in arriving at a fair and an impartial
15 verdict as to the guilt or the innocence of the defendant.

16 Now, the first charge that I'm going to go over
17 with you, as far as the law concerning that charge, is armed
18 robbery, and the defendant is charged with armed robbery.

19 In order to prove this offense the State must
20 first prove beyond a reasonable doubt that the defendant
21 took personal property from the person or presence of
22 another person.

23 Now, the property is in the presence of a person
24 if it's within that person's reach, inspection, observation
25 or control, so that a person could, if not overcome by

1 violence or fear, keep possession of the property.

2 The State must also beyond a reasonable doubt show
3 that the defendant carried that property away intending to
4 permanently deprive the owner of that property and to keep
5 the property for the defendant's own use.

6 Now, the slightest removal of the property or the
7 complete possession of the property, if even for an instant,
8 by a defendant is sufficient to show a taking and carrying
9 away of the property.

10 The taking and carrying away of the property must
11 have been done by violence, or by putting the owner of that
12 property in fear of violence.

13 Finally, the State must prove beyond a reasonable
14 doubt, this is the last element of this crime, that the
15 defendant was armed with a deadly weapon during the robbery.

16 A deadly weapon is any article, instrument, or
17 substance which is likely to cause death or great bodily
18 harm.

19 Whether an instrument has been used as a deadly
20 weapon depends upon the facts and circumstances of each
21 case. Therefore, whether an item has been used as a deadly
22 weapon is a question of fact to be determined by you, the
23 jury.

24 Now, the next offense that the defendant has been
25 charged with is grand larceny.

1 The State must prove beyond a reasonable doubt
2 that the defendant took and carried away the property of
3 another person against the will and without the consent of
4 the other person.

5 Again, the slightest removal of the property, or
6 the complete possession of the property, even for an instant
7 by the defendant is enough to show a taking or a carrying
8 away.

9 The State must prove beyond a reasonable doubt
10 that the defendant intended to permanently deprive the owner
11 of the property taken.

12 Finally, the State -- this is the final element of
13 that crime. The State must prove that the value of the
14 thing taken was \$2,000, or more.

15 The next charge I will go over with you is
16 attempted murder, and the defendant has been charged with
17 attempted murder.

18 In order to prove this crime, the State must prove
19 the defendant, with the intent to kill, attempted to kill
20 another person with malice aforethought, either express or
21 implied.

22 Now, malice is hatred, ill will, or hostility
23 toward another person. It's the intentional doing of a
24 wrongful act without just cause or excuse and with the
25 intent to inflict an injury, or under circumstances that the

1 law will infer an evil intent.

2 Malice aforethought does not require that the
3 malice exists for any particular length of time before the
4 act is committed, but malice must exist in the mind of the
5 defendant just before and at the time the act is committed.
6 Therefore, there must be a combination of a previous evil
7 intent and the commission of the act.

8 Malice aforethought can be either express or
9 inferred. Now, that doesn't mean there is different kinds
10 of malice. These are different ways of proving malice or
11 showing that malice exists; that is, either by direct
12 evidence or by inference from the facts and circumstances.

13 Express malice is shown when a person speaks words
14 which express hatred or ill will toward another person, or
15 when the person prepared beforehand to do the act which was
16 later accomplished.

17 For example, lying in wait for a person, or any
18 other acts of preparation going to show that the deed was
19 within the defendant's mind would constitute express malice.

20 Malice can be inferred from conduct showing a
21 total disregard for human life.

22 Now, under the law there are certain situations
23 where you will have a large or a main charge, and contained
24 within those charges are what are called lesser included
25 offenses. That means that's lower offenses that are

1 included in the higher offense. In this case the higher
2 offense is attempted murder.

3 I am charging you concerning two possible lesser
4 included offenses. So should you find the defendant not
5 guilty of the offense of attempted murder, then you would
6 need to consider whether or not the State has proven the
7 defendant guilty of these lesser included offenses. He
8 could be found guilty or not guilty as to them as well.

9 Now, the first one I'm going to talk about is
10 assault and battery of a high and aggravated nature. And in
11 order first all for you to understand that lesser included
12 offense, I'm going to explain to you what is meant by an
13 assault and battery, because it has a specific legal
14 meaning.

15 Now, an assault and battery is an unlawful act of
16 violent injury to another person without circumstances of
17 aggravation.

18 An assault occurs when a person unlawfully
19 attempts or offers to commit a violent injury upon another
20 person and had the present ability to complete the attempted
21 injury. An assault is the intentional creation of
22 reasonable fear of immediate bodily harm. It's not
23 necessary that the attempted injury or harm actually take
24 place for an assault to occur.

25 Now, for me to give you a simple example of what

1 would be an assault under the law, let's say that you and I
2 were walking in the hallway outside the courtroom and as we
3 begin to approach each other I walked right up to you and I
4 got within arm's length and I pulled back my hand as if I
5 were going to hit you. Now, if that act puts you in
6 immediate fear of immediate bodily harm and I was in a
7 position to carry out the attack or the event, in other
8 words, I'm within arm's length of you, that would be an
9 assault, because I would have put you in fear of immediate
10 bodily harm.

11 Now, the battery is the unlawful touching of
12 another person who has committed an assault. An unlawful
13 touching can be caused by a part of the accused's body or
14 any object put into motion by the accused. In other words,
15 a battery is the completion of the assault by using or
16 applying force to another person, however slight, in a rude,
17 angry, or resentful manner without legal justification.

18 Using my earlier example, if I walked up to you in
19 the hall, got within arm's length, drew back my fist as if
20 to hit you and then brought it forward and touched you ever
21 so slightly, or in a rude, angry, or resentful manner,
22 that's an assault and battery. So when we refer to an
23 assault and battery, that's what we are referring to under
24 the law.

25 Now, the first lesser included offense I'm going

1 to talk to you about is assault and battery of a high and
2 aggravated nature.

3 A person commits the offense of assault and
4 battery of a high and aggravated nature if the person
5 unlawfully injures another person and great bodily injury to
6 another person results; or, the act is accomplished by means
7 likely to produce death or great bodily injury.

8 Great bodily injury means bodily injury which
9 causes a substantial risk of death or which causes serious
10 permanent disfigurement or protracted loss or impairment of
11 the function of a bodily member or organ.

12 Now, if you find that the State did not prove that
13 lesser included offense, then you would go to the next lower
14 offense and determine whether or not the State proved that
15 particular offense, and that offense is assault and battery
16 in the first degree.

17 A person commits the offense of assault and
18 battery in the first degree if the person unlawfully injures
19 another person and the act occurred during the commission of
20 a robbery, burglary, kidnapping, or theft.

21 A person may also commit the offense of assault
22 and battery in the first degree if the person unlawfully
23 offers or attempts to injure another person with the present
24 ability to do so and the act either is accomplished by means
25 which is likely to produce death or great bodily injury, or

1 occurred during the commission of a robbery, burglary,
2 kidnapping, or theft.

3 Again, great bodily injury means bodily injury
4 which causes a substantial risk of death, or which causes
5 serious permanent disfigurement or protracted loss or
6 impairment of the function of a bodily member or organ.

7 Now, that completes my charge concerning attempted
8 murder and the two possible lesser included offenses of
9 assault and battery of a high and aggravated nature, or
10 assault and battery in the first degree.

11 The next offense I'll discuss with you is the
12 charge of kidnapping.

13 The defendant is charged with kidnapping and the
14 State must prove beyond a reasonable doubt that the
15 defendant knowingly and unlawfully seized, confined,
16 inveigled, decoyed, kidnapped, abducted, or carried away
17 another person without the authority of law.

18 To do a thing unlawfully is to do it willfully
19 against the law.

20 Knowingly means with knowledge and consciously,
21 not accidentally.

22 Seize means to take hold of suddenly or forcibly.

23 Confine means to limit, restrict, or enclose
24 within bounds, imprison, or to shut up or keep in.

25 Inveigle means to lure, entice, lead astray by

1 false representations, promises, or other deceitful means.

2 Decoy means to lure by, or as if by decoy. A
3 decoy is something to entice a person into a trap.

4 Kidnap is to remove a person against his will by
5 unlawful force or by fraud.

6 Abduct means to carry off, secretly or by force
7 for an illegal purpose.

8 Carry away means to remove.

9 Now, the State does not have to prove that the
10 defendant did all of the things I just described. Instead,
11 if you find beyond a reasonable doubt that the defendant did
12 any of these things, you may find the defendant guilty of
13 kidnapping.

14 Now, something is done without authority in law,
15 that's something that's done which the law doesn't sanction,
16 permit, allow, condone, or provide justification for.

17 Now, a kidnapping does not have to be done for any
18 personal or monetary gain or for any illegal purpose, but
19 may be for any reason whatsoever.

20 Now, the defendant is also charged as a second
21 count under attempted murder with the possession of a
22 firearm during the commission of a violent crime.

23 The State must prove by proof beyond a reasonable
24 doubt that the defendant was in possession of a firearm, or
25 visibly displayed what appears to be a firearm during the

1 commission of a violent crime, and is convicted of
2 committing or attempting to commit a violent crime as
3 defined under the South Carolina Code of Laws.

4 Now, I will instruct you that if you were to find
5 the defendant guilty of attempted murder, or assault and
6 battery of a high and aggravated nature, they are defined
7 under the law as violent crimes under Section 16-1-60 of the
8 Code of Laws.

9 Now, as used by the South Carolina Code a firearm
10 means any machine gun, automatic rifle, gun, revolver,
11 pistol, or any weapon which will or is designed to or may
12 readily be converted to expel a projectile.

13 Now, ladies and gentlemen, as to each question
14 that I'm going to present you, there will be two possible
15 verdicts, and I'll go over the verdict form that we will use
16 in connection with this case in just a little bit; that is,
17 as to each indictment or count there is a possible verdict
18 of guilty or not guilty.

19 Please don't take any significance from the fact
20 that I put them on the verdict form in any order. I put
21 them in the same order on every verdict form I have ever
22 prepared in this court; that is, the first choice is always
23 not guilty. The second choice is always guilty. It has no
24 significance in this case that I have put them in any
25 particular order on the verdict form. That's the way it's

1 on my computer. That's the way I present it to every jury
2 on every form that I do.

3 Now, the verdict that you reach must be unanimous.
4 Each and every one of you must agree upon the verdict before
5 it becomes the verdict of the jury.

6 Now, Ms. Dawkins, you are going to be the
7 foreperson of the jury. That means that you will be the
8 person who is responsible to lead the discussions of the
9 jury. That means that if the jury has any questions during
10 deliberations, you should write that question on a piece of
11 paper, knock on the door, give it to the bailiff who will
12 submit it to me, and I'll determine what answer I give to
13 that question.

14 Now, I'll tell you I can't answer every question
15 you are going to have during deliberations. I have already
16 told you you are the sole judges of the facts. I can't
17 enter into your decisions concerning the facts in this case.
18 I can respond to questions concerning the law that I have
19 charged, or perhaps some questions concerning the procedure
20 that we have followed, or the evidence that's been
21 unproduced, but, ma'am, I'm not asking you to edit any
22 question the jury has. Once the jury agrees on the form of
23 the question, you just write it down, knock on the door,
24 give it to the bailiff and then I'll determine what the
25 appropriate answer ought to be to the question.

1 Also I will tell you that I will give you a
2 verdict form and go over it with you in just a minute and
3 explain to you the questions that are required to be
4 answered and how you should go about doing that. But as to
5 each question and each matter you have to decide on the
6 jury, you must decide those matters unanimously. In other
7 words, the foreperson has no greater say in the outcome of
8 the case than any other juror. All of you have an equal say
9 in the verdict to be reached by the jury.

10 So when a unanimous verdict has been reached on
11 any question presented to you, ma'am, record the verdict on
12 the form, move on to the next question. When you have
13 completed the form, all verdicts have been reached, you
14 would sign it, knock on the door, inform the bailiff that a
15 verdict has been reached. Then I will bring you back into
16 the courtroom in order to receive the verdict.

17 Now, I have gone over a great deal of law with you
18 and I want to be sure I haven't misspoken in the things that
19 I have said to you, so I'll go over that with the attorneys.
20 It's my intention to provide you with a written copy of my
21 charge, the full charge, so that you will have that for your
22 reference, and I want to go over that written copy with the
23 attorneys to be sure it complies with what I have told you
24 and what the law is. So we will go over that to be sure
25 that's in good shape.

1 Also we will gather the evidence that's been put
2 into the record in the case. That will be given to you in
3 the jury room for you to review while you deliberate, along
4 with the indictments in the case. So we have to gather that
5 stuff up and be sure that only proper information is
6 provided to you during your deliberations, so we have got a
7 few housekeeping matters to take care of.

8 So, Madam Forelady, I'm going to ask you to take
9 the jury one more time back to the jury room. Do not begin
10 any discussions at this point in time until I bring you back
11 into the courtroom and give you your final instructions.

12 The jury may retire at this time. Thank you very
13 much.

14 (The following takes place outside the presence of
15 the jury panel)

16 THE COURT: Objections to the charge, from the
17 State?

18 MS. JORDAN: No, sir.

19 THE COURT: Any from the defense?

20 MS. LYALL: Yes, Your Honor.

21 This carries on from yesterday. We spent a
22 considerable amount of time in your chambers going over the
23 charges to be read to the jury and we went over lesser
24 includeds to be included in the charge for attempted murder.
25 I asked for ABHAN, A & B first, A & B second, and A & B

1 third. ABHAN and A & B first were included.

2 The reason I asked for these charges were the
3 testimony that was presented in the trial. The two people
4 that were present outside when the gun went off, a witness
5 testified that the victim was struck with a gun and the gun
6 went off. I believe that that would constitute an assault
7 and battery, and that the jury could infer from that that
8 the gunshot, the actual bullet coming out of the gun, was an
9 accident, and that hitting someone with a gun would be an
10 assault and battery. If you just take the actual bullet
11 coming out of the gun being an accident, hitting someone
12 with a gun I believe could constitute an A & B third, or an
13 A & B second.

14 THE COURT: Well, A & B second requires that only
15 moderate bodily injury result from the assault and battery.
16 This appeared to be more than moderate bodily injury.

17 MS. LYALL: Correct, Your Honor, but if -- assault
18 and battery also requires an intent. And I'm saying if the
19 actual bullet coming out is accidental, and the jury could
20 infer that from the testimony, that what was actually
21 intended from the gun hitting would not have caused that
22 type of injury.

23 THE COURT: I'll hear from the State on that.

24 MS. JORDAN: Your Honor, I think that once you put
25 a gun in your hand, you take it and you strike somebody with

1 it, that's a possible outcome is the bullet is going to come
2 out and strike them. And as the court stated, we had
3 testimony, and that was one of the reasons I wanted the
4 doctor's testimony in, but this is not moderate bodily
5 injury.

6 THE COURT: My ruling would be the same.

7 I did agree to charge, and I have charged, assault
8 and battery of a high and aggravated nature and assault and
9 battery in the first degree at your request.

10 I do not find, however, that the resulting injury
11 in this case could be described by any reasonable juror as
12 moderate bodily injury, so I'll deny that request.

13 MS. LYALL: Thank you, Your Honor.

14 The only other request that I had that was denied
15 is I did ask for intent to kill be added to attempted
16 murder, which Your Honor --

17 THE COURT: That was granted.

18 MS. LYALL: -- did grant.

19 THE COURT: Uh-huh.

20 MS. LYALL: I did ask for a further definition of
21 intent to kill to be added underneath attempted murder and
22 Your Honor denied that.

23 THE COURT: I charged intent generally and I did
24 put in the language, so I think that my charge adequately
25 covered that.

1 MS. LYALL: Okay.

2 THE COURT: I have gone over with you the verdict
3 form. Any objections to the verdict form, from the State?

4 MS. JORDAN: No, sir.

5 THE COURT: Any from the defense?

6 MS. LYALL: No, Your Honor.

7 THE COURT: All right. If you will get together
8 and go over the evidence to be sure we have an agreement on
9 what's going back to the jury.

10 (Off the record)

11 (Back on the record)

12 MS. JORDAN: Your Honor, we have twelve items.
13 They are all present.

14 THE COURT: Everything here?

15 MS. JORDAN: Yes, sir.

16 THE COURT: Okay. Take a look, and these are the
17 indictments. I'm going to let you put those over there. Be
18 sure those are the proper indictments.

19 I have taken the warrants out so it's just the
20 indictments.

21 MS. JORDAN: Yes, sir.

22 Mr. Gray was just reminding me about the amendment
23 as to county versus city on the grand larceny.

24 THE COURT: I did that on the --

25 MS. JORDAN: Yes.

1 THE COURT: I did on the form already. It's been
2 taken care of.

3 Now, I have indicated to counsel that because of
4 the complexity of the charge, the number of decisions the
5 jury had, and the lesser included issues, that I felt that a
6 written charge to the jury would be proper. I have provided
7 a copy of the written charge to the State.

8 Any objection to that charge?

9 MS. JORDAN: None to the charge that the court
10 read and that we went over this morning.

11 THE COURT: All right. Any objection to me
12 submitting it to them in writing?

13 MS. LYALL: No, Your Honor.

14 THE COURT: All right. Any objection to how it
15 appears in writing, other than your --

16 MS. LYALL: Other than my previous objection.

17 THE COURT: All right, those would be preserved.

18 I'll need to print a copy, so we will just a take
19 a moment to get that done, unless one of you wants to give
20 me your copies.

21 MS. JORDAN: I have wrote on mine.

22 MS. LYALL: I have wrote on mine.

23 THE COURT: I figured y'all would be doing that.

24 (Off the record)

25 (Back on the record).

1 MS. JORDAN: We combined ours, if needed.

2 THE COURT: Do you have any objection to using
3 that copy?

4 MS. JORDAN: No, sir. What we did is I wrote on
5 two pages. She wrote on one.

6 THE COURT: Uh-huh.

7 MS. JORDAN: So we just switched out the pages.
8 And I have my two written on pages and she should have hers.

9 THE COURT: All right.

10 MS. LYALL: Yes, Your Honor.

11 THE COURT: Look at it carefully and be sure that
12 you agree, because I'm going to mark it as a Court's
13 Exhibit.

14 (Off the record)

15 (Back on the record)

16 THE COURT: All right. Once she's finished
17 looking at it, tell me if you agree. We will be marking
18 that as a Court's Exhibit. Make sure we have got the right
19 one.

20 (Off the record)

21 (Back on the record)

22 THE COURT: Can we agree that that could be marked
23 as a Court's Exhibit, from the State?

24 MS. JORDAN: Yes, sir.

25 THE COURT: Defense?

1 MS. LYALL: Yes, Your Honor.

2 THE COURT: All right. Have it marked as a
3 Court's Exhibit.

4 (Court's Jury Instructions marked as Court's
5 Exhibit No. 1 for identification)

6 THE COURT: Okay. Bring the jury in.

7 (The following takes place in the presence of the
8 jury panel)

9 THE COURT: Ma'am, if you would pass this over to
10 Ms. Dawkins for me. Thank you.

11 Ms. Dawkins, what I have had passed over is the
12 verdict form that we are going to use in this case and let
13 me go over it with you and see if you have any questions
14 about it before you take it back to begin to work on it.

15 You will see at the very top of the page it
16 indicates the State and County that we are in, and over to
17 the right it has the court that we are in. Below that the
18 caption of the case indicates that the case is the State of
19 South Carolina versus Justin Darnell Reynolds.

20 The first question, Roman Numeral I, is to the
21 indictment Count I for attempted murder, question number 1
22 under that, and the choices are not guilty or guilty.

23 Now, below that, right below that, there is
24 instructions, that little A and little B.

25 A says if you find the defendant guilty of

1 attempted murder, then you should consider Count II, which
2 is possession of a firearm during a violent crime.

3 So you would skip over assault and battery of a
4 high and aggravated nature and assault and battery first
5 degree because those are the lesser includeds. And if you
6 find him guilty of the higher offense, there wouldn't be any
7 reason to consider the lesser included offenses. Do you
8 understand that?

9 JURY FORELADY: Yes, sir.

10 THE COURT: Now, below that question number 2 is
11 if you have found him not guilty, that's at the very bottom
12 of the page of attempted murder, then you would consider
13 assault and battery of a high and aggravated nature. That's
14 the charge at the bottom of the page.

15 Now, at the top of the next page, if you find the
16 defendant -- you will find instructions. If you find the
17 defendant guilty of assault and battery of a high and
18 aggravated nature, then you would again consider the
19 possession of a firearm during the commission of a violent
20 crime.

21 Under that B, if you find the defendant not guilty
22 of assault and battery of a high and aggravated nature, then
23 you should consider the next lesser included offense, which
24 is assault and battery in the first degree.

25 The question Roman Number II below is -- now if

1 you find --

2 Let me go back. If you find the defendant guilty
3 of assault and battery in the first degree, you would not
4 consider the possession of a firearm during a violent crime,
5 because assault and battery in the first degree is not
6 classified as a violent crime. Do you understand that
7 distinction?

8 JURY FORELADY: Yes, sir.

9 THE COURT: All right. Now, let's go down to
10 Roman Numeral III, which is the indictment for kidnapping.
11 That's at the bottom of page two. That's simply guilty or
12 not guilty. You would make it -- once the jury makes a
13 unanimous decision on that, you would check the appropriate
14 block and then you would move on.

15 Roman Number IV at the top of the third page is
16 the question concerning the indictment for armed robbery.
17 Again, not guilty or guilty. You check the appropriate
18 block, once the unanimous verdict is reached.

19 Move on to question Roman Numeral V. That's the
20 indictment for grand larceny. Again, not guilty or guilty.
21 Check the appropriate block, once a verdict has been
22 reached.

23 So the complicated part is the very first part,
24 which has to do with attempted murder. And, again, if you
25 find the defendant guilty of attempted murder, you would go

1 directly to consider the possession of a firearm of a
2 violent crime.

3 If you found him not guilty of that, then you
4 would consider the first lesser included. That one carries
5 with it the possibility of a conviction on possession of a
6 firearm during the commission of a violent crime.

7 If you find the defendant not guilty of assault
8 and battery of a high and aggravated nature, then you would
9 consider the third possible verdict, the second lesser
10 included. That is assault and battery in the first degree.

11 If you have any questions about it as you proceed,
12 you certainly can send out a question and I'll respond to
13 it, but I think you have got an understanding.

14 JURY FORELADY: Yes, sir.

15 THE COURT: Now, I notice it's about twenty
16 minutes to twelve. You are just getting started with your
17 deliberations. So when you go back, I'll send the clerk in
18 to take an order for your lunch. While the clerk is in the
19 jury room taking that order, please do not conduct any
20 deliberations at that time. Don't discuss the case at all.
21 Discuss lunch. Get your order put in. Let the clerk leave
22 and then resume your deliberations.

23 In other words, Madam Forelady, do not discuss
24 this case except among jury members. So if anyone else is
25 present in the jury room, stop your deliberations until that

1 person has left.

2 JURY FORELADY: Yes, sir.

3 THE COURT: So the clerk will be coming in to take
4 that lunch order.

5 The same will be true when lunch gets here, and it
6 takes about forty-five minutes to an hour to get lunch here.
7 It has to be brought in here. So when it arrives, the
8 bailiffs will be serving that to you in the jury room.
9 While they are in the jury room stop deliberations. When
10 they have left, the door has been closed, you can again
11 resume your deliberations at that time.

12 All right. We are going to send the exhibits
13 back. I have provided a Court's Exhibit, which is a written
14 copy of the charge that I have given you concerning the law,
15 the entire charge. It's available to you for your review,
16 if you feel that's necessary.

17 So at this time I'll ask you to go back.

18 Now, ma'am, you are the alternate in this case and
19 I'm going to ask you to remain seated at this point in time,
20 but as to the twelve members of the jury, I'm going to
21 instruct you now to retire to begin your deliberations.

22 (Whereupon, at 11:40 a.m., the jury panel retired
23 to the jury room to begin its deliberations).

24 THE COURT: All right. Ma'am, your name should be
25 Andrea Watson, is that correct?

1 JURY ALTERNATE: Yes, sir.

2 THE COURT: Now, Ms. Watson, you served as the
3 alternate in this case. I want to thank you for your
4 service. However, the law says that when the twelve jurors
5 retire to the jury room to begin deliberations, your job is
6 ended, because you were here to take the place of anyone who
7 might have fallen ill or had an emergency and would allow us
8 to continue with the case to end the case, so you are no
9 longer responsible in this matter.

10 I have instructed you throughout the trial not to
11 discuss the case with anyone. I will tell you now that you
12 have the right to do so. You also have the right not to do
13 so. A citizen owes no one an explanation for their service
14 on the jury panel. You are not required to discuss it with
15 anyone, unless you choose to do that.

16 Now, if someone were to harass you or bother you
17 about your service on this jury, I'm going to ask you to
18 report that to the court through the clerk's office. We
19 will take the appropriate actions, should that occur.

20 I'm going to release from you this case, but
21 the -- I guess the bad news is we are getting ready to pick
22 the next case, so you are going to be released to go back to
23 the assembly room and in a few minutes we will have you back
24 around concerning the next matter. But, again, thank you
25 for your service in this case. You are free to go.

1 Do you want to step out and tell the bailiffs that
2 she needs to go back to the assembly room?

3 THE CLERK: Yes, sir.

4 THE COURT: So if you will step out and the clerk
5 will show you out.

6 (Whereupon, the alternate juror was discharged
7 from further service in this case)

8 THE COURT: Any objections to my final
9 instructions to the jury, from the State?

10 MS. JORDAN: No, sir, Your Honor.

11 THE COURT: Any from the defense?

12 MS. LYALL: No, Your Honor.

13 THE COURT: All right. This case will remain in
14 recess then until a verdict is reached in the case. Thank
15 you very much.

16 (Whereupon, at 11:45 a.m., proceedings were
17 recessed, pending the verdict of the jury panel)

18 (Whereupon, at 2:00 p.m., proceedings were
19 reconvened)

20 THE COURT: Thank you very much. You can be
21 seated.

22 MS. JORDAN: Judge Couch, it's going to take my
23 victim a minute to get down here and he's on his way.

24 THE COURT: I understand.

25 (Off the record)

1 (Back on the record)

2 THE COURT: I have been informed by the bailiffs
3 that a verdict has been reached.

4 Is the State ready to receive the verdict?

5 MS. JORDAN: Yes, Your Honor.

6 THE COURT: Defense ready?

7 MS. LYALL: Yes, Your Honor.

8 THE COURT: Bring the jury in.

9 (Whereupon, at 2:10 p.m., the jury panel returned
10 to open court to render its verdict)

11 THE COURT: All right, the record will reflect
12 that the jury has returned to the courtroom.

13 Madam Forelady, I have been informed by the
14 bailiff that a verdict has been reached. Is that true?

15 JURY FORELADY: Yes, sir.

16 THE COURT: Pass the form to the bailiff, please,
17 ma'am. Thank you.

18 Madam Clerk, you may publish the verdict.

19 THE CLERK: Yes, sir.

20 The State of South Carolina versus Justin Darnell
21 Reynolds, Indictment Number 2012-GS-42-3314, on Count I,
22 attempted murder, the verdict is guilty.

23 The possession of a firearm during the commission
24 of a violent crime, Indictment Number 2012-GS-42-3314(A) for
25 Count II is guilty.

1 Indictment Number 2012-GS-42-3307 for the
2 indictment of kidnapping, the verdict is guilty.

3 Indictment Number 2012-GS-42-3308, the indictment
4 for armed robbery, the verdict is guilty.

5 2012-GS-42-3309 for grand larceny, the verdict is
6 guilty.

7 Signed by the foreperson, dated December the 4th
8 of 2013.

9 Ladies and gentlemen of the jury, is this your
10 verdict and still your verdict? If so, please raise your
11 right hands.

12 (Whereupon, all jurors raised their right hand)

13 THE CLERK: So say you all.

14 THE COURT: Thank you.

15 Anything further from the State before I release
16 the jury?

17 MS. JORDAN: No, sir, Your Honor.

18 THE COURT: Anything further from the defense?

19 MS. LYALL: No, Your Honor.

20 THE COURT: All right. Ladies and gentlemen, I
21 want to thank you for your attention to your duties in this
22 case. That completes your responsibilities in this case.
23 However, it does not complete your service on the jury pool
24 for the remainder of the week.

25 I'm not sure what -- is the jury pool in the

1 assembly room right now?

2 So we are going to release you to go back there.
3 You will get further instructions as to how to proceed after
4 that.

5 Throughout this trial I have told you not to
6 discuss this case with anyone. I will tell you that you now
7 have the right to do so. You also have the right not to do
8 so. A citizen owes no one an explanation for their service
9 on a jury panel. You are not required to discuss your
10 service, unless you choose to do that.

11 Should anybody harass you or bother you in
12 connection with your service on the jury, report it to the
13 clerk's office. We will see that appropriate action is
14 taken, should that occur.

15 Madam Forelady, before you leave you will need to
16 see the clerk. There is some paperwork that you have to
17 sign for her before you leave.

18 Again, I want to thank you very much for your
19 assistance. They will be taking you back around to the
20 assembly room. At this time you are free to go.

21 Ma'am, if you will step down and see the clerk.

22 (Whereupon, the jury panel was discharged from
23 further service in this case)

24 (Off the record)

25 (Back on the record)

1 THE COURT: Ms. Jordan, do you have the paperwork?

2 MS. JORDAN: Yes, Your Honor. I have passed it

3 over.

4 THE COURT: You have passed it over?

5 MS. JORDAN: To Ms. Lyall.

6 THE COURT: Thank you. That's fine.

7 (Off the record)

8 (Back on the record)

9 THE COURT: You may approach the bar.

10 Are you ready?

11 MS. JORDAN: Yes, sir.

12 THE COURT: All right.

13 MS. LYALL: - Your Honor, I also have a few motions
14 to make before we commence sentencing.

15 THE COURT: All right, you may do so.

16 MS. LYALL: Your Honor, at this time I have a
17 motion for a judgment of acquittal, and in the alternative a
18 motion for a new trial.

19 I would like to renew my motion regarding the fact
20 that I still don't believe that he can be convicted of grand
21 larceny and kidnapping in this trial. If you would like for
22 me to go over the reasons again, we can --

23 THE COURT: I think you have stated the reasons
24 previously.

25 MS. LYALL: Okay. Thank you, Your Honor.

1 THE COURT: Uh-huh.

2 MS. LYALL: I also don't believe that there was
3 competent evidence stated in this case that would allow
4 Justin Reynolds to be convicted of kidnapping and armed
5 robbery. I do believe that Josh clearly stated that Jason
6 Tolison was the one that pulled him out of the house and was
7 the one that robbed him by himself. And for that reason I
8 would ask for a judgment notwithstanding the conviction on
9 those two charges.

10 And for the rest of the charges I would just ask
11 you to consider those charges as well.

12 THE COURT: Okay. I did find that the elements
13 concerning the crimes of grand larceny were different than
14 the other crimes and so I denied that motion. I will
15 continue to do that.

16 I also found that there was evidence on both sides
17 of the question as to who removed the victim from the home.
18 Some of the testimony indicated the defendant did. Some of
19 the testimony indicated another individual did. However,
20 there was also evidence in the case that would indicate
21 perhaps the hand of one would have been the hand of all in
22 these situations as well, so -- I denied that motion
23 earlier. Because of the split in the testimony in the
24 proof, I denied the motion earlier, and I would deny it
25 again. It was within the jury's province to find as they

1 did.

2 Anything further?

3 MS. LYALL: No, Your Honor.

4 THE COURT: You may approach the bar.

5 All right. Mr. Reynolds, you have been found
6 guilty by a jury of your peers of the offenses of attempted
7 murder, kidnapping, armed robbery, grand larceny, and
8 possession of a weapon in the commission of a violent crime.

9 At this time I will consider sentencing in your
10 case. I'll be hearing from your attorney first. Then I'll
11 hear from you. And, of course, if there are others who
12 would like to speak on your behalf, I'm sure your attorney
13 will let me know.

14 Ms. Lyall?

15 MS. LYALL: Thank you, Your Honor.

16 As you heard in this case, Justin Reynolds is very
17 young. He is currently twenty-two years old. When this
18 happened he was twenty years old. The other people involved
19 in this case were significantly young as well.

20 THE COURT: The sentencing sheets indicate age
21 twenty-three. Was he born in [REDACTED]?

22 MS. LYALL: Yes, Your Honor.

23 THE COURT: Is that correct? So he would be
24 twenty-three.

25 MS. LYALL: Twenty-three, sorry.

1 THE COURT: That's all right.

2 MS. LYALL: And everyone that -- most of the
3 people involved in this case -- other than the victim, I
4 believe he's thirty, but everyone was around the age of
5 twenty, eighteen, around that age. Very young. I don't
6 believe that they understood what could potentially happen
7 when all of this took place. I think it's a very sad tragic
8 event and result that took place, but I don't think that
9 everyone that was involved in this actually understood that
10 when you decide to rob a drug dealer, that this result can
11 actually happen.

12 Mr. Reynolds does not have an extensive criminal
13 history. He's a very young man. He did not take the stand
14 in this case. He did not get up. He did not deny
15 involvement. He did not tell any stories to the court.

16 This was a case where the solicitor's office
17 decided that Justin Reynolds was the most culpable they felt
18 in this case. They made deals with everyone else in the
19 case and they made no offers to Justin in this case. So it
20 was a case that was forced to go to trial. Not a single
21 offer was made in this case that we could even consider, so
22 we were forced to be placed in this position.

23 I do want you to consider Mr. Tolison, his
24 involvement in the case. He got up and admitted to you that
25 he was completely involved in this case, that he grabbed

1 Josh. Josh said that Jason was the one that grabbed him,
2 that Jason is the one that did the armed robbery, pulled all
3 of his belongings off, pulled his shoes off and left him
4 there, and the State felt that an appropriate sentence in
5 that case was fifteen years.

6 Both of these young were looking at what would be
7 a natural life sentence, and I think that a comparable
8 sentence in this case, not necessarily fifteen years,
9 because I understand that the shooting is what he is
10 convicted of, but I don't think something so much higher
11 than fifteen years would be appropriate, if the solicitor's
12 office felt that fifteen years was appropriate for the other
13 party that was involved in this case.

14 I would just really like you to consider the age
15 of these people, the fact that Mr. Reynolds does not have a
16 criminal history. He does have a criminal history, but it's
17 very minor.

18 And I would really -- even though the jury did not
19 come to this conclusion -- I mean, they may have come to
20 this conclusion, but they came to a different charge, like
21 you to consider that the testimony was that the victim was
22 hit with a gun and the gun went off. I understand that
23 that's extremely reckless behavior, but it's not trying to
24 kill someone.

25 It's very unfortunate that Josh is in this

1 situation. And I understand that when you go into a
2 situation and you are robbing someone, and you have a gun
3 and you hit them with the gun, that can happen, but it's
4 very different than shooting someone and intending for that
5 to happen, and I would like court to consider that.

6 I don't know if Mr. Reynolds' family, if anyone
7 would like to come up and testify on his behalf.

8 THE COURT: Your name is?

9 ARRAYIA REYNOLDS: Arrayia Reynolds.

10 THE COURT: And how are you related?

11 ARRAYIA REYNOLDS: This is my brother. We have
12 the same mother.

13 THE COURT: All right. Yes, ma'am.

14 ARRAYIA REYNOLDS: I would just want to say, I
15 mean, we could be -- I know it wasn't right if he did do it
16 or he didn't do it, because I wasn't there.

17 I feel sorry for his family. I don't want them to
18 go through what we are going through, because I feel that it
19 shouldn't have happened, and I just hope that y'all could
20 have mercy on my brother because we have had had a rough
21 life. We ain't always had our parents. We had a rough life
22 when we was growing up and the streets is all they know, so
23 that's what -- violence is all they know, because that's how
24 we have been living in the streets. I do apologize to his
25 family.

1 THE COURT: Ma'am, you need to address me. Don't
2 talk to other people.

3 ARRAYIA REYNOLDS: I apologize to their family,
4 Your Honor, that they can get through this and that their
5 life can be better, and I just wish that y'all have mercy on
6 my brother.

7 THE COURT: Thank you, ma'am.
8 Anyone else?

9 MS. LYALL: No, Your Honor.

10 THE COURT: Mr. Reynolds, at this time you have
11 the right to speak on your own behalf. I will be happy to
12 hear from you, if you would like to speak.

13 THE DEFENDANT: Yes, sir.

14 Well, I wanted the victim to know that no matter
15 how they look at me or the situation where I'll be, but I
16 wasn't the man that he say I was. And in all naturality
17 people that put my name in the situation really know how the
18 situation went and really know I wasn't involved in this
19 situation. But at the same time the only thing I can could
20 tell him is, I mean, I apologize for what he got to go
21 through and for how his life is. And I just ask if he could
22 forgive me, because he feel that I am the man. So that's
23 only what I got to ask that. But besides that I have
24 nothing else to say and I just wish him a better life than
25 what he's got to go through.

1 THE COURT: Thank you, sir.

2 THE DEFENDANT: You are welcome.

3 THE COURT: State, does this young man have a
4 prior record?

5 MS. JORDAN: Yes, sir, Your Honor.

6 I would like to start with his juvenile record, if
7 that's appropriate.

8 THE COURT: That would be fine.

9 MS. JORDAN: As Ms. Lyall stated, he was born in
10 1990.

11 His first conviction in Family Court was in 2005,
12 when he was a few months after his 15th birthday, for
13 burglary second degree, malicious injury to personal
14 property.

15 2007, in Family Court he has two convictions for
16 assault and battery of a high and aggravated nature and a
17 weapons charge. It's one of those that's listed with
18 multiple potentials of what it could be. And my
19 understanding is at that time the ABHAN would have been
20 under the common law statute that we had.

21 Your Honor, he also has an adult record.

22 I actually want to talk about some of the days
23 that he was in jail, too, along with it.

24 He was arrested and placed into custody at the
25 Spartanburg County detention center on June the 2nd of 2010.

1 He was held until he pled guilty to a discharging of a
2 firearm into a dwelling on February the 8th of 2011.

3 The information that my investigator got when this
4 came first happened was that he was then released from the
5 Department of Corrections on that charge on February the
6 29th of 2012. As the court has heard, this incident
7 occurred roughly five, six weeks later on April the 8th of
8 2012.

9 And I would also like to be heard at the
10 appropriate time, as would Josh.

11 THE COURT: All right. I'll be glad to hear from
12 the victim at this time.

13 If you would like to speak, sir?

14 JOSHUA BARRINEAU: Yes, sir.

15 I would just like to say what he done to me is
16 worse than murder and I think he will never need to see
17 daylight. What he done to me --

18 All right, I will never be able to walk again. I
19 don't even know when I pee or poop. My mom and daddy have
20 to take care of me. I won't never have a life again. I
21 will be like this for the rest of my life. I would rather
22 have been dead and him being charged for murder than me be
23 like this. So take that into consideration that I think he
24 don't need to see daylight. From what he's done to me, it's
25 worse than murder.

1 THE COURT: Thank you, sir.

2 Anyone else from the victim's family wish to
3 speak?

4 Sir, do you wish to speak?

5 MS. JORDAN: This is his father Jerry Barrineau.

6 THE COURT: All right. Yes, sir.

7 JERRY BARRINEAU: I would like to say, like I said
8 before, I forgive the young man. Like I told him before, he
9 needs Jesus. Jesus Christ is the only one that will be able
10 to help him, and I hope and pray through this that he will
11 find Jesus Christ as his Lord and Saviour, because he's the
12 only hope.

13 THE COURT: Thank you, sir.

14 Do you wish to be heard?

15 MS. JORDAN: Just briefly, Your Honor.

16 As Ms. Lyall stated, this was a case where I
17 looked at all the individuals charged in this and I made a
18 decision that Justin was the most culpable in this case and
19 I did not make an offer. I do not believe that I'm required
20 to make an offer in each and every case and this is one
21 where I chose not to.

22 I do believe that he is more culpable, in that he
23 took what was supposed to be an armed robbery and made it
24 much more, that based upon the testimony that he's the one
25 who took the gun and caused these injuries right here. So I

1 do believe and would ask for a sentence more than what Jason
2 Tolison received.

3 I have -- and Ms. Stuart has a copy of these and I
4 just wanted the court to know that -- and I referenced one
5 of them in a phone call to her. We had the Department of
6 Corrections phone calls from this defendant and we listened
7 to a lot of them. And there was one from last spring,
8 because he went from the Spartanburg County detention
9 center, stayed here for a few weeks and then his YOA parole
10 on the discharging of a firearm was revoked and he was put
11 back in the Department of Corrections. In one of those
12 phone calls -- and like I said, I spoke to Ms. Lyall briefly
13 about this, he referenced that inside of the Department of
14 Corrections he was still robbing people, because he had to
15 do what he had to do for -- you know, to basically provide
16 for himself and protect himself. I just wanted to make the
17 court aware of that.

18 THE COURT: Anything further?

19 MS. LYALL: Yes, Your Honor. I would just like to
20 comment on that. He said he was having to survive in the
21 Department of Corrections. I think the Department of
22 Corrections is a much different atmosphere and when someone
23 says they are having to do what they have to do to survive
24 in the Department of Corrections, we hear about people
25 being, you know, raped and different things in the

1 Department of Corrections and what happens in the Department
2 of Corrections is very unfortunate. And, you know, I think
3 what he's saying he's had to, you know, resort to things to
4 survive in the Department of Corrections is much different
5 than, you know, something that happens on the outside. I
6 don't think that that should be considered as, you know,
7 something against him at this point. I think it's a sad
8 situation what happens in the Department of Corrections, and
9 I would ask for concurrent time on these charges.

10 THE COURT: All right, I'm going to ask that the
11 attorneys approach, please.

12 Sir, you can have a seat back there at the table.

13 (Whereupon, the lawyers approached the bench for
14 an off-the-record discussion)

15 (Off the record)

16 (Back on the record)

17 THE COURT: Mr. Reynolds, if you will please
18 stand.

19 The sentences I'm about to announce I have made
20 one finding. I have made the determination that this
21 offense did not involve any crimes or actions of a sexual
22 nature. Therefore, sexual offender registration will not be
23 required as a result of these convictions.

24 As to the two charges, possession of a weapon
25 during a violent crime and grand larceny, the sentence in

1 each case is five years.

2 I have run that concurrent.

3 In each of the cases I have ordered that you be
4 given credit for any time that you have served as determined
5 by the Department of Corrections. And so they will
6 determine any credits that you are to receive, but I do
7 allow credits for time served.

8 As to the other charges, Mr. Reynolds, it's my
9 finding that this was a particularly violent crime for
10 someone who is against -- perpetrated against someone who
11 was in a helpless position. That individual was left for
12 dead for an extended period of time, only being found by
13 some gentleman who just happened by, that he, in fact,
14 survived. Otherwise, this would have been a murder case.
15 In fact, it came very close, apparently, according to the
16 testimony of the physician involved, to being a murder case.

17 It's unfortunate that young people get involved in
18 this type of activity. Unfortunately they do. And
19 apparently the jury has found that you were involved in this
20 case, and perhaps had the most involvement of anyone who was
21 involved.

22 Taking those factors into consideration, that
23 being the heinous nature of the offense, the situation that
24 the victim was left in, it's the sentence of the court that
25 in the case of attempted murder, armed robbery, and

1 kidnapping, that you be confined in the State Department of
2 Corrections for a period of thirty years, run concurrently.

3 Good luck to you, sir.

4 MS. JORDAN: Thank you, Your Honor.

5 THE COURT: Thank you.

6 (Whereupon, proceedings were concluded in this
7 matter)

8 (END OF REQUESTED TRANSCRIPT OF RECORD)
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CERTIFICATE

I, the undersigned, Michael R. Watts, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for SPARTANBURG County, South Carolina, on the 2nd, 3rd and 4th days of December, 2013.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

February 21, 2014

Michael R. Watts

Michael R. Watts
Circuit Court Reporter

WITNESSES

Woodruff Police Department

1. SENTENCE MADE

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARREST WARRANT

FINE CARD MADE

7. TRAFFIC VIOLATION COPY

Count One-K187537

Count Two-K187541

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date:

JUN 14 2012

VERDICT

Guilty

Count I & II

Foreperson of Petit Jury
Date:

DOCKET NO.

12-GS-42-3314(A)

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 25 2012

TERM

THE STATE
vs.

Justin Darnell Reynolds

Indictment for
COUNT ONE-ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

COUNT TWO-POSSESSION OF FIREARM
DURING COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUN 20 AM 10:47

N. ROPE LACKLEY

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 14 2012

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

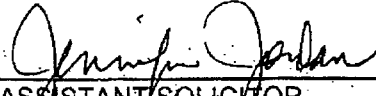
COUNT ONE-ATTEMPTED MURDER

That Justin Darnell Reynolds did in Spartanburg County on or about April 8, 2012,
with malice aforethought, intend and attempt to kill the victim, Joshua D. Barrineau, to wit;
by shooting him with a handgun, all in violation of §16-03-0029, of *THE CODE OF LAWS
OF SOUTH CAROLINA*, (1976, as amended).

**COUNT TWO-POSSESSION OF FIREARM DURING COMMISSION OF A VIOLENT
CRIME**

That Justin Darnell Reynolds did in Spartanburg County on or about April 8, 2012, possess or
visibly display a firearm during the commission or attempted commission of a violent crime, to-
wit: Attempted Murder, all in violation of §16-23-490, *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.



ASSISTANT SOLICITOR

WITNESSES

Woodruff Police Department

1. SENTENCE MADE

2. REPORT ENTERED

3. CARD FILLED

4. INDEXED

5. CHECKED WARRANTS

6. CHECKED SIGNATURE

ARREST WARRANT

FINE CARD MADE

7. TRAFFIC VIOLATION COPY

Count One-K187537

Count Two-K187541

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

JUN 14 2012

VERDICT

Guilty

Count I & II

Foreperson of Petit Jury

Date:

DOCKET NO.

12-GS-42-3314(A)

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 25 2012

TERM

THE STATE
vs.

Justin Darnell Reynolds

Indictment for

COUNT ONE-ATTEMPTED MURDER

SC Code: 16-3-0029

CDR Code: 3410

Class FEL-A

COUNT TWO-POSSESSION OF FIREARM
DURING COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-490

CDR Code: 549

Class FEL/F

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUN 20 AM 10:47

M. HUGHES LACKLEY

445

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JUN 14 2012

At a Court of General Sessions, convened on _____, the

Grand Jurors of Spartanburg County present upon their oath:

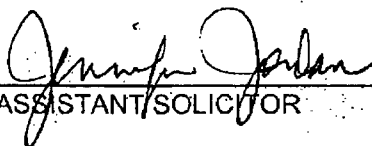
COUNT ONE-ATTEMPTED MURDER

That Justin Darnell Reynolds did in Spartanburg County on or about April 8, 2012, with malice aforethought, intend and attempt to kill the victim, Joshua D. Barrineau, to wit: by shooting him with a handgun, all in violation of §16-03-0029, of *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

COUNT TWO-POSSESSION OF FIREARM DURING COMMISSION OF A VIOLENT CRIME

That Justin Darnell Reynolds did in Spartanburg County on or about April 8, 2012, possess or visibly display a firearm during the commission or attempted commission of a violent crime, to-wit: Attempted Murder, all in violation of §16-23-490, *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.


ASSISTANT SOLICITOR

WITNESSES

Woodruff Police Department

SENTENCE MADE

2. REPORT ENTERED

3. CARD PULLED

4. INDEXED

ARREST WARRANT NUMBER

6. CHECKED SIGNATURE

K187536

7. ASSESSMENT AND FINE CARD MADE

9. TRAFFIC VIOLATION COPY

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

VERDICT

Guilty

12-4-2013

Foreperson of Petit Jury

Date:

DOCKET NO.

12-GS-42-3309

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 25 2012

TERM

THE STATE
VS.

Justin Darnell Reynolds

Indictment for

GRAND LARCENY

SC Code: 16-13-30 (B)

CDR Code: 3420

Class FEL-F

FILED
CLERK OF COURT
JUN 20 2012

2012 JUN 20 AM 10:46

M. HUNE BLACKLEY

447

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

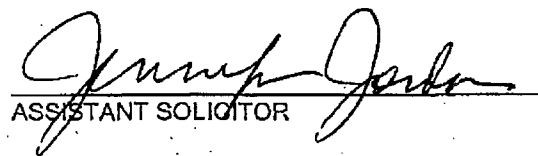
At a Court of General Sessions, convened on JUN 14 2012 the

Grand Jurors of Spartanburg County present upon their oath:

GRAND LARCENY

That Justin Darnell Reynolds, did in the ^{County RSC}~~City~~ of Spartanburg or about April 8, 2012, feloniously take and carry away the goods of Joshua D. Barrineau, valued at more than Two Thousand Dollars, but less than Ten Thousand Dollars, described as follows: a 2001 Chevrolet Blazer, with the intent to deprive the owner permanently of such property, all in violation of Section 16-13-0030 (B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Woodruff Police Department

1. SENTENCE MADE ☒

2. REPORT ENDED ☒

3. CARD PULLED ☒

4. INDEXED ☒

5. CHECKED WARRANTS ☒

6. CHECKED SIGNATURE

ARREST WARRANT NUMBER

7. ASSESSMENT AND
FINE CARD MADE ☒

8. TRAFFIC VIOLATION COPY ☒

K187534

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury

Date:

JUN 14 2012

VERDICT

Guilty

12-4-2013

Foreperson of Petit Jury

Date:

DOCKET NO.

12-GS-42-3368

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JUN 25 2012

TERM

THE STATE

vs.

Justin Darnell Reynolds

Indictment for

ARMED ROBBERY

SC Code: 16-11-330 (A)

CDR Code: 139

Class FEL/A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUN 20 AM 10:46

J. HOWE BLACKLEY

4498

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

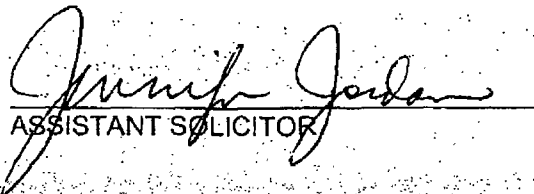
INDICTMENT

At a Court of General Sessions, convened on JUN 14 2012 the Grand
Jurors of Spartanburg County present upon their oath:

ARMED ROBBERY

That Justin Darnell Reynolds did in Spartanburg County on or about, April 8, 2012, committ a robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, and did feloniously take from the person or presence of Joshua Barrineau by means of force, violence, and/or intimidation, goods or monies of Joshua Barrineau, with the intent to deprive the owner permanently of such property in violation of §16-11-330 (A), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Woodruff Police Department

[Signature]
1. SENTENCE MADE
2. REPORT ENTERED **Computer**
3. CARD PULLED ☒
4. RECEIVED
ARREST WARRANT NUMBER **Computer**
5. CHECKED WARRANTS ☒
6. CHECKED SIGNATURE ☒
K187540 7. ASSESSMENT AND FINE CARD MADE **Computer**
8. TRAFFIC VIOLATION COPY ☒

ACTION OF GRAND JURY

[Signature]
True Bill

Foreperson of Grand Jury **JUN 14 2012**
Date:

VERDICT

[Signature]
12-4-2013
Foreperson of Petit Jury
Date:

DOCKET NO.

12-GS-42-3307

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor.

COURT OF GENERAL SESSIONS

JUN 25 2012

TERM

THE STATE
vs.

Justin Reynolds

Indictment for
KIDNAPPING

SC Code: 16-03-910
CDR Code: 0095
Class FEL-A

FILED
CLERK OF COURT
SPARTANBURG COUNTY

2012 JUN 20 AM 10:46

M. H. BLACKLEY

4519

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

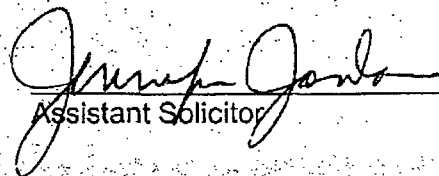
JUN 14 2012

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

That Justin Darnell Reynolds did in Spartanburg County on or about April 8, 2012,
willfully and unlawfully with criminal intent seize, confine, inveigle, decoy, kidnap, abduct
or carry away the victim, Joshua Barrineau, without authority of law, all in violation of
§16-03-910, *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976, as amended).

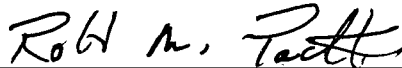
Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


Assistant Solicitor

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."

April 21, 2014



Robert M. Pachak
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Spartanburg County

Roger L. Couch, Circuit Court Judge

ORIGINAL

RECEIVED

APR 21 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

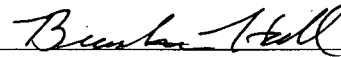
JUSTIN DARNELL REYNOLDS,

APPELLANT

APPELLATE CASE NO. 2013-002637

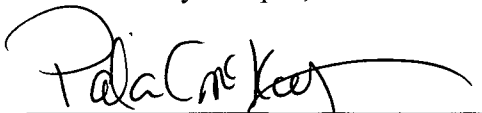
CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon Salley W. Elliott, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 21st day of April, 2014.



Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
This 21st day of April, 2014.

 (L.S.)

Notary Public for South Carolina
My Commission Expires: July 24, 2022.