

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal From Laurens County
Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2013-002269

RECEIVED

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S.C. Supreme Court

DAVORIS SMILEY,

Respondent,

vs.

STATE OF SOUTH CAROLINA,

Petitioner.

APPENDIX VOLUME I OF II

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF LAURENS) COURT OF GENERAL SESSIONS

3
4 STATE OF SOUTH CAROLINA,) TRANSCRIPT
5 PLAINTIFF,) OF
6 vs.) RECORD
7 DAVORIS TANYATA SMILEY AND)
8 JAKEIVAN PULLEY,) 2011-GS-30-1062 - 1064
9) 2011-GS-30-1057, 1058
RESPONDENT.)

10
11 February 28th - March 1st, 2012
12 Laurens, South Carolina

13
14 B E F O R E:

15 THE HONORABLE ROGER L. COUCH, Judge.

16
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1 P R O C E E D I N G S

2
3 (WHEREUPON, the following takes place within the
4 presence of the entire jury panel.)

5 THE COURT: All right. Ladies and gentlemen of the
6 jury, we're about to begin the trial of the State of South
7 Carolina versus Davoris Smiley and Jakeivan Pulley. Before
8 we begin the jury selection in this case there's going to be
9 some questions that I'm going to ask you about this case
10 that are specific to this case.

11 Now -- and in order for you to be in a better position
12 to answer some of the questions that I'm going to ask you,
13 at this time I am going to go over with you the indictments
14 that have been presented to me. Let me explain to you what
15 that is meant by an indictment so that you'll understand
16 what that document is.

17 The indictment is a document that brings the case or
18 these cases into this Court. It informs this Court of the
19 charges that are to be tried. It informs the defendants of
20 the charges that have been lodged against them.

21 Now, an indictment does not constitute evidence in the
22 case. It can not be used by a jury in any fashion
23 whatsoever in determining the ultimate questions in the
24 case. Again, they're simply the documents that bring the
25 case into the Court. I'm going over them with you so that

1 you'll understand what charges have been, been placed in
2 this case or brought in this case, and the approximate time
3 when these matters occurred because, later on, I'm going to
4 ask you some questions that apply to this case and I want
5 you to understand what it's about, and the people that may
6 be involved in this matter.

7 The first indictment that I will go over are the
8 indictments against the defendant Jakeivan Pulley. The
9 first indictment that I'm going to read to you is in Case
10 Number 11-GS-30-1057. That indictment is for the offense of
11 armed robbery.

12 The indictment states, in part, that Jakeivan Pulley
13 did, in Laurens County, in the State aforesaid, on or about
14 the 24th day of April, 2011, willfully and unlawfully,
15 while armed with a deadly weapon or while alleging, either
16 by action or words, that he was armed while using a
17 representation of a deadly weapon or any object which a
18 person present during the commission of the robbery
19 reasonably believed to be a deadly weapon, feloniously take
20 from the person or presence of Anna Sebastian, and a
21 juvenile, by means of force or intimidation, goods or money
22 described as follows: United States currency, with the
23 intent to deprive the owner permanently of such property,
24 that's the Guatemex Store, in violation of Section 16-11-330
25 of the South Carolina Code of Laws of 1976 as amended

1 against the peace and dignity of the State and contrary to
2 the statute in such case made and provided.

3 That's the first indictment that I have received on
4 that defendant.

5 The second indictment involving Mr. Pulley is in Case
6 Number 2011-GS-30-1058. That indictment is for the offense
7 of criminal conspiracy.

8 That indictment states, in part, that Jakeivan Pulley,
9 along with another person or persons, did, in Laurens
10 County, the State aforesaid, on or about the 24th day of
11 April 2011, willfully and unlawfully unite, combine,
12 conspire, confederate, agree, between and among themselves,
13 and have a tacit understanding with each other or with other
14 person whose names are unknown to the grand jurors for the
15 purposes, for the purpose of committing the act of armed
16 robbery in violation of Section 16-17-410 of the Code of
17 Laws of South Carolina, 1976 as amended, against the peace
18 and dignity of the State, and contrary to the statute in
19 such case made and provided.

20 Again, those documents are simply the documents that
21 bring the case before the Court and they inform the Court of
22 the charges to be tried and the defendant of the charges
23 that have been lodged.

24 Now, the indictments that I have received that involve
25 Mr. Smiley. The first indictment is Case Number

1 2011-GS-30-1062. That indictment is for the offense of
2 armed robbery.

3 That indictment states, in part, that Davoris Smiley
4 did, in Spartanburg County, State aforesaid, on or about the
5 24th day of April, 2011, willfully and unlawfully, while
6 armed with a deadly weapon or while alleging, either by
7 action or words, that he was armed while using a
8 representation of a deadly weapon or any object which a
9 person present during the commission of the robbery
10 reasonably, reasonably believed to be a deadly weapon,
11 feloniously take from the person or presence of Anna
12 Sebastian, and a juvenile, by means of force or
13 intimidation, goods or monies described as follows: United
14 States currency, with the intent to deprive the owner
15 permanently of such property, property, Guatemex Store, in
16 violation of Section 16-11-330 of the Code of Laws of South
17 Carolina, 1976 as amended, against the peace and dignity of
18 the State and contrary to the statute in such case made and
19 provided.

20 The next indictment is in Case Number 11-GS-30-1063.
21 It is for the possession of a weapon during the commission
22 of a violent crime.

23 That indictment states, in part, that Davoris Smiley
24 did, in Laurens County, in the State aforesaid, on or about
25 the 24th day of April, possess a firearm or visibly display

1 what appeared to be a firearm or visibly displayed a knife
2 during the commission of a violent offense, to wit, armed
3 robbery or any lesser included violent offense in violation
4 of Section, Section 16-23-490 of the Code of Laws, 1976 as
5 amended, against the peace and dignity of the State and
6 contrary to the statute in such case made and provided.

7 The final indictment that I have in the case is in Case
8 Number 11-GS-30-1064. That is for criminal conspiracy, and
9 it alleges that the defendant, Davoris Smiley, along with
10 another person or persons, did, in Laurens County, the State
11 aforesaid, on or about the 24th day of April 2011, willfully
12 and unlawfully unite, combine, conspire, confederate, agree
13 between and among themselves, and have a tacit understanding
14 with each other or with other persons whose names are
15 unknown to the grand jurors for the purpose of committing
16 the act of armed robbery in violation of Section 16-17-410
17 of the Code of Laws of South Carolina, 1976 as amended,
18 against the peace and dignity of the State and contrary to
19 the statute in such case made and provided.

20 Again, ladies and gentlemen, those are the charges that
21 are before this Court to be tried in this case, and I simply
22 go over them with you so that you understand the persons
23 that were involved as well as the alleged dates that these
24 matters occurred. That will allow you to perhaps more fully
25 answer my questions later on.

1 Now, as we did earlier, it is necessary that we assure
2 ourselves that the answers that you're about to give in this
3 case to the questions that I'm going to ask will be
4 truthful, honest, and complete answers to those questions.
5 For that reason I'm going to ask that the clerk again swear
6 you in in this case concerning your responses.

7 Madam Clerk.

8 (WHEREUPON, the jury panel was placed under oath at
9 this time.)

10 THE COURT: If there was any member of the jury panel
11 who either failed or refused to take the oath that the clerk
12 just administered I'd ask that you now please stand.

13 (No response.)

14 THE COURT: The record will reflect then that all
15 jurors have been sworn for purposes of my questioning.

16 Before I begin, go further with my questioning I'm
17 going to ask that the attorneys that are involved in the
18 trial of this case introduce themselves to you in this
19 matter.

20 First of all for the State of South Carolina.

21 SOLICITOR MOWRY: Thank you, Your Honor.

22 Please the Court.

23 Ladies and gentlemen, my name is Warren Mowry. I'm a
24 prosecutor with the Eighth Circuit Solicitor's Office. I'm
25 based here in Laurens, and also with me, Ms. Rosemerry

1 Fielder-Commander. She is another assistant solicitor here
2 in Laurens. She and I will be co-counsel on this case, and
3 over here to our right is Leann Riggott, who is a detective
4 with the Laurens City Police Department. She is the chief
5 investigator in this case.

6 THE COURT: Thank you, sir.

7 And for the defense.

8 Sir, if you'll introduce yourself, and in the case of
9 the defense, would you also introduce the defendants to the
10 jury panel please?

11 MR. MITCHELL: Yes, Your Honor.

12 May it please the Court.

13 My name is Chad Mitchell. I am an attorney here in
14 Laurens. I have a practice in Laurens and Greenville
15 Counties. My -- the client is Davoris Smiley and over here
16 we have the other, the codefendant.

17 THE COURT: Ma'am, if you'd introduce yourself and your
18 client please.

19 MS. MOORE: Thank you, Your Honor.

20 May it please the Court.

21 I'm Scarlet Moore and I'm a defense attorney based in
22 Greenville, South Carolina. But I also practice in Laurens
23 County and other counties in South Carolina. I represent my
24 client, Jakeivan Pulley.

25 THE COURT: Thank you very much.

1 Now, ladies and gentlemen, we're going to follow the
2 procedure that we followed earlier in jury qualification.
3 That is, I'll be asking you some questions. I'll be ask,
4 asking if the questions apply to you or if you have a
5 response to the questions to please stand. I will need to
6 place your name and number on the record before we discuss
7 any response that you might have to the questions that I'm
8 about to ask.

9 Now, has any member of this jury panel ever been
10 related by marriage or are you related by blood to either of
11 the defendants, that being Mr. Pulley, Mr. Smiley, or the
12 alleged victim in this case, Anna Sebastian, if that's true,
13 please stand.

14 (No response.)

15 THE COURT: Now, has any member of the jury panel ever
16 had a close personal or a social relationship with either of
17 the defendants, either Mr. Pulley, Mr. Smiley, or the
18 alleged victim, Anna Sebastian, if that is true, please
19 stand.

20 (No response.)

21 THE COURT: Has any member of this jury panel ever been
22 represented by any of the attorneys that are involved in
23 this case or have they ever, ever appeared on the other side
24 of a legal matter from you, if that is true, please stand.

25 (No response.)

1 THE COURT: Has any member of the jury panel ever been
2 related by marriage or are you related by blood or have you
3 had a close personal or a social relationship with any of
4 the attorneys that are involved in the trial of this matter,
5 if that is true, please stand.

6 (No response.)

7 THE COURT: Now, ladies and gentlemen, I'm going to
8 read to you a list of people who've been identified to me as
9 possible witnesses in this case. Now, the list is not
10 terribly long, but there's a good number of names here. So,
11 listen carefully as I go over these names and be listening
12 to see if you might have some acquaintance with any of these
13 individuals.

14 Anna Sebastian.

15 Diana Melendez.

16 Hector Melendez.

17 Lakasion Robinson.

18 Christie Cofield.

19 Porsha Miller.

20 Deloris Byrd.

21 Davoris Dorrah.

22 Patrick Durkin.

23 Chip Steppe.

24 Jim Motley.

25 Mike Rainey.

1 John Stankus.

2 John Carter.

3 Paul Meeh. It's M-E-E-H.

4 Stephanie Staley.

5 Jeff Crooks.

6 Amy Stephens.

7 Leann Riggott.

8 Now, as to the people that I've just identified as
9 potential witnesses in this case, has any member of this
10 jury panel ever been related by marriage or are you related
11 by blood or have you had a close personal or a social
12 relationship with any of the people that I just identified
13 as potential witnesses in this case, if that is true, please
14 stand.

15 (Jurors respond.)

16 THE COURT: Ma'am, I need your name and number.

17 THE JUROR: Anna Johnson, 71.

18 THE COURT: And who are you acquainted with, ma'am?

19 THE JUROR: I'm related to Davoris.

20 THE COURT: All right. And you're related to that
21 individual --?

22 THE JUROR: By marriage.

23 THE COURT: Okay. By marriage.

24 Can you tell me how close that is?

25 Is he -- who's he married to or---

1 THE JUROR: No. well, I married -- my husband is his
2 first cousin.

3 THE COURT: There we go. That's what I needed to know.

4 THE JUROR: Okay.

5 THE COURT: Now, ma'am, if that individual were to be a
6 witness in this case, would that affect your ability to be
7 fair and impartial to both the State and the defendants?

8 THE JUROR: I, I wouldn't---

9 THE COURT: Is it possible that it would?

10 THE JUROR: Possibly.

11 THE COURT: All right. well, ma'am, I'm gonna exclude
12 you from service in this case, but I'll ask that you have a
13 seat. You no longer have to answer my questions. I'm
14 excluding you in the trial.

15 Name and number please, sir?

16 THE JUROR: Darrius Jernigan, Number 70.

17 THE COURT: Yes, sir.

18 THE JUROR: And I know half of them that you was
19 calling out.

20 THE COURT: You know who?

21 THE JUROR: Like Mark Stankus, and I forgot to stand up
22 when you said Smiley.

23 THE COURT: All right. Let me ask you this.
24 Are these friends of yours or acquaintances?

25 THE JUROR: I mean my childhood friends.

1 THE COURT: All right. Now, would the fact that
2 they're, that they're involved in this trial, would that
3 affect your ability to be fair and impartial in this case?

4 THE JUROR: Yes, sir.

5 THE COURT: All right. Then I'm gonna excuse, exclude
6 you from the case. You no longer have to answer my
7 questions, but please be seated. Thank you.

8 Name and number please, ma'am?

9 THE JUROR: 133.

10 THE COURT: Yes, ma'am, your situation?

11 THE JUROR: Christie Cofield.

12 THE COURT: And tell me what relationship you have to
13 Ms. Cofield.

14 THE JUROR: Second cousin.

15 THE COURT: I'm sorry?

16 THE JUROR: Second cousin.

17 THE COURT: All right. Can you tell me what she said?

18 SOLICITOR MOWRY: Second cousin.

19 THE COURT: Second cousin. I'm sorry. It's a long way
20 to the back of the room.

21 Now, ma'am, would the fact that that person might be a
22 witness in this trial, would that affect your ability to be
23 fair and impartial in the case?

24 THE JUROR: Yes.

25 THE COURT: All right. Ma'am, then I'm gonna exclude

1 you from the trial. Have a seat. You no longer have to
2 answer my questions, but I'll be talking with you later.

3 Anyone else?

4 (No response.)

5 THE COURT: Now, has any member of this jury panel
6 gathered any information or have any information about the
7 matters involved in this case such that it would of caused
8 you to either form or express an opinion concerning any of
9 the issues that might be involved in this trial, if that is
10 true, please stand.

11 (No response.)

12 THE COURT: Is there any member of this jury panel who
13 is aware of a bias or prejudice that you might have either
14 for or against either the State or the defendants in this
15 matter, if that's true, please stand.

16 (No response.)

17 THE COURT: All of the cases that are before the Court
18 were indicted in the Year 2011.

19 Is there any member of this jury panel who may have
20 served as a member of the Grand Jury for Laurens County
21 during the Year 2011, if that's true, please stand.

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 is a member or, or a contributor to a group which has as its
25 primary concern the promotion of law enforcement or victims

1 rights?

2 These groups would include, but not be limited to such
3 groups as Mother Against Drunk Driving, Students Against
4 Drunk Driving, Citizens Against Violent Crime, the South
5 Carolina Troopers Association, the South Carolina Sheriff's
6 Association, or other similarly oriented organizations.

7 If that is true, please stand.

8 (No response.)

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

14 (No response.)

15 THE COURT: Are there any additional questions from the
16 State at this time?

17 SOLICITOR MOWRY: Nothing from the State, Your Honor.

18 THE COURT: Any from the defense?

19 MR. MITCHELL: No, Your Honor.

20 MS. MOORE: No, Your Honor.

21 THE COURT: All right. Then I'm going to authorize the
22 clerk to prepare a list of potential jurors in the case.

23 Ladies and gentlemen of the jury, let me explain to you
24 what we're doing at this time. Years ago, when I first
25 started practicing law, we always picked juries by putting

1 names in little capsules, and they put those in a box or a
2 bin and they roll them around, and we had to have a legally
3 blind person pull those capsules out of the box, and that's
4 how we pulled names for the jury.

5 Now we let the computer randomly select names from your
6 group. I tell people that's legal proof that computers are
7 blind, but at any rate, we trust, we trust that they're
8 blind in picking those juries, but she's preparing a list
9 that will be presented to the Court, and from that list
10 we'll begin the jury selection process.

11 I'm gonna ask the attorneys to approach the bench
12 briefly while we discuss this.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, what we're going to do at this time is I'm going to
17 authorize the clerk to begin calling your names. When your
18 name is called I'll ask that you come down to the center of
19 the courtroom here. The bailiff will be standing right
20 here. If you'll come stand beside the bailiff and face back
21 toward the back doors back there. At that time the
22 attorneys will be in a position to exercise their strikes in
23 this case.

24 In this case the State will have five strikes. The
25 defense will have a total of ten strikes. We're going to

1 pick one alternate with the State having one strike, and the
2 defense having two strikes for that alternate.

3 Bring with you any personal belongings you have in the
4 courtroom such as pocketbooks or whatever you have. Books,
5 if you have something, reading material with you, something
6 like that, bring that with you because, if you're selected
7 to serve on a jury panel, you'll immediately have a seat in
8 the jury box to my right, and you'll not be going back to
9 your seat in the gallery.

10 Madam Clerk, you can begin the jury selection process.

11 (WHEREUPON, a jury panel was selected at this time.)

12 THE COURT: All right. We're selecting the alternate
13 at this time.

14 (WHEREUPON, an alternate juror was selected at this
15 time.)

16 THE COURT: Is there an objection to the jury selection
17 process from the State?

18 SOLICITOR MOWRY: None from the State, Your Honor.

19 THE COURT: Any from the defense?

20 MR. MITCHELL: No, Your Honor.

21 THE COURT: Ma'am, any objection to the jury selection
22 process?

23 MS. MOORE: No objection, Your Honor.

24 (Pause.)

25 THE COURT: Ladies and gentlemen, you have been

1 selected as jurors in this case, and at this time I notice
2 it's about noon. So, we're going to be taking a break in
3 this matter. You'll be leaving the courthouse, and at this
4 time I'm going to give you some instructions, and you'll
5 find that every time that you leave the courthouse during
6 the trial that I'll give the same or similar instructions to
7 you.

8 I will point out to you that, when you return to the
9 court house this afternoon, you'll be taking an oath
10 concerning your duties and responsibilities as jurors. That
11 oath is to decide the case based upon the law and the
12 evidence presented in this trial.

13 Now, the only place that you're going to hear evidence
14 will be testimony from witnesses who will testify from the
15 witness stand, and whatever documents or other evidence
16 comes into the record through that testimony, and the other
17 way evidence gets into the record is by stipulation or by
18 agreement of counsel. But there will be no evidence
19 presented outside of this courtroom.

20 For that reason it would be highly improper for you to
21 try to gather any information about this matter on your own
22 from any source outside of this courtroom. That includes
23 searches of the Internet, that includes media reports such
24 as television, radio, or print media. I can assure you that
25 any of those sources of information quite often contain

1 matters which would not be admissible under the rules of
2 evidence that govern a trial of the case, and, therefore,
3 shouldn't be considered by you in any manner whatsoever in
4 reaching a verdict in this case.

5 So, I will caution you, don't attempt to gather any
6 information about this case outside of the courtroom. I can
7 assure you that, during the trial, you'll be given the
8 information that it is properly admissible in Court, and
9 that you properly should consider in reaching a verdict in
10 this case.

11 Also, I've also, I've also explained to you the issue
12 of someone attempting to influence the jury. For that
13 reason, don't allow anyone to discuss this case with you
14 during your break, and you should not discuss the case with
15 anyone, even among yourselves, if you happen to see one of
16 your fellow juror members before we get back together.

17 You've been selected as fair and impartial jurors with
18 an open mind concerning this case, and I can assure you that
19 if you begin to discuss the nature of the charges or the
20 individuals or personalities that are involved in this case,
21 those discussions might begin to color your ultimate
22 decision, and your oath is to decide the case based on the
23 law and the evidence. Not upon discussions you might have
24 with someone outside of the courtroom or with your fellow
25 jurors.

1 For that reason, I'm going to ask you, and I'll tell
2 you every time you step out the door, not to discuss the
3 case with anyone until such time as I've advised you to
4 begin your deliberations. Because, when you begin your
5 deliberations, you'll have in your possession the arguments
6 of the counsel that have been made during the trial, the
7 evidence that's been presented. You'll also have my charge
8 concerning the law to be applied in the case. Only when you
9 have all of that information will you have everything you
10 need to begin a discussion concerning the issues that will
11 be placed in front of you.

12 So, again, don't discuss the case with anyone. Don't,
13 don't allow anyone to discuss it with you. It's all right
14 for you to tell a family member or a friend that you've been
15 selected to serve on a jury. That's as far as it should go.
16 After that you, you can tell them you'll discuss it with
17 them when the case is over if you choose to do that. But
18 you have no obligation to do it then.

19 So, again, I'm going to caution you not to discuss the
20 case and don't allow anyone to discuss the case with you.
21 Should someone attempt to contact you concerning your
22 service on the jury during the break, please report that to
23 the Court. I can assure you I take those matters seriously,
24 and I'll see that the proper investigation is begun should
25 someone attempt to influence your decision in this case.

1 There's some matters I have to take up with the
2 attorneys before we start the trial. There's also a matter
3 that I have scheduled at two o'clock that has nothing to do
4 with this case. It's another case, but it involves
5 attorneys that are coming from out of town.

6 So, I'm going to ask you to be back in the jury room
7 that's in use for this trial at 2:30 this afternoon, and at
8 that time, or shortly thereafter, we should be in a position
9 to begin the trial of the case. When you come back to the
10 courtroom I'll be asking you as to whether or not you've
11 been able to comply with my instructions concerning your
12 behavior outside of the courtroom.

13 So, again, listen to what I've said and follow my
14 instructions so that we won't have any difficulty in that
15 regard.

16 Now, the bailiff's gonna show you where the jury room
17 that's in, that's in use for this trial is and how to get
18 back there. Report to that jury room. Don't come back into
19 the courtroom. Report to that jury room when you return
20 after lunch. Again, 2:30 this afternoon.

21 Thank you very much. You're free to go at this time.
22 The bailiff will show you out.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. We had a brief in chambers

1 discussion concerning this case earlier. There were some
2 matters that the counsel wished to place on the record.

3 For the State, anything you'd like to put on the
4 record?

5 SOLICITOR MOWRY: Not at this point, Your Honor.

6 THE COURT: All right. I believe the defense did wish
7 to put some matters on the record.

8 I'll hear from you, sir.

9 MR. MITCHELL: Yes, Your Honor.

10 I'd like to make a motion in limine to exclude cell
11 phone records. The, the -- would you like me to hand this
12 up to you?

13 THE COURT: Yes, sir, that will be fine. Thank you.

14 MR. MITCHELL: Your Honor, I would like to have those
15 records excluded even if they are relevant evidence because
16 I believe the probative value is substantially outweighed by
17 the danger of unfair prejudice. The State has a, a video
18 I'm sorry, a picture, it's blurry, of the defendant holding
19 a gun. The---

20 THE COURT: Of which defendant?

21 MR. MITCHELL: Of my, of my---

22 THE COURT: Your client?

23 MR. MITCHELL: I'm sorry. Of Mr. Smiley holding a gun.
24 The prosecuting attorney informed me that there's---

25 THE COURT: Order in the Court please.

1 Ma'am, ma'am, if you need to talk, go outside. Thank
2 you.

3 You may proceed, sir.

4 MR. MITCHELL: All right. The prosecuting attorney
5 informed me that there will not be an expert to identify the
6 type of gun as well as, as there won't be an expert
7 identifying the type of gun found in a video that he's going
8 to be showing to us, and I feel that this will only
9 prejudice the jury. This does not prove that my client owns
10 a gun. It doesn't prove that he was even holding a real gun
11 in the picture. It's very hard to tell what kind of gun it
12 is.

13 My second argument is that the evidence is irrelevant.
14 They'll be plenty of other evidence in this case that's
15 being presented that the prosecution will try to use to link
16 my client to having a gun in his hand at the time of the
17 incident. This picture was taken almost a day before the
18 incident.

19 THE COURT: All right. I'll hear from the State.

20 SOLICITOR MOWRY: Your Honor, if it please the Court.

21 I'd like to show you a copy of the picture. You can
22 see from the copy of the picture that it is not at all
23 blurry. It is very plain who is depicted in that picture.

24 Additionally, Your Honor, we have a store video. It is
25 perhaps, if I, if I may editorialize just a bit, Your Honor,

1 it is easily one of the best video systems that I've ever
2 seen securing any store anywhere, and the defendant is seen
3 walking up and down in front of the store several times
4 wearing that very same baseball hat. Matter of fact, he was
5 caught with that hat later on after the event. He is also
6 wearing shorts as depicted there.

7 THE COURT: well, I can't tell if these are shorts.

8 SOLICITOR MOWRY: well, there -- with the same belt I
9 should say, Your Honor.

10 THE COURT: Okay.

11 SOLICITOR MOWRY: So, the clothing is almost identical.
12 We have that in, in, in our possession and plan to present
13 it during the course of the trial.

14 In any event, Your Honor, the robber on the video,
15 granted he does have a mask over the lower part of his face,
16 but the robber presents the gun at the victims with his
17 left-hand as well. You can see from that picture that the
18 defendant is holding the gun in his left-hand.

19 We have several pictures like that, three or four
20 pictures like that, and I would submit that all of those
21 pictures would be relevant, probative, and the prejudicial
22 effect would not be outweighed by the, would not outweigh
23 the, the probative value.

24 THE COURT: Can you tell me the -- he indicated that
25 this was almost a day before the alleged incident.

1 SOLICITOR MOWRY: It's on the same day, Your Honor.
2 The event took place at roughly nine o'clock at night. This
3 was from a little after three o'clock in the morning. So,
4 it's some 15-hours earlier.

5 THE COURT: So, it was, it was in the same 24-hour
6 period?

7 SOLICITOR MOWRY: Yes, sir.

8 THE COURT: All right. Counsel, I'll hear from you
9 further if you'd like to argue it any further.

10 MR. MITCHELL: Yes, Your Honor.

11 I believe that the, the State will have an opportunity
12 to show that he was wearing a yellow hat or wearing those
13 clothes from other evidence. I just feel that the fact that
14 someone's holding a gun in a picture doesn't mean they're
15 committing a crime, that they're planning to commit a crime.
16 It -- I have a picture on my cell phone of one of my
17 students holding a gun and posing as James Bond, and it
18 doesn't prove that he's about to commit a crime or even
19 thinking about it.

20 I, I just feel that there's just such a prejudicial
21 value. He's just goofing around in the picture, just having
22 a good time with his friends, and it's now gonna be used
23 against him that makes him out to be some criminal.

24 SOLICITOR MOWRY: Your Honor, I think the video is also
25 gonna, gonna pretty well demonstrate that, that that is the

1 same gun or one that looks just like it.

2 THE COURT: I was gonna ask, I haven't, not seen the
3 video. I will ask if counsel agrees that, on the video --
4 this appears to be a -- I'm not saying it's a gun. It's
5 what appears to be a gun or a representation of a gun. It
6 appears to be an automatic weapon as opposed to a revolver.

7 SOLICITOR MOWRY: Yes, sir.

8 THE COURT: And I do not know what the video might
9 indicate.

10 Does it also appear to be an automatic weapon as
11 opposed to a revolver?

12 SOLICITOR MOWRY: Yes, sir, it, it appears to be the
13 same.

14 THE COURT: Is it black in color---

15 SOLICITOR MOWRY: Yes, sir.

16 THE COURT: ---as opposed to silver or some other sort?

17 SOLICITOR MOWRY: That is correct. It's roughly --
18 from, from, from my viewing of it, it is roughly the same
19 size.

20 THE COURT: would defense argue the points concerning
21 the -- I'll be glad to look at the video if you think I need
22 to if you disagree with the State's representation, but
23 if -- I'm -- do you agree that the revolver or the weapon or
24 the representation of the weapon shown in the video would
25 appear to be an automatic weapon as opposed to a revolver?

1 MR. MITCHELL: Well, Your Honor, when I saw the video
2 it was on a computer screen. It was a quarter of a screen.
3 So, I, I honestly can not say that it does or doesn't look
4 like the same gun. I -- I have no way of knowing that.

5 SOLICITOR MOWRY: Well, Your Honor, there is a full
6 screen of the incident itself when two assailants come into
7 the store and actually commit the robbery, and that is
8 actually on a full screen. Otherwise we have thumbnails, I
9 guess, several thumbnails that still make things visible,
10 but we, we have a very clear depiction of the, of the event
11 itself.

12 THE COURT: Well, do you want to let the---

13 SOLICITOR MOWRY: They have seen it.

14 THE COURT: Is it available right now?

15 SOLICITOR MOWRY: I can play it for you if you'd like,
16 yes, sir.

17 THE COURT: Well, I'll let the defense counsel look at
18 it.

19 SOLICITOR MOWRY: Okay.

20 THE COURT: Is there any way to put it up so everybody
21 can see it?

22 SOLICITOR MOWRY: Well, Your Honor, they have both seen
23 it and Ms. Moore asked for a copy of it, the whole disk that
24 I have on that, which I provided to her.

25 THE COURT: Okay. I'm just asking, counsel.

1 In your viewing of it, do you disagree with the fact
2 that the gun was the same color?

3 MR. MITCHELL: I believe it was the same color, Your
4 Honor.

5 THE COURT: Shape?

6 MR. MITCHELL: I'm just not that good about guns. So,
7 I'm not, I'm not sure.

8 THE COURT: Okay. Counsel wish to be heard on this
9 motion?

10 MS. MOORE: No, Your Honor.

11 THE COURT: All right. Thank you, ma'am.

12 MS. MOORE: Thank you.

13 SOLICITOR MOWRY: Your Honor, if I can step out the
14 courtroom. I believe I've left the disk on my computer. If
15 you'll give me a just moment.

16 THE COURT: That might be an important item. You might
17 want to get that.

18 SOLICITOR MOWRY: Your Honor, we have not set up the
19 projection. We can, we can get it set up very quickly if
20 you'd like. I have not anticipated we would do that before
21 lunch.

22 THE COURT: All right. You can load it on a computer
23 so I can see it. I'll be glad to put it right here and let
24 the counsel come around and take a look at it.

25 SOLICITOR MOWRY: That will be great.

1 THE COURT: Let's just set it up.

2 SOLICITOR MOWRY: And if you don't mind, I can come
3 around and show you what's the correct one.

4 THE COURT: Counsel, if you want to step around.

5 (WHEREUPON, the video was played for all parties at
6 this time.)

7 THE COURT: All right. Any further argument after
8 having viewed the video or the---

9 SOLICITOR MOWRY: Yes, sir, Your Honor.

10 In addition, Your Honor, the State does not have the
11 actual weapon that was used in the robbery. We do not know
12 where it is. We have not been able to locate it despite a
13 rather diligent investigation, and the pictures would
14 certainly be fertile ground for a jury to consider that the
15 defendant, hours before this event took place, had a weapon
16 that looked startlingly similar to the weapon that was in the
17 video, the, the one possessed by the robber from the video.

18 So, I would, I would say that any prejudicial effect is
19 strongly outweighed by the probative value of the other
20 elements of the pictures.

21 THE COURT: Anything further, counsel?

22 MR. MITCHELL: Yes, Your Honor.

23 I would argue that there are thousands and millions of
24 guns in America today, and that they all have -- a lot of
25 them are black, and a lot of them look like the gun that we

1 saw in the store video.

2 Just the fact that someone has a gun doesn't mean that
3 they're, they're committing a crime or that they are
4 planning to commit a crime or that's the gun that was
5 committed in that crime.

6 There's no evidence linking the two guns. That's why I
7 feel that there isn't any value for the jury to see this
8 other than it is to shock them that he had a gun in his
9 possession or a resemblance of a gun or a toy gun or
10 something in his possession prior to this incident.

11 THE COURT: Anything, counsel, you want to be heard on
12 this?

13 MS. MOORE: No, Your Honor.

14 THE COURT: All right. After, after reviewing it, I
15 note several things that caught my attention. As the State
16 pointed out, the perpetrator in the video handled the gun in
17 his left-hand and this photo does indicate that the
18 defendant is handling this gun in his left-hand.

19 Also, I would note the gun is remarkably similar to the
20 gun that I viewed in the video in that it was an automatic
21 weapon. It appeared to be of approximately the same size,
22 same color, and I did note that the defendant in the photo
23 also appears to be wearing something under the ball cap.
24 Looks like a white hair cover or hair net of some kind, and
25 in the photo it did appear that, in the, the video it did

1 appear that the perpetrator may of been wearing a similar
2 apparatus on that person's head as well.

3 So, I do find that the, this photo would have some
4 probative value. I do not find that its prejudicial effect
5 would outweigh its probative value. Therefore, I will not
6 exclude it on a 403 analysis.

7 Yes, sir.

8 MR. MITCHELL: Thank you, Your Honor.

9 THE COURT: Now, any other matters -- you indicated
10 there's some other things you wanted to put on the record.

11 MR. MITCHELL: I don't believe I did, but---

12 THE COURT: I think, counsel, you indicated there were
13 some matters you wanted to put on the record.

14 MS. MOORE: I do, Your Honor, and just for the record,
15 and the State has agreed to accommodate me, judge. I'm not
16 available on Friday. My schedule does not permit.

17 THE COURT: Yes, ma'am.

18 MS. MOORE: I believe that was an agreement, that we
19 would not go to trial on Friday.

20 SOLICITOR MOWRY: I do not anticipate---

21 THE COURT: We're gonna do everything we can to get
22 this case tried before that time.

23 SOLICITOR MOWRY: I do not anticipate it's going to go
24 any longer than that, Your Honor.

25 THE COURT: I understand.

1 MS. MOORE: Thank you, Your Honor.

2 Your Honor, also, as we discussed in chambers, I do
3 have a, I did have an agreement with the State that my
4 client did give statements in this matter, and that the
5 state has agreed that they will not be using any of my
6 client's statements in the trial of this matter.

7 THE COURT: Is that correct, counsel?

8 SOLICITOR MOWRY: Your Honor, I will not use them in my
9 case in chief. The -- having to Brewtonize (sic) and
10 sanitize the statement would, would render it almost
11 incomprehensible. So, I will not be using his statement.
12 Now, if he takes the stand, that would be another matter.

13 THE COURT: So, in other words, you're reserving your
14 right to use it for impeachment should he testify---

15 SOLICITOR MOWRY: Yes, sir.

16 THE COURT: ---contrary to the statement?

17 SOLICITOR MOWRY: That is correct.

18 MS. MOORE: Okay. Thank you, Your Honor.

19 In addition, I've spoken with the solicitor and a cell
20 phone was, was taken from my client, and it is also my
21 understanding that the State does not intend to use any
22 evidence from that cell phone, Your Honor, that there's no
23 evidence that was collected, any photographs, any text
24 messages, any materials, records, phone records, anything
25 that would be used in the trial of this matter in regard to

1 my client.

2 SOLICITOR MOWRY: And, and I do not anticipate using
3 anything from that cell phone, Your Honor.

4 THE COURT: Yes, ma'am.

5 MS. MOORE: Thank you, judge.

6 Your Honor, in chambers I had requested a continuance.
7 I was provided yesterday with two reports from SLED. One
8 was a latent prints evaluation. Also I received DNA
9 analysis on a piece of clothing in this matter, Your Honor.
10 I do believe that we have, have satisfied that issue, that
11 the State does not intend to use the information from the
12 latent prints report, and also, however, they do stipulate
13 to the admissibility of the DNA analysis in this case.

14 THE COURT: Well, my understanding was that the print
15 evidence did not, was not conclusive as to any defendant. I
16 don't think I will limit the State from at least indicating
17 that prints were, that an effort was made to lift the
18 prints, and that that was an inconclusive process. That's
19 the way I understood it.

20 Is that correct?

21 SOLICITOR MOWRY: Yes, sir, and if I can just, for the
22 record, fill in what the, the, the chain of events on this
23 matter.

24 Your Honor, when we concluded we were gonna be trying
25 this case in this term I called SLED immediately. This was

1 the end of January. I've sent a letter to both counsel to
2 put them on notice that this case was coming up during this
3 term. called SLED and told them we needed priority to get
4 this done.

5 I told Ms. Moore, last week when she had called me
6 about it, that the -- it appeared that the evidence had been
7 done. They have to peer review it before they can
8 officially release a report, and I gave her the unofficial
9 results that didn't appear that we were gonna have any, any
10 fingerprint evidence and that the DNA was only gonna go to
11 the third codefendant, the DNA on a particular piece of
12 clothing.

13 So, really it was not gonna have any bearing whatsoever
14 on these two defendants. I did not get the official reports
15 off of the SLED system until yesterday. I immediately
16 copied those to my computer and forwarded those both to
17 Mr. Mitchell and to Ms. Moore. They got it almost as soon
18 as I did.

19 Again, Your Honor, the, the evidence is not, does not
20 point to either one of these two defendants. I did plan to
21 use or to present the analysts of both the fingerprint
22 analysis and the DNA analyst just to show that the attempt
23 was made. I do not attempt to do it or intend to do
24 anything more than that.

25 MS. MOORE: Your Honor, may it please the Court?

1 THE COURT: Yes, ma'am.

2 MS. MOORE: My -- and also my understanding, from our
3 discussion in chambers, is that the fact Mr. Mowry would, in
4 fact, call the SLED analyst.

5 I think you intended to call them.

6 SOLICITOR MOWRY: Yes.

7 MS. MOORE: And that we would stipulate to the
8 admissibility of this report given the fact I just got it
9 yesterday, and my client -- we would be satisfied with that.
10 Just---

11 THE COURT: All right. That was my understanding as
12 well. I did, did recall the agreement included an agreement
13 that it would not be necessary for the State to produce
14 chain of custody evidence.

15 MS. MOORE: And that's correct as well.

16 SOLICITOR MOWRY: Yes, sir.

17 MS. MOORE: That's correct.

18 THE COURT: All right.

19 SOLICITOR MOWRY: I still intend to call both the
20 analyst, Your Honor, but if we can eliminate the chain of
21 custody witnesses that would be perhaps four or five.

22 MS. MOORE: Yes.

23 THE COURT: I understand. I thought that is the
24 understanding.

25 Is that correct, ma'am?

1 MS. MOORE: That is correct, Your Honor.

2 THE COURT: All right.

3 SOLICITOR MOWRY: One last thing, Your Honor, there is
4 a, and I don't know -- this would probably deal more with
5 Mr. Mitchell. There is a Secret Service agent in the, on my
6 witness list named Jim Motley. He is involved with a task
7 force in Greenville County, along with Mike Rainey who is a
8 deputy sheriff, for analysis of computers, cell phones, any
9 kind of electronic device.

10 Mr. Motley was the individual with whom Detective
11 Riggott communicated about getting the information off the
12 cell phones, but he does not himself do the cell phones. He
13 immediately -- he took it from her and then immediately
14 passed it on to Deputy Rainey who actually did the report.
15 If we need Agent Motley I could have him here. But that
16 would be one more witness that we can eliminate, and he's
17 purely chain of evidence.

18 THE COURT: Any objection to that witness not appearing
19 or do you wish to require that they establish a chain of
20 custody or chain of evidence for that particular item?

21 MR. MITCHELL: No, Your Honor. I don't object to the
22 chain of evidence being required for that item.

23 THE COURT: Okay. Not required?

24 MR. MITCHELL: Being not, not required.

25 THE COURT: Thank you.

1 SOLICITOR MOWRY: Well, just for the record then, Your
2 Honor, that would -- those agreements would eliminate Agent
3 Motley, Captain Stankus, Ms. Staley from SLED, and Ms.
4 Stephens from SLED. So, we would, we would eliminate the
5 need for calling four witnesses.

6 THE COURT: All right. Ma'am, I assume you have -- Ms.
7 Moore?

8 MS. MOORE: I do not.

9 THE COURT: I assume you have no objection to the cell
10 phone evidence since apparently none's gonna be offered from
11 your client's phone, is that correct?

12 MS. MOORE: That is correct, Your Honor.

13 THE COURT: All right.

14 MS. MOORE: Thank you.

15 THE COURT: All right. Now, I think that concludes our
16 pretrial matters in this particular case. We will be
17 resuming this case at 2:30 hopefully. I've got that civil
18 matter I have to take up at two o'clock.

19 SOLICITOR MOWRY: Very good, sir.

20 THE COURT: All right. Court's in recess.
21 Defendants remain in custody.

22 SOLICITOR MOWRY: Thank you, Your Honor.

23 THE COURT: Thank you very much.

24 (WHEREUPON, Court was in recess for the lunch break.)

25 THE COURT: All right. In the Pulley and Smiley case,

1 are we ready to begin once the defendants are in the
2 courtroom?

3 SOLICITOR MOWRY: well, I'll wait till the defendants
4 come in, Your Honor, but I have one matter that I just
5 wanted to broach with the Court before we bring in the jury.

6 THE COURT: All right. Let's, let's get them in here
7 before we get on the record.

8 SOLICITOR MOWRY: Yes, sir.

9 (WHEREUPON, the defendants come into the courtroom at
10 this time.)

11 THE COURT: All right. Yes, sir, you indicated you'd
12 like to place something on the record.

13 SOLICITOR MOWRY: Yes, sir.

14 This is something that came up during the break. One
15 of the things that Mr. Mitchell had said is we do not have
16 expertise on the connecting the guns, I guess, in the
17 photographs from the cell phone and in the video. And
18 during the lunch break, Officer Patrick Durkin, who, as
19 evidence will show, conducted the car stop to arrest,
20 ultimately arrest Mr. Pulley, and the third defendant,
21 Lakasion Robinson.

22 He is very well versed in handguns particularly, and he
23 was looking at the pictures that we had from the cell phone
24 as well as the video, and obviously can't say it's the same
25 gun, but he can say that each gun is a Highpoint, a, a

1 particular make, and he's got pictures that will, that will
2 demonstrate the similarities between the two and the
3 ejection ports and a variety of other things, and my
4 inclination is to proffer him as an expert witness in that
5 area, Your Honor. He's never been declared an expert, but I
6 believe, if you heard his testimony, you might believe that
7 it would be appropriate.

8 However, I'm not absolutely certain what Your Honor's
9 inclination would be, if this would be a ground for a
10 continuance or anything, and if that were the case, then
11 forget it. That's basically what I'm getting into.

12 THE COURT: Let me ask you, is this a matter of a
13 opinion or is this a matter of just simply identifying a
14 weapon as, by certain identifying characteristics?

15 SOLICITOR MOWRY: It would be identify, identifying
16 characteristics that would demonstrate that each weapon was
17 of the same make and model. That's pretty much it.

18 THE COURT: I'm just wondering if that, that -- I'm not
19 sure how the testimony will be presented. If it were
20 obviously an opinion testimony, then he would have to be
21 qualified as an expert---

22 SOLICITOR MOWRY: Yes, sir.

23 THE COURT: ---in the case.

24 I'll hear from the defense on that.

25 MR. MITCHELL: Your Honor, I just, I just find it a

1 little bit hard, when I looked at the pictures, to say
2 there's an identifying picture on them. I guess it would be
3 up to the jury, as the tryer of fact, to see whether they
4 believe that someone can tell from these kind of pictures---

5 THE COURT: well, but he's---

6 MR. MITCHELL: ---or to tell---

7 THE COURT: what he's saying is identifying I guess a
8 witness that's not previously been identified to you, and
9 he's saying that that witness will be offering perhaps an
10 opinion on this subject. I don't know if that's something
11 that you feel that is, there's a need for you to examine
12 further or to obtain other testimony concerning that issue.

13 SOLICITOR MOWRY: Just to make certain we're reading
14 off the same page, Your Honor, this, this is a witness that
15 is already on our witness list.

16 THE COURT: Oh, I understand.

17 SOLICITOR MOWRY: Okay.

18 THE COURT: But he's offering testimony that has not
19 yet been identified.

20 SOLICITOR MOWRY: That we have not yet discussed on any
21 other time.

22 THE COURT: Okay.

23 SOLICITOR MOWRY: That's true.

24 THE COURT: To the, to the defense.

25 SOLICITOR MOWRY: Yes, sir.

1 MR. MITCHELL: well, I feel like I will definitely
2 challenge his expertise since he's not been an expert
3 witness before, and we can do that in the trial.

4 THE COURT: well, you're objecting though to him being
5 presented at all?

6 Are you moving for---

7 MR. MITCHELL: well, he's already on the witness list.

8 THE COURT: All right.

9 MR. MITCHELL: Then I'm not objecting to him being a
10 witness then.

11 THE COURT: All right. Then we'll take it up as it
12 comes up during the trial.

13 SOLICITOR MOWRY: Very good, sir.

14 THE COURT: Now, I'll ask counsel to approach for just
15 a moment.

16 (WHEREUPON, a bench conference was held at this time.)

17 THE COURT: I will put on the record that, after
18 reviewing the photo that was presented earlier to the Court,
19 it does appear that some -- in looking at the photo, it
20 could be interpreted that the defendant is making an obscene
21 gesture with one of his hand, with his hand, not the hand in
22 which he's holding the gun, and I have instructed the State
23 that my ruling, previous ruling would be amended such that
24 that particular portion of the photo would have to be
25 redacted if it were presented to a jury.

1 It's my finding that that particular portion of the
2 photo, the prejudicial effect of that would outweigh any
3 probative value, that portion of the photo. So, I will
4 indicate that, when it's presented, that needs to be
5 redacted of the photo so that it does not contain that
6 gesture presented to the Court.

7 Does that correctly state our conference?

8 SOLICITOR MOWRY: Yes, sir.

9 THE COURT: Counsel, does that correctly state it?

10 MR. MITCHELL: Yes, sir, Your Honor.

11 THE COURT: And, ma'am?

12 MS. MOORE: Yes, Your Honor. It does.

13 THE COURT: All right. Thank you.

14 Are we ready to bring the jury in, from the State's
15 prospective?

16 SOLICITOR MOWRY: Yes, sir.

17 THE COURT: Defense ready?

18 MS. MOORE: Yes.

19 MR. MITCHELL: Yes, Your Honor.

20 THE COURT: All right. Bring the jury in, Mr. Bailiff.

21 SOLICITOR MOWRY: Your Honor, could I get the
22 indictments or do you need them?

23 THE COURT: Yes, sir, right here.

24 (WHEREUPON, the following takes place within the
25 presence of the jury.)

1 THE COURT: All right. Ladies and gentlemen of the
2 jury, first of all let me apologize to you. The hearing
3 that I conducted in the case that's got nothing to do with
4 the case, totally unrelated, obviously took a lot longer
5 than I initially anticipated. So, I apologize for having
6 you wait in the jury room for that length of time. I'll try
7 to do better as the trial goes along. I simply did not
8 anticipate that hearing taking that length of time.

9 Now, ladies and gentlemen, I told you that, upon your
10 return to the courtroom, that you would be asked again to
11 take an oath. I know you've been sworn a couple of times
12 today, but at this time this oath has to do with your duties
13 and responsibilities as jurors in the trial of the case
14 that's before the Court.

15 Madam Clerk, please swear the jury panel for me.

16 (WHEREUPON, the jury panel was placed under oath at
17 this time.)

18 THE COURT: Now, if there was any member of the jury
19 panel that either failed or refused to take the oath just
20 administered by the clerk, I'd ask that you now please
21 stand.

22 (No response.)

23 THE COURT: All right. The record then will reflect
24 that all jurors have been sworn concerning the trial of this
25 case.

1 Now, before we begin the trial, there's some matters
2 that I want to go over with you concerning the duties and
3 responsibilities that we all have in the trial of this
4 matter. Probably, for most of you, this is your first
5 experience in actually serving on a jury during the trial of
6 the criminal case, and for those of you for whom this is
7 your first experience of serving on a jury panel, there's
8 some things that I want to go over with you.

9 It's my belief, for people who are first time jurors,
10 probably most of what you would know about what goes on in a
11 jury or in the trial of any case you would of learned from
12 such sources as books that you've read or television shows
13 that you've watched or movies that you've, seen things of
14 that nature. And while those sources of information are
15 full of interesting plot twists and factual situations, and
16 they, they're designed to keep your attention because those
17 sources of information are intended to entertain you. It
18 never ceases to amaze me that, on television, we could have
19 an occurrence happen and the person brought before the Court
20 and a trial conducted and it's all completed in an hour, and
21 they still have time to stop and sell things with
22 commercials.

23 I think, if you look at that situation, you realize
24 that those sources of information are intended to entertain
25 you, that the information contained in how the trial might

1 be conducted or what juries do sometimes is, is twisted or
2 bent to fit the story line. It's what's called literary
3 license is taken with things.

4 Now, what you're engaged in today is anything, is
5 intended for anything but your entertainment. What you're
6 engaged in is a fundamental part of our democracy, and I
7 hope you realize and appreciate that fact.

8 If you were to travel around this world today, the
9 majority of the countries in the world do not allow trials
10 by jury. In those countries, trials are conducted by
11 government officials. The jury or the public is not allowed
12 to enter into the decision making process that goes on in
13 the courtrooms in those countries.

14 In our country, we take individuals such as yourselves
15 from your ordinary day-to-day walks of life, what you're
16 doing ordinarily, we bring you into the courtroom, and you
17 are placed on juries, and you are placed in a position of
18 making important decisions in the lives of citizens and in
19 the, in the, before the State of South Carolina in this
20 case.

21 Now, what you're engaged in is a search for the truth.
22 You're engaged in an effort to see that justice is done
23 between the parties that are before this Court, and in this
24 case the State of South Carolina that is brought charges
25 against two of its citizens, the defendant in this case.

1 Now, if I were to walk up to you and ask you what you
2 would expect a search for the truth or effort to see that
3 justice is done, what you would expect those to be, you
4 would probably tell me that you would expect it to be a
5 slow, a deliberate process. Sometimes it might even get to
6 be repetitive because I would think that you would think a
7 search for the truth would be of that nature, a slow,
8 deliberate, and repetitive process.

9 This courtroom is a place of honor. It's dedicated to
10 the preservation of citizen's rights through the laws and
11 the Constitution of this state and of the United States.
12 Protecting peoples' rights and seeing to it that justice is
13 done, as you can tell, is a serious matter. It's serious
14 business that we're engaged in in this courtroom.

15 Now, the attorneys that are here to represent their
16 clients are here to represent those client's interest before
17 you and to present those interests to you during the trial.
18 You can expect from them that they will act in a reasonable
19 and a professional and an ethical manner in the presentation
20 of their client's cases before you during this trial because
21 you see, at some point in time, those lawyers have appeared
22 before some Court or tribunal in this state and have taken
23 an oath, and that oath or part of that oath is that they
24 will assist you in your search for the truth in this trial.

25 I'll remind you too that you've come before this Court

1 now. You've taken an oath. Your oath is to decide this
2 case based upon the law and the evidence. You too are
3 expected to act in a reasonable, an ethical, and a
4 professional manner in the discharge of your duties as
5 jurors in this case. I want to thank you, as I have already
6 today, for your willingness to accept this important
7 responsibility in our Court system and your assistance in
8 this trial.

9 Now, what I'm telling you now is not intended to be a
10 charge concerning the law in this case. You're going to
11 find, at the close of the trial, once all the testimony is
12 in and all the evidence has been presented, at that time I
13 will charge you concerning the law to be applied in this
14 case. Again, what I'm telling you now is intended to tell
15 you a little bit about our duties and responsibilities in
16 the trial of this case, and what you might expect as the
17 trial goes along.

18 I've already gone over with you the indictments in this
19 case, the documents that brought the charges before this
20 Court. I'm not going to read them to you again at this
21 time. I'll go over those indictments again with you at the
22 close of the trial when I charge you concerning the law.

23 But I will tell you that the indictment is simply the
24 charge that brings this case before this Court. It can not
25 be used by a jury as any evidence whatsoever in the case.

1 You see, the defendant has pled not, defendants have pled
2 not guilty to the indictments that are before this Court,
3 and that plea places the burden upon the State, under the
4 law and the Constitution of this State and the United
5 States, that burden is to prove the defendant's guilt beyond
6 a reasonable doubt.

7 It will be your duties, ladies and gentlemen, at the
8 close of this trial to determine whether or not the State
9 has met its burden of proof in this case. Your purpose, as
10 jurors, therefore, is to find and determine the facts in
11 this matter. You, under the law of this state, are the sole
12 judges of the facts in this case.

13 I will be serving as the presiding officer during the
14 trial. It will be my responsibility or job to rule on the
15 admissibility of evidence as its presented to be placed into
16 the record of the case. It will also be my responsibility
17 to rule on the appropriateness of questions that the
18 attorneys might ask of the witnesses who are presented.

19 I'm going to tell you now that you shouldn't take, from
20 anything that I do in the discharge of my duties as the
21 presiding officer in this trial, to somehow indicate to you
22 that I have an opinion one way or the other as to how you
23 determine the facts in this case. I will tell you now that
24 the law does not allow me an opinion on that subject. I
25 have no opinion as to how you determine the facts in this

1 case.

2 It's your job to determine the facts from the testimony
3 and the evidence that's presented during this trial, and the
4 only evidence that you will hear is the testimony of
5 witnesses who will be sworn to tell the truth and they'll
6 testify from the witness stand right there in front of you,
7 and whatever evidence comes into the record through that
8 testimony or whatever evidence comes into the record through
9 the agreement of the lawyers in this case. So, therefore,
10 you're to determine the facts in this case from the
11 testimony and the other evidence introduced during the
12 trial.

13 Now, I'll tell you it's especially important that you,
14 as jurors, perform your duties of determining the facts in
15 this case conscientiously and diligently. I will tell you
16 that because ordinarily, under our system of justice,
17 there's no means by which an erroneous determination of
18 facts made by a jury can ever be corrected or changed.

19 Now, the same law that makes you the sole judges of the
20 facts makes me the sole judge of the law, judge of the law
21 in this case. The law, as I give it to you at close of the
22 trial, will be the only law that you can use in reaching a
23 verdict in this case.

24 Now, just as the law doesn't allow me to have an
25 opinion concerning the facts in this case, the same law does

1 not allow you to disagree with me concerning the law to be
2 applied in this case.

3 So, if -- when you walked into this courtroom this
4 morning, if you had some notion or idea as to what the law
5 is or you had some notion as to what the law ought to be, I
6 will tell you now, under the oath that you've taken, those
7 notions should be left outside of the jury room before you
8 begin your deliberations.

9 Again, I'm not allowed to disagree with you concerning
10 the facts, and you're not allowed to disagree with me
11 concerning the law to be applied to those facts.

12 It will be your job, at the close of the trial, to take
13 the law as I give it to you and apply it to the facts as you
14 find them to be. That should put you in a position to
15 render a just and a true and a fair verdict in this case.

16 Now, I've already told you that until I advise you to
17 begin your deliberations I'm going to ask that you not
18 discuss this case with anyone, even among yourselves.
19 Again, you've been selected as fair and impartial jurors
20 with an open mind concerning the case, and I'm going to ask
21 you to keep that open mind until you've heard all the
22 arguments, the lawyers, you've heard all the testimony from
23 the witnesses, and you've heard all of my charge concerning
24 the law. Only then will you have sufficient information
25 from which to begin deliberations in this case and

1 intelligently discuss the issues that will be placed in
2 front of you at the close of this trial.

3 For that reason you should not read, listen to, or
4 watch any news reports about the case. You should not
5 attempt to gather any information from any source outside of
6 the courtroom concerning this matter. It would be a
7 violation of your oath for you to do that.

8 Now, once the case has been submitted to you for your
9 discussions and deliberations, then you should only discuss
10 the case among yourselves, and only in the jury room until
11 such time as a verdict has been reached in this case. You
12 can tell it's important that you keep an open mind until
13 you've received all of the information that you might need
14 in order to make the decision in this case because it will
15 be your solemn responsibility, at the close of this trial,
16 to determine the guilt or the innocence of the defendants of
17 the charges that are before this Court.

18 Now, in a few moments I'm going to allow the attorneys
19 to begin the case with what we call opening statements.
20 Opening statements, by lawyers, are intended to tell you a
21 little bit about the case or what they might expect to prove
22 during the trial of the case.

23 After that, we'll go into the presentation of evidence
24 or the testimony to be presented. Once all the evidence has
25 been placed into the record, I'll allow the attorneys to

1 make another argument to you. In other words, directly
2 address you on the evidence that you've heard. They'll sum
3 up the case from their client's prospective.

4 But I'm going to tell you now, excuse me, the
5 statements made by lawyers at the beginning of the trial and
6 at the close of the trial, those statements do not
7 constitute evidence in the case. Again, the only evidence
8 is the testimony of the witnesses who will testify during
9 the trial, and what comes into the record through that
10 testimony. Again, the arguments of counsel, you have the
11 right to consider them, but they can not be used directly by
12 you in determining the guilt or the innocence of the
13 defendants in this case.

14 Now, I told you already that I'm going to be serving as
15 the presiding officer in this case, and if something comes
16 up, an issue comes up that I have to decide and I have to
17 discuss that issue with the attorneys, if it's my belief
18 that that discussion may be about something that does not
19 constitute evidence that's properly admissible under the
20 rules of evidence that govern our Courts, then, at that
21 time, I may ask you to step into the jury room while I have
22 those discussions with the lawyers.

23 The reason I do that is simply me doing my job because
24 my job is to see that you only decide this case based upon
25 evidence that is properly admissible under the rules of

1 evidence that govern the Court system. So, again, if I
2 believe my discussion may go into something that's not
3 admissible under those rules, I may ask you to step out
4 while I have those discussions with the lawyers. Once I've
5 completed those discussions, I'll ask you to come back into
6 the courtroom and I'll make a ruling on the issue, and we'll
7 proceed with the trial.

8 Again, don't take from the fact that I've asked you to
9 step outside while I have those discussions to somehow
10 indicate that I have an opinion concerning how you decide
11 the facts. Again, it's me doing my job, and that is to see
12 that only properly admissible evidence is considered by you
13 in reaching a verdict.

14 Now, I've told you already that you are the sole and
15 exclusive judges of the facts, and in doing your job, in and
16 judging the facts, it's gonna be necessary for you to
17 determine whether or not the testimony that you hear from
18 the witness, witnesses is believable, whether it's credible.
19 Credibility simply means believability, and it will be your
20 responsibility to determine the credibility or the
21 believability of the evidence that you hear during this
22 trial.

23 In doing so, I'm going to ask you to use your own good
24 common sense. Every single day of your life you make common
25 sensical decisions as to what you choose to believe and what

1 you choose not to believe. Today and tomorrow will be no
2 different than any other days in your life because I'm going
3 to ask you to use your own good common sense in making a
4 determination as to the credibility or believability of the
5 testimony that you hear during this trial.

6 You have the right, using your common sense, to
7 consider whether or not a witness has a stake in the outcome
8 of the trial, whether or not a witness may have some bias or
9 prejudice one way or the other, whether or not a witness
10 actually had the ability to know the facts about which that
11 witness testifies. In every courtroom I've ever been in the
12 witness stand is always right in front of the jury box as it
13 is here. The reason for that is it allows you to observe
14 the witnesses as they testify, the way they speak, how they
15 deliver their testimony.

16 Again, use your common sense and take any of those
17 factors that I've mentioned into consideration, that you
18 choose to use, but make a determination as to credibility or
19 believability of the witnesses that you hear. As the sole
20 judges of the facts you have a right to believe all of what
21 a witness tells you, part of what a witness tells you, or
22 none of what a witness tells you. You can believe one
23 witness against all the others or you can believe all the
24 others against one. You're the sole judges of the facts in
25 this case.

1 So, you're the sole judges of the credibility or the
2 believability of what you hear. You also have the right to
3 assign weight to the testimony that you hear. You give it
4 the weight that you think it deserves, again, using your own
5 good common sense. But for that reason, it's important that
6 you pay attention to what the witnesses say, how they speak.
7 Try not to let your mind wander as the testimony goes
8 forward. You have the right to consider anything that's in
9 record of this case or that occurs during the trial of this
10 case in reaching a verdict in this matter.

11 So, try not to let your thoughts wander. Pay attention
12 to what's being said. Be in a position, at the close of the
13 trial, to discuss those credibility issues or believability
14 issues or factual issues with your fellow jurors during your
15 deliberations in this case.

16 Now, I know that, on television, the judge always
17 appoints the foreperson of the jury at the beginning of the
18 trial and I don't do that. There's a couple of reasons I
19 don't do that.

20 One is that the foreperson's only responsibilities are
21 to preside over deliberations and that, that occurs at the
22 end of the trial. Also to write the verdict once the
23 verdict is reached, and that occurs at the end of the
24 deliberations or to write questions back to the Court that
25 occurred during deliberations, and, again, that will happen

1 during that phase of the trial.

2 So, the foreperson has no real function until the end
3 of the trial. Also, I want to stress to you that, at the
4 close of the trial, the verdict that you reach will have to
5 be unanimous. Each and every one of you has to agree upon
6 the verdict before it's the verdict of the jury. Therefore,
7 no juror is more important than any other juror on this jury
8 panel. Each of you will have an equal say in the outcome of
9 this case. And, so, I don't want you to get the feeling or
10 the notion, because I've selected someone as foreperson,
11 that that's the most responsible person or the person who
12 has the most duties on this jury because each of you has a
13 duty to pay attention, to watch what goes on during the
14 trial, but in a position to discuss the case when you
15 discuss it with your fellow jurors.

16 I'll appoint the foreperson when I charge you
17 concerning the law of the trial of the case. But I also
18 want to point out that no other, no juror on this jury has
19 more, any more than say any other juror in reaching a
20 verdict in this case when you're asked to do so.

21 Now, I want to be sure that I haven't violated anyone's
22 rights by what I've told you in any opening comments.

23 Is there an objection from the State?

24 SOLICITOR MOWRY: None from the State, Your Honor.

25 THE COURT: Any from the defense?

1 MR. MITCHELL: None, Your Honor.

2 THE COURT: Ma'am?

3 MS. MOORE: No, Your Honor.

4 THE COURT: All right. Then, as I told you, that the
5 law in this state and the Constitution places the only
6 burden of proof in this trial upon the State, and that is to
7 prove guilt beyond a reasonable doubt. Because the State
8 has the only burden of proof in this case, we allow the
9 State to go first in its opening statements followed by the
10 defense, and we allow the State to go first in the
11 presentation of evidence before you followed by any evidence
12 the defense wishes to produce. Once all the evidence is in
13 record, we will allow the attorneys to make the closing
14 statements and then I'll charge you on the law.

15 So, that's the process that we're going to go through
16 or the steps that we're going through during the trial.

17 So, at this time, the State may begin the case with its
18 opening statement.

19 SOLICITOR MOWRY: Thank you very much, Your Honor.

20 THE COURT: You may proceed, counsel.

21 SOLICITOR MOWRY: Ladies and gentlemen of the jury,
22 just to reintroduce, myself, my name is Warren Mowry. I'm a
23 lawyer. I beg you not to hold that against me, but I am the
24 prosecutor in this case.

25 I represent a client, and my client is the State of

1 South Carolina and all its people. I represent the State in
2 criminal cases. Every criminal case that is brought in
3 South Carolina is brought in the name of the people of South
4 Carolina, and that's why you always see cases entitled the
5 State versus whomever.

6 Ms. Commander and I have the duty today to present
7 evidence to you in these five indictments, these charging
8 papers, charging these two defendants with armed robbery and
9 conspiracy, and in the case of Mr. Smiley, seated here at
10 the end with Mr. Mitchell, with possession of a firearm
11 during the commission of violent crime. These are serious
12 cases, and we will present serious evidence to you that
13 these two defendants are, in fact, guilty beyond a
14 reasonable doubt.

15 Now, His Honor talked to you about proof beyond a
16 reasonable doubt, and I want to go into a little bit more
17 depth with you. Sometimes you hear the burden of proof
18 that's on the State, in a criminal case, is beyond a shadow
19 of a doubt or beyond a scintilla of a doubt or a hint of a
20 doubt, and that's not what the burden is. Nothing is
21 provable on earth beyond a shadow or up to a hundred percent
22 certainty.

23 I've never been to Russia.

24 Frankly I have no real desire to go, but does that
25 mean, since I've never had personal experience in the

1 country of Russia, that it doesn't exist?

2 well, if I had to prove it to a hundred percent
3 certainty, then I could say that I wasn't sure Russia
4 existed, but that would mean that I would have to believe,
5 disbelieve all of the globes and all of the maps and all of
6 the history books and everything that I have read throughout
7 my life that tells me Russia exists, and it's simply isn't
8 reasonable to go that far. I might not have ever been
9 there, but it doesn't mean that I have a reasonable doubt
10 that it doesn't exist.

11 Okay. So, when we're talking about a reasonable doubt,
12 we're talking about, I hate to do this, but my mother was an
13 English teacher, and she always told me never define a word
14 or term by using the word or a term itself, but a reasonable
15 doubt is nothing more than a doubt for which there can be
16 given a reason. It's not some little whimsical doubt. It's
17 not some fanciful of doubt. Courts have described it as a
18 substantial doubt. It's a doubt that leaves you unsettled.

19 And I would submit to you, ladies and gentlemen, by the
20 time that Ms. Commander and I have presented all of our
21 evidence and all of our witnesses, you will not be left
22 unsettled. You will not have any reasonable doubt that
23 Davoris Smiley and Jakeivan Pulley did, in fact, go into the
24 Guatemex Store on North Harper Street, US 221 here in
25 Laurens, and rob the store. we'll present evidence that

1 they robbed Mrs. Anna Sebastian who is sitting there on the
2 front row.

3 Now, Mrs. Sebastian, the evidence will show, is from
4 Guatemala. She does not speak English well. She was here
5 with her brother-in-law, Hector Melendez, who owns the
6 Guatemex Store, and she was helping out in the store when
7 Mr. Pulley and Mr. Smiley came in there to rob her at
8 gunpoint.

9 Ladies and gentlemen, most of the time when I try cases
10 like this I have to tell you what happened. I have to
11 present witnesses that can relate to you their knowledge of
12 the case.

13 well, let me tell you. This one's a little different.
14 Not only are we going to be able to tell you about what
15 happened, but you're gonna be able to see it with your own
16 eyes because Mr. Melendez had an outstanding store video
17 camera system, and you will be able to see, in real time,
18 what happened that night. You will able to see the two
19 masked intruders come in there and rob the store, but not
20 only that, you'll be able to see them walking up and down in
21 front of the store on the video. You will see that. We
22 will show it to you.

23 Now, ladies and gentlemen, we will also have a
24 codefendant of Mr. Smiley and Mr. Pulley named Lakasion
25 Robinson who will testify. He did not go in the store with

1 them. He did not commit the robbery, but he can give you
2 facts that will help you understand what goes on in that
3 video, and by the time we get done, ladies and gentlemen,
4 you will not have any reasonable doubt whatsoever that those
5 two men are guilty as charged. None.

6 Now, there are three things that I like to ask a jury
7 to do during the course of a trial. The first is to listen
8 very carefully to the evidence that comes out from this
9 witness stand because it is from this testimony and the
10 evidence that's presented to you that you are to render your
11 verdict. Nothing anyone else says is to be taken as gospel
12 or as evidence. Only what you hear from the witness stand
13 and the evidence that might be presented to you.

14 So, it's up to you. His Honor told you you are the
15 judges of the facts in the case. You determine what the
16 truth is in this case. That's your job. You are, in
17 essence, the conscious of a community in making this
18 decision.

19 Now, ladies and gentlemen, His Honor talked about TV
20 dramas and how they can get solved in an hour. It never
21 fails that they might find a grain of sand that somehow
22 turns the entire case around. That's drama. This is not
23 drama. This is real life. In dramas, they can take what
24 they call dramatic license where they can kind of dispense
25 with reality in a way to make the show a lot more exciting

1 and a lot more of a grabber for the audience.

2 We have -- we will try to present other evidence to
3 you. We, we will not have any DNA evidence that is really
4 going to help us very much in this case. We'll explain why.
5 We'll have an expert that will do that.

6 We don't have fingerprint evidence that is going to be
7 able to tie anyone to this crime, and we'll explain that
8 too.

9 But, ladies and gentlemen, once again, I submit to you
10 that, by the time that you listen to this evidence coming
11 off of this witness stand, you're not gonna be left with any
12 reasonable doubt in your minds that those two men are
13 guilty.

14 So, listen very carefully to the testimony and consider
15 that testimony. That's number one.

16 Number two. That's at the close of the trial. At the
17 close of the trial, His Honor is gonna instruct you in the
18 law in the case. He will tell you what armed robbery is.
19 He will tell you what conspiracy is. He will tell you what
20 possession of a firearm during the commission of a violent
21 crime is. So, listen very carefully to the law.

22 Now, I will give you my definition very quickly. An
23 armed robbery is a form of stealing. Stealing from somebody
24 by, from somebody, stealing something of value by means of
25 force or intimidation while armed with a deadly weapon.

1 Now, the law in South Carolina is it's a pretty broad
2 range of what constitutes a deadly weapon. It can be a gun,
3 a knife, a club, even a slingshot is listed in the law. But
4 we will show, ladies and gentlemen, that Davoris Smiley and
5 Jakeivan Pulley went into that store, and that man right
6 there was armed with a semiautomatic pistol and pointed it
7 at everyone in the store, put it in their faces, and then
8 they grabbed the money out of the till and ran.

9 So, armed robbery, stealing from somebody with force or
10 intimidation whiled armed with a deadly weapon. That's
11 armed robbery. We will prove that to you beyond a
12 reasonable doubt.

13 What's conspiracy?

14 You've heard the old expression it takes two to tango.
15 Well, it takes two to conspire. Conspiracy is two or more
16 people getting together for the purpose of planning out the
17 commission of a crime. It doesn't matter whether they
18 commit the crime. It doesn't matter whether they go forward
19 with the commission of the crime. As long as they have a
20 meeting of the minds, they plan to go forward and commit
21 the, the crime, that's conspiracy and that, in and of
22 itself, is a crime.

23 And you can see from that video, ladies and gentlemen,
24 there will be no doubt in your mind that there was a meeting
25 of the minds between Jakeivan Pulley and Davoris Smiley to

1 rob the Guatemex Store. You will see on the video at one
2 time that Mr. Pulley actually enters the store, walks all
3 the way around the store, finally buys a can of Coke and
4 leaves before he and Mr. Smiley reenter the store to rob it.

5 I don't believe you'll have any doubt in your mind
6 whatsoever that not only they robbed the store, but they
7 conspired to do it, and there will be no doubt in your mind,
8 ladies and gentlemen, by the time we are done, and by the
9 time you have observed that video, that Davoris Smiley
10 committed the crime of possession of a pistol during the,
11 during the, excuse me, use of a pistol during the commission
12 of a violent crime. No doubt whatsoever.

13 But you listen carefully. At the end of the trial,
14 when His Honor instructs you in the law, that's the law that
15 you need to take back there with you to the jury room. It
16 may not be the law as you think it is. It may not be the
17 law as you think it ought to be. But the law, as His Honor
18 instructs you, is the law that you must consider back there
19 in the jury room, and I ask you to do that. That's number
20 two.

21 The third thing, each and every one of y'all comes from
22 a different background, different ages, different life
23 styles perhaps, different jobs, different hometowns. But
24 you're all citizens of Laurens County, and the one thing
25 that we believe that each of y'all has in common, that's

1 common sense.

2 Use your common sense. Use your common sense when
3 you're listening to the testimony that's coming off the
4 witness stand. Use it when you're considering the evidence
5 that's presented in this trial, and then use it back there
6 in the jury room when you're considering the verdict in the
7 case, the truth in the case.

8 If you do all those three things, ladies and gentlemen,
9 you're gonna come back with a just, fair, and true verdict,
10 and that's all any of us asks.

11 Thank you very much.

12 Thank you, Your Honor.

13 THE COURT: Mr. Mitchell, you may proceed for
14 Mr. Smiley.

15 MR. MITCHELL: Ladies and gentlemen of the jury, thank
16 you for your time.

17 The prosecution has just laid out for you a road map of
18 what he plans to do, and he really hints that it's gonna be
19 an easy job for you. He says there's not gonna be any
20 doubts whatsoever.

21 Now, I was given this case as an appointed attorney
22 several months back, and I start looking at the evidence.
23 It took me weeks to look over this evidence and to even come
24 up to any conclusions of my own, and I have to tell you that
25 there is gonna be reasonable doubt when you see what's going

1 on here.

2 First of all, the State has created the dilemma for
3 you. They have two, two defendants over here, Mr. Smiley
4 and Mr. Pulley. They've two defendants and they have one
5 defendant who is on their side.

6 So, their theory of the case is that Mr. Smiley, Mr.
7 Pulley went into the store and committed armed robbery, and
8 their witness was outside, and he didn't commit armed
9 robbery.

10 The sad thing is Mr. Pulley is gonna have a different
11 theory of the case. His attorney is gonna say he wasn't the
12 one in the store, but it was the State's witness and
13 Mr. Smiley, and then, of course, I'm coming along and my
14 client is Mr. Smiley, and I'm gonna say that it wasn't
15 Mr. Smiley in the, in the store. It was the State's witness
16 and Mr. Pulley.

17 So, we already have a bunch of different things going
18 on in this case that's not gonna make it a slam dunk. I
19 want you to keep your mind open to all of these
20 possibilities.

21 There's three theories of the case gonna be presented
22 to you during the course of this trial. We have a built-in
23 dilemma.

24 There's also some other problems with the prosecution's
25 case. He talks a little bit about DNA. The problem with

1 the DNA evidence is that the only person it implicates is
2 the State's witness. That's the problem with the DNA.

3 Yes, there was no conclusive evidence when it comes to
4 fingerprints. But, once again, that doesn't place either
5 one of these gentlemen over here necessarily in the store.

6 There's also a problem with the gun. Mr. -- the, the
7 prosecutor here was saying that it's a semiautomatic pistol.
8 The gun has never been found in this case. So, all we have
9 to reply on are images of something that may or may not be a
10 gun. It could be a toy gun. It could be a gun without any
11 bullets in it. We don't know what kind of gun it really is,
12 and we'll, we'll have some problems when we have to consider
13 what, what kind of gun it was.

14 We also have a problem in this case with the witness
15 that the State is gonna use, who is the lynchpin in this
16 case. He went State's evidence. He is testifying for them
17 because he already pled guilty. He already pled guilty to
18 conspiracy. And, so, he got the best deal.

19 In our, on our system, we have this thing called
20 Miranda right. It's based on the Fifth Amendment of the
21 Constitution, and I think you-all have seen it. You've
22 heard it in, in stories. It's talked a lot about in
23 television and movies.

24 You have the right to remain silent. Anything you say
25 can and will be used against you in a Court of law. You-all

1 heard that. You have a right to an attorney.

2 well, there's one person in this case who took that
3 seriously. He took that right seriously. He refused to
4 take a statement, and, to this day, he has not made a
5 statement about his guilt or innocence, where he was or what
6 happened that night.

7 Your Honor -- I mean jury, members of the jury, I ask
8 that you don't take his silence and use that against him.
9 The whole point of the Fifth Amendment is that you can not
10 take someone's words, misconstrue them, and twist them, and
11 use them against a person.

12 My client has chose to exercise that right, and I ask
13 that you remember that that right is something that we all
14 cherish. We don't want our words used against us. We all
15 know how easy it is to take somebody's words and use it
16 against them. We see it in the politics of the day. We see
17 it with, with the presidential campaign that's going on.

18 All right. One last thing. This is really a case that
19 I call the cookie jars crime. Somebody committed a crime.
20 We don't know who got the hand in the cookie jar, and the
21 oldest brother came out, whoever came out talking first, he
22 got to say who is the, to blame for the missing cookies, and
23 that's what we've got going on here. The big brother
24 blaming the little brother. The one who talks first getting
25 the first word in, and that's what we have going on here.

1 when we see the videos, you're not gonna know who's in
2 the video. There were -- they -- the prosecution already
3 said that they were wearing masks. We can't tell who they
4 are, and it's not gonna be as easy as the prosecution said.

5 I want you to keep, if you could, just for the sake of
6 the Constitution, for the sake of the Fifth Amendment, keep
7 your mind open and realize there were really three theories
8 of this case, and we don't know what happened that night,
9 and you need to really keep your open mind to the fact that
10 there's going to be a reasonable doubt at the end of this
11 case.

12 THE COURT: Thank you, sir.

13 Ms. Moore.

14 MS. MOORE: Hello, I'm Scarlet Moore, and I previously
15 introduced myself, and, as you know, I represent the
16 defendant, Jakeivan Pulley, and there's a term that both the
17 solicitor and Mr. Mitchell have used in their opening
18 statements, and that is proof beyond a reasonable doubt, and
19 I will tell you that, at the end of this trial, the judge is
20 going to, in fact, charge you and instruct you about what
21 the law says of what constitutes a reasonable doubt.

22 He'll tell you that, in this opening, the solicitor
23 gave you an explanation that says it's a doubt for which
24 there is a reason.

25 Okay. I'm gonna give you a little bit different take

1 on it, on what proof beyond a reasonable doubt means to my
2 client, Mr. Pulley. First of all, proof beyond a reasonable
3 doubt is a requirement of the Constitution of the United
4 States that the State prove all elements of the crime beyond
5 a reasonable doubt.

6 whose protected in this?

7 My client.

8 It's for the purpose of protecting the rights of a
9 criminally accused in the court of law. As the judge
10 described for you, these are -- this is the United States of
11 America. We're operating under constitutional standards.

12 So, in that realm, what reasonable doubt means, to my
13 client, is that when you go back into the jury room, after
14 the presentation of all of the evidence, ask yourself is my
15 doubt about Mr. Pulley's guilt reasonable?

16 Do I have reasonable doubts about the sufficiency of
17 the evidence that the prosecution has presented in this
18 courtroom?

19 I will tell you that the solicitor and Mr. Mitchell
20 have given you opening statements. They have given you a
21 little bit of a preview of what evidence will be presented.
22 Mr. Mitchell spoke about what evidence perhaps will not be
23 presented to you during the course of this trial as did
24 Mr. Mowry, the solicitor, and when you are listening to the
25 evidence, and when you are listening to the witnesses, and

1 you are watching this video, I want you to pay very close
2 attention to what the witnesses are able to tell you, and
3 what they simply can not tell you.

4 When you watch this video, my client would ask you to
5 see what can you actually see in this video?

6 Proof beyond a reasonable doubt, again, is a standard
7 to protect the rights of the criminally accused in a
8 criminal prosecution.

9 Thank you.

10 SOLICITOR MOWRY: Your Honor, could we approach for
11 just a moment?

12 THE COURT: Please, please do.
13 Counselor.

14 (WHEREUPON, a bench conference was held out of the
15 hearing of the jury at this time.)

16 THE COURT: All right. Ladies and gentlemen of the
17 jury, I'm informed by counsel that the first witness may be
18 rather lengthy, and we're inside of twenty minutes till five
19 o'clock. So, we're gonna break for the afternoon at this
20 point in time.

21 Same instructions I will give you when you leave the
22 court house at all times. Don't listen to, watch, or read
23 media reports. Don't discuss the case with anyone. Don't
24 allow anyone to discuss the case with you. Should anyone
25 contact you about your service in the case, report that upon

1 your return.

2 we're gonna begin at nine o'clock in the morning.

3 That's a little earlier than we normally begin, but we'll
4 try to get moving on the case. So, at nine o'clock y'all be
5 back in the jury room. At that point in time we should be
6 in a position to start right away.

7 Hope you have a good evening. You're free to go at
8 this time. The bailiffs will show you out.

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

11 THE COURT: Yes, sir, anything else before we---

12 SOLICITOR MOWRY: No, sir.

13 THE COURT: Anything from the defense before we break?

14 MS. MOORE: No, Your Honor.

15 THE COURT: All right. Court will be in recess then
16 until nine o'clock in the morning.

17 The defendants remain in custody.

18 SOLICITOR MOWRY: Thank you, Your Honor.

19

20 (WHEREUPON, Court was in recess for the evening.)

21

22

23

24

25

1 Wednesday, February 29th, 2012

2
3 THE COURT: Mr. Mowry, is your translator here?

4 SOLICITOR MOWRY: I am informed that he is.

5 THE COURT: Okay.

6 SOLICITOR MOWRY: But I think he's out of the
7 courtroom.

8 THE COURT: I know you intended---

9 SOLICITOR MOWRY: It will be just a second.

10 THE COURT: I know you intended to call the witness
11 first up this morning.

12 SOLICITOR MOWRY: Yes, sir.

13 THE COURT: Mr. Mowry, if you would caution him, when
14 he's standing over here --

15 SOLICITOR MOWRY: Yes, sir.

16 THE COURT: -- the court reporter I know likes to see
17 the witness as they testify, and if he would stand so that
18 he's not blocking her view.

19 SOLICITOR MOWRY: Yes, sir.

20 THE COURT: There he -- here he is if you'll instruct
21 him on that.

22 (Pause.)

23 THE COURT: All right. Mr. Mowry, is the State ready
24 to proceed at this time?

25 THE COURT: Yes, sir.

1 THE COURT: Mr. Mitchell, is the defense ready to
2 proceed?

3 MR. MITCHELL: Yes, Your Honor.

4 THE COURT: And Ms. Moore?

5 MS. MOORE: Yes, Your Honor.

6 THE COURT: All right. Let's bring the jury in.

7 SOLICITOR MOWRY: Your Honor, I'm gonna have a couple
8 of charts for Ms. Sebastian to take a look at. Essentially
9 they are the interior and exterior of the store.

10 THE COURT: You got the jury coming in. We'll talk
11 about that.

12 SOLICITOR MOWRY: Yes, sir.

13 (WHEREUPON, the following takes place within the
14 presence of the jury.)

15 THE COURT: Ladies and gentlemen of the jury, I hope
16 you had a good evening last night, and when you left the
17 courthouse on two occasions yesterday I gave you
18 instructions as to how you should handle yourselves.

19 If any juror had any difficulty in following my
20 instructions in that regard, I'd ask that you please stand.

21 (No response.)

22 THE COURT: And it appears that all jurors have been
23 able to comply with my instructions thus far.

24 When we broke yesterday afternoon the State was in the
25 process of presenting its first witness, and at this time

Anna Sebastian - Direct examination
by Solicitor Mowry

1 the state may call that first witness.

2 SOLICITOR MOWRY: Your Honor, if it please the Court,
3 the state would call Anna Sebastian.

4 THE COURT: Come forward, Ms. Sebastian, please.

5 All right. It's my understanding that Ms. Sebastian
6 has some difficulty with the English language. And, so, at
7 this point in time I'm going to ask that the clerk please
8 swear the interpreter.

9 (WHEREUPON, the interpreter was placed under oath at
10 this time.)

11 THE COURT: Your name is, sir?

12 INTERPRETER: Timothy Donald Nichols.

13 THE COURT: Thank you.

14 Now please swear the defendant (sic), Madam Clerk.

15 ANNA SEBASTIAN, being first duly sworn,
16 testified as follows:

17 THE COURT: Have a seat please, ma'am.

18 (witness complies.)

19 THE COURT: You can move a little closer to the bar
20 there, sir. That's good. Thank you.

21 Is that okay?

22 (Interpreter nods affirmatively.)

23 THE COURT: All right. I'd ask the witness to state
24 her name please.

25 WITNESS: Anna [REDACTED] [REDACTED] [REDACTED].

Anna Sebastian - Direct examination
by Solicitor Mowry

1 THE COURT: Thank you.

2 Mr. Mowry, your witness.

3 SOLICITOR MOWRY: Thank you very much, Your Honor.

4 THE COURT: Yes, sir.

5 DIRECT EXAMINATION

6 BY SOLICITOR MOWRY:

7 Q Ms. Sebastian, how old are you?

8 A Thirty-four.

9 Q where do you live currently?

10 A Greenwood, South Carolina. Greenville, Greenville,
11 South Carolina.

12 Q How long have you been living in Greenville?

13 A Two years.

14 Q Two years.

15 where were you born?

16 A In Guatemala.

17 Q Guatemala.

18 And did you live in Guatemala until you came to
19 Greenville two years ago?

20 A Yes, from Guatemala here to---

21 Q Okay. who is this gentleman sitting on the front row
22 there?

23 A My brother-in-law.

24 Q Your brother-in-law.

25 Is he married to your sister?

Anna Sebastian - Direct examination
by Solicitor Mowry

1 A He is married to her sister.

2 Q Okay. And do you live with this gentleman right here
3 or---

4 A Yes.

5 Q Okay. And are you here on a visa?

6 A No.

7 Q Okay. What is your purpose for being here?

8 A She said I'm here to accuse the accused.

9 Q Well, I mean what is your purpose for being in the
10 United States?

11 INTERPRETER: I'm gonna ask if I could repeat that
12 again. Clarify.

13 THE COURT: You may.

14 A I say I don't really have a plan or purpose. I had
15 left Guatemala for some problems I had, and I'm here in the
16 United States to try to resolve those.

17 Q Okay. But you are living with family here?

18 A Yes.

19 Q And I believe you are on a U-visa, isn't that correct?

20 INTERPRETER: Can I clarify that?

21 SOLICITOR MOWRY: Sure.

22 A Yes.

23 Q Okay. So, she -- that's, that's fine.

24 Does your brother -- what is your brother-in-law's
25 name?

Anna Sebastian - Direct examination
by Solicitor Mowry

1 A Hector Melendez.

2 Q Hector Melendez.

3 All right. Does he own the Guatemex Store here in
4 Laurens?

5 A Yes, he is the owner.

6 Q Okay. And, and is there another store in Greenville?

7 A Yes, there is.

8 Q Do you help him in the stores here in Laurens and in
9 Greenville from time to time?

10 A Yes, I, I am his helper.

11 Q Okay. What kind of business is the Guatemex Store?
12 What do you, what do you do there?

13 A It's general goods.

14 Q Do you also help make wire transfers of money?

15 A No.

16 Q Okay. Does, does the store?

17 A Yes.

18 Q Yes. Sorry about that.

19 So, occasionally there is a large amount of money in
20 the store?

21 A Yes, sometimes there is a certain amount of money in
22 the store.

23 Q Okay. Did you work in the store in, in Laurens back on
24 April the 24th of last year?

25 A Yes.

Anna Sebastian - Direct examination
by Solicitor Mowry

1 Q What hours did you work that day?

2 A From 9:00 to 9:30PM.

3 Q Okay.

4 A 9:00AM to 9:30PM.

5 Q And those are the hours of the store, about 12 and a
6 half hours?

7 A They, they close at 9:00.

8 Q Okay. All right. were you -- did you have much
9 business that night?

10 was there very much going on?

11 A Yes, there was a lot of people coming and going.

12 Q Okay. Later on that evening around 8:00 to 8:30,
13 somewhere in that vicinity, was much happening?

14 A Yes, there was.

15 Q Okay. About 8:30 or so did you see someone in the
16 courtroom come into the store?

17 A About 8:45 most people had gone. But about 8:45 this
18 gentleman that she pointed to did come in the store.

19 Q which gentleman were you pointing to?

20 A The one with the white shirt on.

21 Q This gentleman over here seated next to Ms. Moore?

22 A Yes.

23 SOLICITOR MOWRY: Your Honor, for the record, she has
24 pointed out the defendant in this case, Jakeivan Pulley.

25 THE COURT: The record will so reflect.

Anna Sebastian - Direct examination
by Solicitor Mowry

1 You may proceed.

2 Q Do you, do you have any memory of what he was wearing
3 when he came in the store?

4 A Yes, he had a shirt on, a t-shirt on with a pair of
5 jeans.

6 Q Okay. Do you remember what color?

7 A I think it was white.

8 Q Okay. What did he do?

9 A He entered and asked if he had something, if he could
10 buy something for a dollar.

11 Q Okay.

12 A Okay. He -- she sent the daughter of this gentleman,
13 Mr. Hector's daughter, to show him where he could buy a soda
14 for about .75 to a dollar.

15 Q What is Hector daughter's name?

16 A Diana Melendez.

17 Q So, she is your niece, is that right?

18 A Yes.

19 Q Was, was anyone else in the store when Mr. Pulley came
20 in?

21 A No, there was no one else.

22 Q Okay. And was the sale made?

23 Did you, did you sell him the drink?

24 A He laid out .75 after she took him and showed him where
25 he could buy a Coke in a can.

Anna Sebastian - Direct examination
by Solicitor Mowry

1 Q Okay. So, he bought the Coke?

2 A Yes, he took a Coke.

3 Q And after he bought the Coca-Cola what did he do?

4 A He went out the same door he came in.

5 Q Okay. A few minutes later did someone else come in the
6 store?

7 A A lady came in to send some money.

8 Q Okay. Was anybody with her?

9 A She only came in.

10 Q Okay.

11 A She came in alone.

12 Q No child with her?

13 A She was carrying a baby.

14 Q Okay. When she came in, was there anyone else besides
15 her, the baby, Diana, and you?

16 A No, there was no one else.

17 Q Okay. A few minutes later, what happened?

18 A Okay. This lady that came in was in the process of
19 sending the money and she points to the two gentlemen in the
20 court and said they came in with a pistol and took all the
21 money that they were sending.

22 Q Were you able to see their faces?

23 A Said yes, I recognized him because he was the same man
24 that came in before, and the other fellow came in and he had
25 his face covered around his mouth.

Anna Sebastian - Direct examination
by Solicitor Mowry

1 Q Okay. So, you did not know who that was at the time,
2 is that right?

3 A Said I recognize him because he was the one that came
4 and bought the Coke.

5 Q Okay. Were you able to recognize the other man that
6 came in with her, with him?

7 A No, she said she'd never seen him before.

8 Q Does the Guatemex Store have a video security system?

9 A Yes.

10 Q Okay. Have you reviewed this video?

11 A Yes, I have seen it.

12 Q And does the video accurately show what happened that
13 night?

14 A Yes.

15 Q Does it show when the man came in to buy the Coca-Cola?

16 A Yes, it shows it.

17 Q Does it show the incident where the men came in with
18 the masks later on?

19 A Yes.

20 Q All right. Describe for the jury, in your words, what
21 happened when the men with the masks came in.

22 A He said this gentleman entered, entered first.

23 THE COURT: Ask her, ask her to pause briefly so you
24 can catch up.

25 INTERPRETER: Pardon?

Anna Sebastian - Direct examination
by Solicitor Mowry

1 THE COURT: Ask her to pause briefly so you can catch
2 up.

3 A Said this gentleman right here opened the door with the
4 pistol in front of him pointing at us. He said something,
5 but I didn't understand him because I didn't understand
6 English. The girl, the Diana, she lifted her hands because
7 he had told her to lift, to lift up her hands. Later this
8 other gentleman, Pulley, he came in from the other side, the
9 other side close to the cash register, and the other one was
10 pointing a pistol at her --

11 Q Okay.

12 A -- and Pulley, Pulley wanted to take the money from her
13 --

14 Q Okay.

15 A -- and the other boy was pointing the pistol at me.

16 Q All right. Did they, in fact, get money from you?

17 A Yes, she said the Pulley made her, told her to open the
18 cash register.

19 Q Did you open it?

20 A Yes, I opened it.

21 Q All right. What happened then?

22 A Between the two of them they took out the money.

23 Q All right. Was it a large amount of money, a small
24 amount of money, do you know?

25 A Said it was a lot because it was all the money for the

Anna Sebastian - Direct examination
by Solicitor Mowry

1 day.

2 Q Okay. what happened after that?

3 A He was -- they had taken all the money, and I was
4 trying to get to the alarm, and he was watching me going
5 along with me in everything I did.

6 Q All right. were you able to do anything with the
7 alarm?

8 A Pulley, he came in, again, behind the cash register.
9 He was, he was trying -- he was getting ready to leave, but
10 when I was trying to set the alarm he came back.

11 Q Okay. what happened then?

12 A He told the other boy that she, she set an alarm when
13 they came back in.

14 Q Okay. what happened then?

15 A It's when they left through the door.

16 Q Okay. The customer with, with the child, did you see
17 anything happen with her?

18 A Yes, they were trying to get more money from her, from
19 the, the customer and told her to turn her purse upside down
20 to try to get -- she said I had no more.

21 Q Okay. Did she, in fact, do that?

22 A Yes, she did.

23 Q All right. And did they get any money off of her?

24 A I don't know how much fell on the floor, but they did
25 pick up what fell out.

Anna Sebastian - Direct examination
by Solicitor Mowry

1 Q All right. what happened then?

2 A She says, as they were picking up the money off the
3 floor, he, he, he noticed that she was trying to set the
4 alarm.

5 Q Okay. what happened?

6 A Said Mr. Pulley, when she was trying to set the alarm,
7 grabbed her by the hair.

8 Q okay. what happened?

9 A Said when they saw that she had set the alarm they took
10 off.

11 Q Had you, in fact, set the alarm?

12 A Yes.

13 Q Okay. was anyone notified?

14 A Yes, the police.

15 Q Okay. were they notified at that moment?

16 A In about 15 minutes later they showed up.

17 Q Okay. were -- did you have trouble with the alarm?

18 A She said the alarm doesn't go off at the moment she
19 sets it, but it goes off a few seconds later, and after they
20 had left it went off.

21 Q Okay. All right. So, the police arrived soon after
22 that, is that right?

23 A This way the -- later she also told the girl, the
24 child, Diana, to call the police.

25 Q Okay. were you able to call the police yourself?

Anna Sebastian - Direct examination
by Solicitor Mowry

1 A I could not because I don't speak English.

2 Q When they came -- when the two of them came into the
3 store and pointed the gun at you, how did you feel?

4 A Very -- a lot of fear.

5 Q Okay. Diana -- I mean, excuse me, Anna, I want you to
6 -- Your Honor, if I could have this marked as State's
7 Exhibit No. 1 for identification.

8 THE COURT: It will be marked as State's Exhibit No. 1
9 for identification purposes at this time.

10 (WHEREUPON, a diagram was marked as State's Exhibit No.
11 1 for identification purposes only at this time.)

12 Q Anna, could you come here?

13 THE COURT: Counsel, if you would like to move over to
14 that side of the courtroom you may do so, so you can
15 observe.

16 SOLICITOR MOWRY: It's one of the difficulties with
17 these courtrooms, Your Honor. It's hard to do otherwise.

18 (Witness comes down from the stand.)

19 Q Have you seen this chart before?

20 A Yes.

21 Q Okay. What does that show?

22 A It's the display of the store.

23 Q Okay. If you would point on this chart where you were
24 when the robbers came in.

25 A I was sitting behind the computer at this location.

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1 Q Okay. where was Diana?

2 A Diana was over here.

3 Q where was the customer?

4 A She was in front of the---

5 Q where did the robbers come in?

6 A They came in through the front door.

7 Q Okay. where did all of this activity that you have
8 described take place -- up in this corner?

9 A Yes.

10 Q All right. Thank you, Anna. If you'd take the stand
11 again?

12 A (Witness returns to the stand.)

13 Q Anna, you say that you have seen this video before?

14 A Yes.

15 Q And does it accurately show what happened in the
16 Guatemex Store that night?

17 A Yes.

18 SOLICITOR MOWRY: Your Honor, I would like to show the
19 jury this video at this time.

20 THE COURT: Are you offering it into evidence?

21 SOLICITOR MOWRY: Yes, sir, I will. I'm, I'm hesitant
22 to put a marker on it at this time because I'm not sure how
23 well it will play once we do that.

24 THE COURT: Oh, I understand that.

25 But any objection to the video?

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1 MR. MITCHELL: No, Your Honor.

2 THE COURT: Any objection?

3 MS. MOORE: No, Your Honor.

4 THE COURT: Thank you.

5 If you have the sleeve?

6 SOLICITOR MOWRY: Yes, sir.

7 THE COURT: That's probably the best thing to do is
8 mark that.

9 (WHEREUPON, the DVD was marked as State's Exhibit No. 2
10 and received into evidence at this time.)

11 THE COURT: All right. Ladies and gentlemen, I'm going
12 to allow -- this, this video is now been placed into
13 evidence. I'll allow the State to, what we call, publish
14 that to you or show it to you. So, that's what we're doing
15 at this time.

16 You may proceed.

17 SOLICITOR MOWRY: Thank you, Your Honor.

18 THE COURT: Yes, sir.

19 SOLICITOR MOWRY: It will take just a second to get to
20 the place here.

21 THE COURT: Again, counsel, if you need to move to a
22 better location, feel free to do so.

23 (WHEREUPON, a portion of the DVD was played for the
24 jury at this time.)

25 SOLICITOR MOWRY: Your Honor, I'm gonna move this on a

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1 little bit. Sorry.

2 Okay. Anna, describe what is happening here.

3 A This is when Mr. Pulley came into the store.

4 Q Okay. Is that how he was dressed that night?

5 A Yes.

6 Q Do these appear to be the jeans he was wearing that
7 night?

8 A Yes.

9 SOLICITOR MOWRY: Okay. Your Honor, I would offer
10 these as a State's Exhibit at this time.

11 THE COURT: Any objections?

12 MS. MOORE: I do have an objection, Your Honor.

13 THE COURT: Do you wish to take that up with the court?

14 MS. MOORE: I would.

15 THE COURT: All right. All right. Ladies and
16 gentlemen of the jury, at this time I'm going to ask you to
17 step back to the jury room while I take up this matter with
18 counsel. As always, I will instruct you not to discuss this
19 case until I've asked you to do so.

20 You may retire.

21 (WHEREUPON, the following takes place outside the
22 presence of the jury.)

23 THE COURT: Yes, Ms. Moore.

24 MS. MOORE: Your Honor, my, my objection is based on
25 foundation, Your Honor. I do not think that this witness

1 can take a look at a pair of jeans and say yes, that appears
2 to be the same jeans that he was wearing, and just enter
3 them into evidence, Your Honor, in this case. A proper
4 foundation is simply not been laid for these jeans, Your
5 Honor.

6 It's my understanding that these jeans are -- I mean I
7 know what these jeans are, but, again, Your Honor, I don't
8 think that this witness is competent to, in fact, lay a
9 foundation for what those jeans actually are and introduce
10 them into evidence as though they purport to be those same
11 jeans on that video, Your Honor. That's my objection.

12 THE COURT: And while we're taking argument from the
13 defense, Mr. Mitchell, do you wish to make any comment on
14 the objection?

15 MR. MITCHELL: No, Your Honor.

16 THE COURT: Okay.

17 MR. MITCHELL: But I probably will have a similar
18 objection later.

19 THE COURT: Well, we'll take that up later. I'm
20 dealing with this, what we have in front of us at this time.

21 Yes, sir, I'll hear from you, Mr. Mowry.

22 SOLICITOR MOWRY: Your Honor, I believe that the, the
23 victim, the witness has certainly said that these appear to
24 be the same jeans that he was wearing that night, and I
25 would, I would assert that the proper foundation has been

1 laid.

2 THE COURT: I'm not sure how those have come into the
3 possession of the State.

4 SOLICITOR MOWRY: All right, sir.

5 THE COURT: And, so, at this time, what I will do is
6 allow you to mark them for identification purposes.

7 SOLICITOR MOWRY: That's fine.

8 THE COURT: Later on, if you can establish how the
9 State gained possession of that item, and somehow that is
10 attributable to one of the defendants --

11 SOLICITOR MOWRY: Yes, sir.

12 THE COURT: -- we'll discuss admission at that time.

13 SOLICITOR MOWRY: That will be fine, Your Honor. That
14 will work out well.

15 THE COURT: So, to that extent I've sustained your
16 objection, but I will allow them to be marked for
17 identification purposes at this time --

18 SOLICITOR MOWRY: Thank you, sir.

19 THE COURT: -- as having been identified as similar to
20 the jeans, to the jeans that were worn by the defendant on
21 that night.

22 All right. Please mark them for ID purposes.

23 MS. MOORE: Thank you, Your Honor.

24 (WHEREUPON, the jeans were marked as State's Exhibit
25 No. 3 for identification purposes only at this time.)

1 THE COURT: All right. Anything further before we
2 bring the jury in, Ms. Moore?

3 MS. MOORE: No, Your Honor.

4 THE COURT: All right. Mr. Mitchell, anything further?

5 MR. MITCHELL: No, Your Honor.

6 THE COURT: And I assume you're ready to go forward,
7 Mr. Mowry?

8 SOLICITOR MOWRY: Yes, sir.

9 THE COURT: Bring the jury back.

10 SOLICITOR MOWRY: Your Honor, if I could just back this
11 up to the point that he enters the store?

12 THE COURT: Well, you have the right to publish any
13 portion you wish to publish.

14 SOLICITOR MOWRY: Thank you, sir.

15 THE COURT: Thank you.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: Ladies and gentlemen of the jury, I have
19 sustained an objection by the defense at this point in time.
20 I have allowed the jeans in question to be marked for
21 identification purposes, but they not yet been placed into
22 evidence.

23 But the counsel for the State may continue to examine
24 the witness.

25 SOLICITOR MOWRY: Thank you very much, Your Honor.

1 THE COURT: Thank you.

2 CONTINUED DIRECT EXAMINATION

3 BY SOLICITOR MOWRY:

4 Q Anna, let me show you what have been marked as State's
5 Exhibit No. 3 for identification purposes.

6 Do you recognize these jeans?

7 A Yes, it's the one that Mr. Pulley had on that night.

8 Q This is the man that came in to buy the Coca-Cola
9 originally?

10 A Yes, that's correct.

11 Q If you would look at the image in the upper left-hand
12 corner.

13 Does he appear to be wearing those jeans in that
14 picture?

15 A Yes.

16 Q All right. Set the time period for us.
17 what event is about to take place here?

18 A He came in in front of the coolers.

19 Q Okay. And what did he end up doing?

20 A He made a, a made a trip around the store.

21 Q Okay. We see several different images here.

22 Are there several cameras in the Guatemex Store?

23 A Yes.

24 Q Inside and out?

25 A They're two outside.

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1 Q Okay. And, and several inside the store as well?

2 A They're six inside.

3 SOLICITOR MOWRY: Your Honor, for the record I'm going
4 to continue playing the video at this time I think.

5 THE COURT: Yes, sir.

6 (WHEREUPON, another portion of the video was played for
7 the jury at this time.)

8 Q Anna, where are you?

9 A I'm sitting down at the corner.

10 Q Would this be you over here?

11 A Yes.

12 Q who is at the counter?

13 who was on the other side of the counter?

14 A Pulley.

15 Q Okay.

16 (WHEREUPON, another portion of the video was played for
17 the jury at this time.)

18 SOLICITOR MOWRY: I'm gonna stop that right there, Your
19 Honor. Excuse me.

20 Anna, about how long would you estimate that it was
21 between the time Pulley left the store and the, the two
22 robbers came in?

23 A About 15 minutes.

24 Q Okay. Anna, I want to show you another video and ask
25 you if this accurately reflects what happened to you that

1 night?

2 (WHEREUPON, another portion of the video was played for
3 the jury at this time.)

4 A Yes, that's what happened. He says in the other camera
5 it shows where he pulled her hair.

6 Q Okay. Let me play this view for you then so I can get
7 there. Excuse me. Wrong one. I apologize.

8 I'll move it on a little bit, Your Honor.

9 THE COURT: All right.

10 Q Anna, is anything happening here inside the store?

11 A She's in the midst of sending money to, for the lady.

12 Q And -- okay. Is this the little boy that you talked
13 about?

14 A That little boy belongs to the lady.

15 SOLICITOR MOWRY: And he is in frame six for the
16 record, Your Honor.

17 THE COURT: Thank you.

18 Q Anna, I'm gonna stop the video for just a second to ask
19 you a question.

20 Are there places in the store where you can not see
21 what is going on, small places where people could be and you
22 could not have them on the video?

23 A Yes.

24 Q Okay. But the mother and the child are still in the
25 store, is that right?

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1 A Yes, they're still there, but sometimes you can't see
2 them.

3 Q Okay. My apologies.

4 Okay. Anna, I want to again bring your attention to
5 State's Exhibit No. 3 for identification.

6 Does the robber who came behind the counter, did he
7 appear to be wearing these same jeans?

8 A Yes.

9 Q Now, was the robber who came in the store and came
10 behind the counter wearing a different shirt than Mr. Pulley
11 had been wearing a few minutes before?

12 A Yes, because he put a sweater on top.

13 Q Okay. Can you describe that sweater?

14 A It's a black sweater.

15 Q Okay. Thank you.

16 I'm gonna show you the last video that I wish to show
17 you today.

18 (WHEREUPON, another portion of the video was played for
19 the jury at this time.)

20 Q Is this a continuation -- well, you wouldn't be able to
21 tell at this point.

22 would this be a continuation of the robbery?

23 Please, please say.

24 A Yes, it is the same.

25 SOLICITOR MOWRY: I'm gonna back this up just a little

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1 bit, Your Honor.

2 (WHEREUPON, another portion of the video was played for
3 the jury at this time.)

4 Q Anna, could you point on the video to which one of
5 these figures is Jakeivan Pulley?

6 A (Witness points.)

7 Q The one in the back?

8 A Yes.

9 Q No doubt in your mind?

10 A No.

11 Q Okay. Anna, thank you very much, and if you'd answer
12 any of the questions that the other attorneys may have.

13 THE COURT: Your witness, Mr. Mitchell.

14 CROSS-EXAMINATION

15 BY MR. MITCHELL:

16 Q Hello. I'm, I'm -- my name is Chad Mitchell, and I
17 represent Mr. Smiley.

18 All right. I'm gonna ask you questions about
19 Mr. Smiley.

20 Okay. You identified him earlier as the, the man who
21 came in with the, with the gun?

22 A Yes.

23 Q All right. How much of his face did you see?

24 A About the middle of his nose and up.

25 Q All right. So, just based on the fact that you've only

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by Mr. Mitchell

1 seen from here up, you, you can identify him as the same man
2 who was in the store that day?

3 A Yes.

4 Q All right. Did you -- did the police ever ask you to
5 identify him out of a lineup?

6 A Yes.

7 Q When did they do that?

8 A I don't recall exactly when, but it was after the
9 incident.

10 Q And how many men did they have in the lineup?

11 A Various.

12 Q And you identified him out of that lineup?

13 A Yes.

14 Q So, today you're 100 percent certain that the man
15 sitting over there is the same as the masked man in the
16 video?

17 A Yes, the same one.

18 Q How many black people do you know?

19 A Various. Many.

20 Q How many black people frequent your store?

21 A She says normally not in the store, but in the store I
22 worked in Greenwood, Greenville, Greenville, we have many
23 black persons come in.

24 Q Okay. From the time of the incident at the store until
25 the time that you picked him out of the lineup, how many

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by Mr. Mitchell

1 days had passed?

2 A I don't recall exactly. Maybe 20 days.

3 Q What was Mr. Smiley wearing on the day of the, this
4 incident?

5 A She said I didn't quite see all of his jeans, but I can
6 remember the sweater that he had on.

7 Q And was that a hooded sweater?

8 A No, I don't believe so.

9 Q So, his hair -- was his hair covered?

10 A I don't think so. I don't believe it was.

11 Q Do you know what the bandanna was made out of?

12 A I only know that it was white. I don't recall what it
13 was made of.

14 Q All right. Do you think it was a shirt tied around his
15 head?

16 A I don't -- it doesn't -- I don't think it was.

17 Q Do you think it was a sheet?

18 A Yes, it could of been.

19 MR. MITCHELL: Okay. I have nothing further for this
20 witness, Your Honor.

21 THE COURT: Ms. Moore, any questions of the witness?

22 MS. MOORE: Yes.

23 May I beg the Court's very brief indulgence, Your
24 Honor?

25 THE COURT: Yes, ma'am.

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1 MS. MOORE: Thank you.

2 (WHEREUPON, a statement was marked as Defendant's
3 Exhibit No. 1 for identification purposes only at this
4 time.)

5 MS. MOORE: Your Honor, may I approach the witness?

6 THE COURT: You may do so, yes, ma'am.

7 MS. MOORE: Thank you.

8 THE COURT: Yes, ma'am.

9 CROSS-EXAMINATION

10 BY MS. MOORE:

11 Q Hello, Ms. Sebastian. I'm Scarlet Moore, and I
12 represent the defendant, Jakeivan Pulley.

13 Okay. I'm gonna show you a, a document, and I want you
14 to tell me if you recognize this document.

15 A It's the document that the official had on him that
16 night.

17 Q In fact, this is -- this was your voluntary statement,
18 correct --

19 A Yes.

20 Q -- that you gave following the robbery?

21 A Yes.

22 Q I'm gonna read this to you, okay, and my understanding
23 is that this statement was translated for you, correct?

24 A Yes.

25 Q So, I'm gonna read this in English, and ask that the

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by Ms. Moore

1 translator tell you what I'm saying, and you tell me if I am
2 reading this correctly.

3 Okay. I remember two black guys coming into the store.

4 A Yes.

5 Q One had a gun --

6 A Yes.

7 Q -- and pointed it at me --

8 A Yeah.

9 Q -- while I was behind the counter.

10 A Yes.

11 Q The other guy came behind the counter --

12 A Yes.

13 Q -- where I was. The one with the gun told me to open
14 the register.

15 A Yes.

16 Q When I opened the register the one behind the counter
17 helped take the money. They both left running. And then
18 the statement says Diana Melendez translated for this
19 statement.

20 was that correct?

21 A Yes, that's correct.

22 Q Okay. You don't say anything about Jakeivan Pulley,
23 right?

24 A Correct.

25 Q You don't say anything about the man that, that came in

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by Ms. Moore

1 and went behind the cash register.

2 Excuse me. I'm sorry. I apologize. Let me restate
3 the question.

4 In your statement you don't say anything about the,
5 Mr. Pulley coming in the store prior to the robbery, buying
6 the Coke, in the, in the jeans, and leaving the store.

7 That's correct?

8 A That's correct.

9 Q Thank you. Thank you.

10 SOLICITOR MOWRY: Your Honor, she has the right to
11 explain her answer.

12 THE COURT: I'm going to allow her to answer that
13 question, and I'll allow -- I'll ask the interpreter to
14 interpret those.

15 You can't stop her from responding to the questions,
16 ma'am. So, whatever her response is, let's translate it.

17 INTERPRETER: Okay.

18 MS. MOORE: Thank you, Your Honor.

19 A I didn't explain anything else because that's exactly
20 what happened exactly during the robbery.

21 Q Okay. But your statement doesn't say anything about
22 that, right?

23 A No, it does not say anything.

24 Q In fact, someone told you it was Jakeivan Pulley,
25 correct?

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1 A No.

2 Q No one ever told you that it was Jakeivan Pulley?

3 A I -- no one told me, but I remember him coming in
4 before.

5 Q Where did you learn the name Jakeivan Pulley?

6 A She learned that here in the courtroom that his name
7 was Jakeivan Pulley.

8 Q You just learned that today in the courtroom that his
9 name was Jakeivan Pulley?

10 A Yes.

11 Q So, prior to today, your testimony is that nobody told
12 you the name of Jakeivan Pulley?

13 A No.

14 Q No one discussed it with you?

15 A No.

16 Q Okay. And, ma'am, would you be surprised to know that
17 the State has not, in fact, given the defense any lineup
18 identification that, that you say that you, that you gave to
19 the police?

20 A No.

21 Q So, is your testimony still that you identified
22 Jakeivan Pulley in a lineup for the police?

23 INTERPRETER: Your Honor, I need to have her repeat
24 that so I can get it clear. Okay.

25 THE COURT: All right. I will -- ask the witness to

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by Ms. Moore

1 repeat it --

2 INTERPRETER: Okay.

3 THE COURT: -- and do it in segments, a little at a
4 time.

5 A Said they brought me some photos to identify, but it
6 was something involving a robbery before and I was confused.

7 Q I'm sorry. So, so, you say that, that when this
8 identification process happened you were confused?

9 A Yes.

10 Q And why were you confused?

11 A A year ago before this robbery---

12 THE COURT: Now, ma'am, I'm going to, I'm going to
13 direct the interpreter to interpret what's said. I've done
14 that, and if you have a problem with what they're doing,
15 ask, direct that to the Court please.

16 MS. MOORE: Yes, sir.

17 THE COURT: Thank you.

18 MS. MOORE: Thank you.

19 Q Go ahead.

20 A One year before this robbery they also had a robbery in
21 the store in Greenville.

22 Q Okay. Thank you.

23 MS. MOORE: Beg the Court's indulgence.

24 THE COURT: Yes, ma'am.

25 MS. MOORE: Thank you, Your Honor.

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by Ms. Moore

1 (Pause.)

2 MS. MOORE: Your Honor, I have no further questions of
3 this witness, and I would move to enter Defendant's Exhibit
4 1, her statement, into evidence.

5 THE COURT: Objections?

6 SOLICITOR MOWRY: No, sir.

7 MR. MITCHELL: No, Your Honor.

8 THE COURT: All right. Without objection it will be
9 admitted --

10 MS. MOORE: Thank you.

11 THE COURT: -- and marked as a defense exhibit.

12 (WHEREUPON, Defendant's Exhibit No. 1 was received into
13 evidence at this time.)

14 THE COURT: Redirect.

15 SOLICITOR MOWRY: Just one moment, Your Honor.

16 THE COURT: Yes, sir.

17 (Pause.)

18 REDIRECT EXAMINATION

19 BY SOLICITOR MOWRY:

20 Q Anna, I want to make sure -- Anna, I want to make sure
21 that we are clear about the lineup.

22 Do you know what a lineup is?

23 A No.

24 Q Okay. You said police showed you pictures.

25 Okay. Was that about this case or was that about

1 another case that happened in Greenville?

2 A Another case beforehand.

3 Q Okay. So, no police officer in this case showed you
4 any pictures?

5 A No.

6 SOLICITOR MOWRY: Okay. Your Honor, I would ask that
7 this photograph be marked for identification purposes.

8 THE COURT: well, she's going to have to identify it
9 herself --

10 SOLICITOR MOWRY: Excuse me.

11 THE COURT: -- before I'll allow that to be done.

12 SOLICITOR MOWRY: well, I---

13 THE COURT: The witness has not seen it. So --.

14 SOLICITOR MOWRY: well, I understand, Your Honor.

15 well---

16 THE COURT: why don't we discuss this without the jury
17 being present?

18 SOLICITOR MOWRY: All right, sir.

19 THE COURT: Ladies and gentlemen of the jury, at this
20 time I'll ask you to step back to the jury room. As always,
21 I'll instruct you not to discuss any aspect of the case
22 until I've advised you to do so.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Yes, sir.

Anna Sebastian - Redirect examination
by Solicitor Mowry

1 SOLICITOR MOWRY: Your Honor, this is the picture of
2 the codefendant, Lakasion Robinson, and there have been
3 allegations, intimations, I should say, in opening
4 statements that, that he was one of the robbers, and I
5 wanted to ask her if she can identify the individual, if, if
6 he ever came in the store that night, in this picture.

7 THE COURT: And you want -- that, that's a picture that
8 the police somehow used or is that a---

9 SOLICITOR MOWRY: No, sir.

10 THE COURT: I don't know where that came from.

11 SOLICITOR MOWRY: No, sir, this is a picture that was
12 taken of him later on---

13 THE COURT: Okay.

14 SOLICITOR MOWRY: ---after he was placed under arrest,
15 a few hours later.

16 THE COURT: And you're wanting to ask her if this
17 gentleman ever came in the store that night---

18 SOLICITOR MOWRY: That's correct.

19 THE COURT: ---that's in the picture?

20 SOLICITOR MOWRY: Yes, sir.

21 THE COURT: Any objection?

22 MR. MITCHELL: No, Your Honor.

23 MS. MOORE: Your Honor, this is redirect. I don't
24 believe this picture, introduction of this picture is, is
25 proper.

1 THE COURT: well, he's not offering to introduce it.
2 what he's saying is he wants it marked for identification
3 purposes, and then he's gonna ask her about that, that
4 numbered itemed, but he's not offering it into evidence.

5 Is that my understanding?

6 SOLICITOR MOWRY: That is correct. I, I will offer it
7 into evidence later on, but I just want her to identify it.

8 MS. MOORE: well, certainly I can't have an objection
9 to the solicitor marking an exhibit and asking the witness
10 at this point, Your Honor, just to preserve.

11 THE COURT: I understand.

12 I'll allow you to mark it.

13 SOLICITOR MOWRY: Thank you, Your Honor.

14 MS. MOORE: Thank you, Your Honor.

15 THE COURT: I just didn't if it was part of a lineup.
16 It doesn't appear that's it's of a lineup.

17 SOLICITOR MOWRY: No, sir.

18 THE COURT: I didn't know what that was for.

19 SOLICITOR MOWRY: No, sir.

20 (WHEREUPON, the photograph was marked as State's
21 Exhibit No. 4 for identification purposes only at this
22 time.)

23 THE COURT: All right. Let's bring the jury back in.
24 Bring them in please, sir. Thank you.

25 (WHEREUPON, the following takes place within the

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by Solicitor Mowry

1 presence of the jury.)

2 THE COURT: All right. The Court has made no ruling in
3 the case. I have allowed the State to mark a particular
4 photo for identification purposes.

5 what number is that?

6 SOLICITOR MOWRY: This is No. 4, Your Honor.

7 THE COURT: No. 4.

8 You may proceed, Mr. Mowry.

9 CONTINUED REDIRECT EXAMINATION

10 BY SOLICITOR MOWRY:

11 Q Anna, you say that the police never showed you any
12 pictures of suspects, is that right?

13 A No.

14 Q Not, not in this case?

15 A No.

16 Q But it was another case in Greenville?

17 A Yes.

18 Q All right. Let me hand you what is been marked as
19 State's Exhibit No. 4.

20 Did that man ever come into the store that night?

21 A No.

22 Q Was he the one that bought the coke?

23 A No.

24 Q Was he one of the robbers?

25 A No.

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by Solicitor Mowry

1 SOLICITOR MOWRY: Your Honor, that's all I'd have.
2 Thank you, sir.

3 THE COURT: Recross, Mr. Mitchell.

4 MR. MITCHELL: Yes, Your Honor.

5 MR. MITCHELL: May I also take this exhibit?

6 THE COURT: Certainly.

7 MR. MITCHELL: May I use this exhibit?

8 THE COURT: You, you can show it to her. It's not an
9 exhibit yet. It's just been marked for identification
10 purposes.

11 RE CROSS EXAMINATION

12 BY MR. MITCHELL:

13 Q Anna, if that's all you saw of this man, how would you
14 know if he was in your store or not?

15 A This is a different person, but I can see his eyes and
16 his face.

17 Q Okay. Let me repeat a question I asked earlier.

18 Did you ever identify Mr. Smiley to the police either
19 by picking him, out his picture or by picking him out of a
20 group of men standing in a lineup --

21 A No.

22 Q -- or by picking him out of a group of men standing in
23 front of you?

24 A No.

25 Q So, when did you identify Mr. Smiley as the man in the

1 video?

2 A When I saw him yesterday.

3 Q So, you remembered, from a year ago, that that was the
4 same person in the store?

5 A Yes.

6 MR. MITCHELL: I have nothing else, Your Honor.

7 THE COURT: Ms. Moore.

8 MS. MOORE: No, Your Honor.

9 THE COURT: All right. She may step down. If you'll
10 instruct her to have a seat.

11 All right. Ladies and gentlemen of the jury, I know
12 you've had a couple of breaks, but the people in the
13 courtroom haven't had a break yet. So, we're gonna take a
14 short break. I'll ask you to step back to the jury room.
15 The bailiff's will make you comfortable. As always, I'll
16 ask you not to discuss any aspect of the case until I've
17 asked you to do so. Court will be in recess shortly.

18 You may retire to the jury room.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: All right. This Court's in recess for
22 about ten minutes.

23 Thank you very much.

24 SOLICITOR MOWRY: Thank you, Your Honor.

25 (WHEREUPON, a short recess was taken at this time.)

1 THE COURT: State ready to proceed?

2 SOLICITOR MOWRY: Yes, sir.

3 THE COURT: Defense ready to proceed?

4 MR. MITCHELL: Yes, Your Honor.

5 MS. MOORE: Yes, sir.

6 THE COURT: Bring the jury in.

7 (WHEREUPON, the following takes place within the
8 presence of the jury.)

9 THE COURT: Thank you, sir.

10 All right. At this time the State may call its next
11 witness.

12 SOLICITOR FIELDER-COMMANDER: At this time the State
13 calls Hector Melendez.

14 THE COURT: Come forward to be sworn please.

15 Madam Clerk, swear the defendant.

16 HECTOR MELENDEZ, having been first duly
17 sworn, testified as follows:

18 THE COURT: Have a seat please, sir.

19 I'll remind the translator that he remains under his
20 oath.

21 Are you gonna be participating in the translating?

22 INTERPRETER: They're going to see if he can do it in
23 english, Your Honor.

24 THE COURT: Okay. All right. Very good. Thank you,
25 sir. You can be seated then.

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 Counselor, your witness.

2 SOLICITOR FIELDER-COMMANDER: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY SOLICITOR FIELDER-COMMANDER:

5 Q Could you please state your name for the record?

6 A My name is Hector Gable Melendez.

7 Q And you spell M-E-L-E-N-D-E-Z---

8 A Yes, that's correct.

9 Q ---is that correct?

10 where are you originally from?

11 A I'm from Guatemala.

12 Q why are you here in the United States?

13 A For working. I'm living here, for since 1985.

14 Q Are you a United States citizen?

15 A Yes, I am.

16 Q Do you pay taxes for the United States?

17 A Yes, I do. Every month I pay my taxes.

18 Q could you scoot your chair closer to the microphone
19 please?

20 (witness complies.)

21 Q Thank you.

22 what type of businesses do you own?

23 A I have my, just like a grocery store and I do money
24 transfer to send to Mexico and transfer money to other
25 countries.

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

- 1 Q How many stores do you own?
- 2 A I have one here in Laurens and I have one in
3 Greenville.
- 4 Q The one in Laurens, is it in the city limits?
- 5 A Yes, it's in the city limits.
- 6 Q In what state?
- 7 A South Carolina.
- 8 Q On -- do you have a daughter?
- 9 A Yes, I have two daughters.
- 10 Q Do you have a daughter that helps you with the store?
- 11 A Yes.
- 12 Q Do both of them help you with the store?
- 13 A No, another one, she's ten years old.
- 14 Q How old is the daughter that helps you with the store?
- 15 A Now she is turned 17.
- 16 Q She turned 17?
- 17 A Uh-huh. (Affirmative).
- 18 Q Did she go to school?
- 19 A Yes.
- 20 Q What school does she go to?
- 21 A She is in high school.
- 22 Q What's her name?
- 23 A Her name is Diana Melendez.
- 24 Q On April 24th, 2011, how old was Diana Melendez?
- 25 A She was 16.

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 Q who else helped you with the store on April 24th,
2 2011?

3 A My sister-in-law, Anna Sebastian.

4 Q And you said you own -- the store that you own in
5 Laurens, what's beside the store?

6 A On the left, left-side is a laundry, and the other,
7 right-side is another building.

8 Q Another building?

9 A Uh-huh. (Affirmative).

10 SOLICITOR FIELDER-COMMANDER: At this time the State
11 would like to introduce this diagram as far as
12 identification.

13 THE COURT: You have it marked for identification or do
14 you wish to introduce it?

15 SOLICITOR FIELDER-COMMANDER: I wish to introduce it
16 later on, Your Honor.

17 THE COURT: You're gonna introduce it through him?

18 SOLICITOR FIELDER-COMMANDER: No, sir.

19 THE COURT: Let's have it marked for identification
20 purposes.

21 Please mark it please.

22 (WHEREUPON, the diagram was marked as State's Exhibit
23 No. 5 for identification purposes only at this time.)

24 THE COURT: It's been marked as?

25 SOLICITOR FIELDER-COMMANDER: As State's Exhibit No. 5.

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 THE COURT: Thank you very much.

2 You may proceed.

3 Q Where's your store in Laurens located?

4 A It's [REDACTED].

5 Q Okay. For identification purposes, have you seen this
6 diagram before?

7 A No.

8 Q You have not?

9 A No.

10 Q Does anything look familiar about this?

11 A Yes, my, my store is the middle one, and the laundry is
12 beside it the other way.

13 Q You said your store is the middle one?

14 A Yes.

15 Q And beside the store is what?

16 A The one is laundry and---

17 Q The laundry?

18 A Yes.

19 Q And then what's beside -- what's on the other side of
20 your store?

21 A It's another building.

22 Q Okay. And what is the street directly in front of your
23 store?

24 A The front?

25 Q (Nods affirmatively.)

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 A It's North Harper Street.

2 Q North Harper.

3 And where do people usually park when they come to your
4 store?

5 A The people park in the front, which is the small
6 parking, but I speak with the owner of the laundry so my,
7 some of my customers, they can park on his parking lot on
8 the left.

9 Q Okay. They park left?

10 A Uh-huh. (Affirmative).

11 Q Now, you have -- do you have any type of camera system
12 at your store?

13 A Yes, I do.

14 Q Could you step down and show us where the cameras are
15 located on the outside of your building?

16 A Okay.

17 (Witness comes down from the stand.)

18 Q And I have some stickers that I'm asking you to place
19 on the building where you have your cameras located.

20 A Okay. I have 11 here pointing on this way, and I have
21 the other one on this way so they can see over there, and
22 then I have one here in the middle here.

23 Q That's inside the store?

24 A Inside the store.

25 Q I'll do -- we'll do that in just a second.

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 A Okay.

2 Q But the ones outside the store are --?

3 A Yeah, the both outside store.

4 Q You have it on each end of the building---

5 A Yes.

6 Q ---in front of the building?

7 A Yes.

8 Q Okay. Now, this is already been previously marked as
9 State's Exhibit No. 1 for identification purposes.

10 Can you use these stickers as well to show where the
11 cameras are inside the store?

12 A Inside the store?

13 Inside the store, I have one over here. Let's see. I
14 have one over here beside the door, the door, one here
15 inside the one over here, and I have one here behind the
16 register.

17 Q Behind the register?

18 A Yeah, in the corner.

19 Q And then I have another one cause I have the wall and
20 mirror, and I have one here and I -- and because in the wall
21 over here I have one here, and cause here we got the
22 restroom here. I got another one over here, seven, and the
23 last camera I have outside over here on the back.

24 Q On the back of the store as well?

25 A Uh-huh. (Affirmative).

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 Q Mr. Melendez, is this a true and accurate depiction of
2 how your store is laid out?

3 A Can you say again?

4 Q Is this -- is this exhibit a true and accurate
5 depiction of how your store, how you have your store
6 arranged?

7 A Yes.

8 SOLICITOR FIELDER-COMMANDER: At this time, Your Honor,
9 the State moves to enter into evidence State's Exhibit No.

10 1.

11 THE COURT: Any objection, Mr. Mitchell?

12 MR. MITCHELL: No, Your Honor.

13 THE COURT: Ms. Moore.

14 MS. MOORE: No, Your Honor.

15 THE COURT: Without objection it will be admitted into
16 the record as marked.

17 (WHEREUPON, State's Exhibit No. 1 was received into
18 evidence at this time.)

19 THE COURT: You may proceed, Ms. Commander.

20 Q Mr. Melendez, you can have a seat for me. Thank you.

21 A (Witness returns to the stand.)

22 Q Although you have the camera system, are there areas in
23 the store that can not be seen on video?

24 A Mostly can see.

25 Q Most of---

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 A But some, some a little place you can't see. But most
2 you can see.

3 Q And what, what said -- you do money transfers at that
4 store?

5 A Yes.

6 Q On April 24th, 2011, who was working your store that
7 night?

8 A Anna Sebastian and my daughter.

9 Q Did you get a phone call from Anna Sebastian and Diana?
10 Yes.

11 A Yes, because Anna, she can't drive and my daughter, I
12 don't let her drive. So, that, that night I suppose to come
13 pick them, pick them up from the store. I already called
14 before about ten minutes before my daughter. So, I called
15 that day to make sure they close already to come pick them
16 up. So, I'm on my way to come pick her up.

17 Q Where were you coming from?

18 A From Greenville.

19 Q What area in Greenville?

20 A I live in, in Greenville on Chad (phonetic).

21 Q When you got to the store, what did you discover had
22 just happened?

23 A Can you say again?

24 Q What did you find out happened when you got to the
25 store?

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 A Can he in the Spanish interpret or --?

2 (Interpreter complies.)

3 A Okay. That he had been robbed.

4 Q Okay. Thank you.

5 Did the police come?

6 A Yes.

7 Q When the police came did you show them anything?

8 A Yeah, they already -- when they come, I say something.

9 But really I was real nervous, and cause my daughter, she
10 was crying and she was telling me that he pointing with the
11 gun and she was---

12 MR. MITCHELL: Objection, Your Honor. Hearsay.

13 Q Let's not say what your---

14 THE COURT: I'll sustain the objection.

15 Instruct the witness not to quote what anyone says
16 unless your lawyer ask specifically for that information. I
17 would assume she would believe that there would be some
18 exception to that rule. Generally do not quote what anyone
19 has told you.

20 You may proceed, ma'am.

21 Q Did you show any officer anything that you had in
22 your -- did you show the officer a video?

23 A Yes.

24 Q Your system.

25 A That's when we're, we're doing with the video and we

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 see what all happened that night.

2 Q Say it one more time.

3 A All right. we, we went back to the video and we saw
4 what---

5 Q So, you ran back the video and saw what happened?

6 A Uh-huh. (Affirmative).

7 Yeah.

8 Q which officer did you show the video to?

9 Do you remember?

10 A I don't remember, but they was several police come
11 there. So -- so, I got confused.

12 Q That's understandable.

13 Did you do an accounting later on to see how much is
14 missing from your store?

15 A Yes.

16 Q And how much was missing?

17 A I was missing six -- 3,625.

18 Q \$3,625?

19 A (witness nods affirmatively.)

20 Q Do you keep that much in your register?

21 A No, not really. It was the lady was making a transfer,
22 she had a thousand dollars put in the register, and then we
23 get some money in the register, and then, and then when the
24 behind one -- the -- one of the guys was pulling her hair,
25 they got some more money then, but I -- that's what she

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 explained to me. So, we count the money, which we got short
2 \$3,625.

3 Q So, you were short \$3,625 --

4 A Uh-huh. (Affirmative).

5 Q -- when you did your accounting?

6 A Yes.

7 Q Because there was a money transfer being done?

8 A Uh-huh. (Affirmative).

9 Q Prior to this robbery, was there anything that
10 happened -- was there a robbery that took place in
11 Greenville County?

12 A Can you say again?

13 Q Before this robbery, was there a robbery that took
14 place in Greenville County?

15 A Before this?

16 Q Yes.

17 A On my other store?

18 Q Yes.

19 A Yes, we had one robbery. About one, one years before
20 then.

21 Q One year before?

22 A Uh-huh. (Affirmative).

23 Q I think that's all. Thank you.

24 THE COURT: Your witness, Mr. Mitchell.

25 MR. MITCHELL: I have no questions for this witness,

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 Your Honor.

2 THE COURT: Ms. Moore, your witness.

3 MS. MOORE: Thank you, Your Honor. Just very briefly.

4 THE COURT: Yes, ma'am.

5 CROSS-EXAMINATION

6 BY MS. MOORE:

7 Q Mr. Melendez, I'm Scarlet Moore and I represent
8 Jakeivan Pulley.

9 The -- you testified that an officer showed you a
10 video, is that -- or excuse me.

11 You testified that you showed the video to an officer,
12 correct?

13 A Yes, that night.

14 Q Could, could you describe the officer for us?

15 What -- was it a, was it a woman or a man?

16 A A woman.

17 Q It was a woman, and what did she look like?

18 A One -- I guess her name -- she's the one of the --
19 she's sitting there. I forget her name, and the other lady
20 that, that cop come, the police.

21 Q You see this person in the courtroom today?

22 A No, but just one of them here.

23 Q Are you pointing to---

24 A Uh-huh. (Affirmative).

25 Q ---Detective Riggott?

Hector Melendez - Direct examination
by Solicitor Fielder-Commander

1 A Uh-huh. (Affirmative).

2 Q So, she was the one, she was the one who---

3 A Yeah, she saw the video.

4 Q ---you showed the video to?

5 A Yes.

6 Q Thank you. I have no further questions.

7 THE COURT: Thank you.

8 Redirect?

9 SOLICITOR FIELDER-COMMANDER: Just for clarity.

10 THE COURT: Yes, ma'am.

11 REDIRECT EXAMINATION

12 BY SOLICITOR FIELDER-COMMANDER:

13 Q Mr. Melendez, there was two ladies you showed the video
14 to?

15 Two officers?

16 You said---

17 A Three.

18 Q ---one lady -- well, you just spoke with---

19 A Yeah, but I, like I told you a while ago, I have
20 several police come in, and we, we showed them the video.

21 Q Several, several police came in?

22 A Yeah. So, really I don't remember.

23 Q And one of the officer you showed the video is in the
24 courtroom?

25 A Uh-huh. (Affirmative).

Hector Melendez - Redirect examination
by Solicitor Fielder-Commander

1 Q And then some of them are not in the courtroom at this
2 time?

3 A Uh-huh. (Affirmative).

4 Q Thank you.

5 THE COURT: Any questions concerning that matter?

6 MR. MITCHELL: No, Your Honor.

7 MS. MOORE: No, Your Honor.

8 THE COURT: Sir, you may step down from the witness
9 stand. Thank you very much.

10 The State may call its next witness.

11 SOLICITOR MOWRY: We call Christy Cofield. She's back
12 in my office.

13 THE COURT: All right. Ask her to step in please.

14 Ma'am, if you'll step over to the witness stand to be
15 sworn please.

16 Please swear the witness.

17 CHRISTIE COFIELD, being first duly
18 sworn, testified as follows:

19 THE COURT: Have a seat in the witness stand, ma'am,
20 and once you're seated, state your name.

21 WITNESS: My name is Christie Cofield.

22 THE COURT: Mr. Mowry, your witness.

23 SOLICITOR MOWRY: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY SOLICITOR MOWRY:

Christy Cofield - Direct examination
by Solicitor Mowry

1 Q Now, Ms. Cofield, I believe you're a police officer, is
2 that right?

3 A Yes, sir, I am.

4 Q By whom are you employed?

5 A Laurens City Police.

6 Q And what is your position with the Laurens City Police
7 Department?

8 A At this time I was, I am captain of the police
9 department.

10 Q Okay. And how long have you been a police officer?

11 A Twelve years.

12 Q How long have you been a member of the Laurens City
13 Police?

14 A Twelve years.

15 Q So, your entire time with---

16 A Uh-huh. (Affirmative).

17 Q ---with law enforcement has been with the Laurens City
18 Police?

19 A Yes.

20 Q I'd like to refer you back to April 24th of last
21 year.

22 were you working at that time?

23 A Yes, sir, I was.

24 Q what was your position in April of 2011?

25 A I was a patrolman.

Christy Cofield - Direct examination
by Solicitor Mowry

- 1 Q Patrol lieutenant.
2 So, you've received a promotion since then?
- 3 A Yes, sir.
- 4 Q what shift were you working on that day?
- 5 A The night shift.
- 6 Q The night shift.
7 what hours did that run between?
- 8 A 7:00PM to 7:00AM.
- 9 Q So, a twelve hour shift?
- 10 A Yes, sir.
- 11 Q Sometime around nine o'clock, thereabouts, did you
12 receive a call to go to the Guatemex Store on North Harper
13 Street?
- 14 A Yes, sir.
- 15 Q Under what circumstances did you receive that call?
- 16 A It initially come out as an alarm call, and then we
17 received a second call stating that it was actually an armed
18 robbery that had occurred.
- 19 Q All right. what did you do in response to that call?
- 20 A I sent all the units that way. I went over to the
21 store. Some of the other units set up the perimeter and I
22 went in to get the details of what had happened.
- 23 Q All right. was one of the other officers that was on
24 the scene or in, or in the vicinity Patrick Durkin?
- 25 A Yes, sir.

Christy Cofield - Direct examination
by Solicitor Mowry

1 Q All right. Let me show you what has been marked for
2 identification purposes, I don't believe I put that back
3 there, as State's Exhibit No. 5 for identification.

4 Do you recognize the content of that chart right there?

5 A Yes, sir.

6 Q What is that please, ma'am?

7 A That is the North Harper, Camp Street intersection
8 where the coin laundry, Guatemex, and the Blind, the
9 Federation of the Blind is.

10 Q Okay. This is Camp Street here?

11 A Yes, sir.

12 Q And this is North Harper?

13 A Uh-huh. (Affirmative).

14 Q Or 221, Highway 221?

15 A Highway 221.

16 Q All right. This way heads where?

17 A South.

18 Q Towards?

19 A South Harper Street towards the -- Fleming Street.

20 Q Okay. And this way goes towards what?

21 A Towards Watts Mill area.

22 Q And then onto---

23 A Right.

24 Q ---I-85?

25 A I-85/385.

Christy Cofield - Direct examination
by Solicitor Mowry

1 Q Okay. All of this that we're depicting right here, is,
2 is that in the city limits of Laurens?

3 A Yes, sir.

4 Q And is that in Laurens County?

5 A Yes, sir.

6 Q All right. So, this is what?

7 A That's the laundromat.

8 Q This, this is a laundromat, a coin laundry?

9 A Uh-huh. (Affirmative).

10 Q Is there a parking area here?

11 A It is.

12 Q All right. What kind of parking is there in front, I
13 mean just directly in front of the Guatemex?

14 A Very limited parking.

15 Q Okay. Maybe a car or two?

16 A Maybe.

17 Q Okay. And this store -- this building over here is
18 what?

19 A That is the -- I believe that's the Blind, Federation
20 of the Blind for Laurens County. I believe that's their
21 building.

22 SOLICITOR MOWRY: All right. Your Honor, at this time
23 I would like to have this entered into evidence. I believe
24 it was just marked previously for identification, but if we
25 could enter it into evidence now as State's Exhibit No. 5.

Christy Cofield - Direct examination
by Solicitor Mowry

1 THE COURT: Any objection, Mr. Mitchell?

2 MR. MITCHELL: No, Your Honor.

3 THE COURT: Ms. Moore.

4 MS. MOORE: No, Your Honor.

5 THE COURT: Without objection it will be now received
6 into evidence as an exhibit as marked.

7 (WHEREUPON, State's Exhibit No. 5 was received into
8 evidence at this time.)

9 THE COURT: You may proceed.

10 SOLICITOR MOWRY: Thank you, Your Honor.

11 Now, I'm referring now to State's Exhibit No. 1, the
12 chart of the interior of the Guatemex.

13 Did, did you go inside the store that night?

14 A I did.

15 Q And did you meet with Hector Melendez?

16 A I did.

17 Q What was the purpose -- what was the gist of your
18 conversation?

19 What were you asking him to do?

20 A He advised us that he did have video surveillance in
21 the store, and that he knew how to the, operate the
22 machinery to pull it up for us.

23 Q Okay. And did you observe the video?

24 A I did.

25 Q Okay. What did you see?

Christy Cofield - Direct examination
by Solicitor Mowry

1 A On the video?

2 Q Yes.

3 A I seen a black male come into the store, walk around a
4 few times, he went to the counter, had a conversation. They
5 left the counter I believe, walked around the store a
6 second, he come back. Looks like he may of paid for an item
7 and then he left the store.

8 Q Okay. Let me just -- if you'll give me just a second.
9 I beg the Court's indulgence, Your Honor.

10 THE COURT: Yes, sir.

11 (Pause.)

12 SOLICITOR MOWRY: Electronics and I are not friends.

13 All right. Ms. Cofield, is this the part of the video
14 that you watched---

15 A Yes, sir.

16 Q ---that you were just describing?

17 A Yes, sir.

18 Q Do you know the male that is depicted in these videos?

19 A Yes, sir.

20 Q Who is he?

21 A Mr. Pulley.

22 Q The defendant, Jakeivan Pulley?

23 A Yes, sir.

24 Q would you point -- do you see him in the courtroom?

25 A I do.

Christy Cofield - Direct examination
by Solicitor Mowry

1 Q would you point him out please?

2 A Right there in the white shirt.

3 Q Right there in the white shirt?

4 A Yes, sir.

5 SOLICITOR MOWRY: Your Honor, for the record, he has --
6 she has pointed out the defendant in this case.

7 THE COURT: The record will so reflect.

8 You may proceed.

9 Q How do you know Mr. Pulley?

10 A Mr. Pulley's mother is married to my first cousin.

11 Q So, he's part of your extended family?

12 A Right.

13 Q Is that right?

14 A Familial relationship.

15 Q what is Mr. Pulley's nickname?

16 what did you know him by?

17 A J Rock.

18 Q J Rock?

19 A Yes, sir.

20 Q Okay. Did you observe any other videos?

21 A That was the only one---

22 Q Okay.

23 A ---that I observed right then.

24 Q were you told anything about the gentleman that had,
25 that had come into the store?

Christy Cofield - Direct examination
by Solicitor Mowry

1 MS. MOORE: Objection. Hearsay, Your Honor.

2 THE COURT: Overruled. He has not asked what was said.
3 He simply asked was he told anything, and she can state
4 whether she was told anything, but she's not quoting anybody
5 at this point in time.

6 MS. MOORE: Thank you, Your Honor.

7 THE COURT: Overruled.

8 A Yes, sir, I was.

9 Q As a result of what you, what you were told, what did
10 you instruct your, the officers under your supervision to
11 do?

12 A I asked them to be on the lookout for a black male
13 wearing blue jean pants with some type of orangy red looking
14 emblem on the back pockets.

15 Q All right. I'm going to show you what's been marked as
16 State's Exhibit No. 3 for identification.

17 Can you state that these are the jeans that you were on
18 the lookout for?

19 A Yes, sir.

20 Q All right. Do these appear to be the, the---

21 A Yes, sir.

22 Q ---ones that were described?

23 A Yes, sir.

24 Q Thank you.

25 And did you give a name of who to be on the lookout

Christy Cofield - Direct examination
by Solicitor Mowry

1 for?

2 A Initially, no. I had a nickname.

3 Q Okay.

4 A So, I did give the nickname of him.

5 Q All right. Did you make an effort to determine what
6 his real name is?

7 A I did.

8 Q How did you go about doing that?

9 A I called a family member and asked them if they knew
10 his real name.

11 Q Okay.

12 A I knew his last name was Pulley, but I wasn't sure what
13 his first name was or how to pronounce it.

14 Q You just knew it was J Rock?

15 A Right.

16 Q But you found out it was Jakeivan?

17 A Right.

18 Q Is that right?

19 A Yes, sir.

20 Q And did you, did you instruct your officers to be on
21 the lookout for him?

22 A I did.

23 Q All right. Now, describe for us exactly what you mean
24 by setting up a perimeter.

25 what does that, what does that mean?

Christy Cofield - Direct examination
by Solicitor Mowry

1 A The officers on the shift, whenever we have something
2 like that, we'll go around the outskirting streets and set
3 up a perimeter in the direction the individuals were last
4 seen going. That way we try to block them off in that area
5 so that we can capture them.

6 Q Okay. And what kind of area did you instruct your
7 officers to set up?

8 A I had a -- we had the help of the Sheriff's Office also
9 setting upper perimeters. So, I had a couple officers go
10 over on the Camp Street side. Some of the other officers
11 were on the back side of Cora Street and Watts Street and
12 then North Harper Street.

13 Q Okay. So, probably -- well, Camp Street right next to
14 it, Watts Street a couple of blocks down towards town, and
15 then a block or so behind?

16 A Right.

17 Q All right. Captain Cofield, let me show you this item,
18 and ask if you can, if you can identify that.

19 A That's the aerial view of North Harper/Camp Street/Cora
20 Street.

21 SOLICITOR MOWRY: Okay. Your Honor, I would ask that
22 this be admitted as a State's Exhibit at this time.

23 THE COURT: Any objection to its admission?

24 MR. MITCHELL: No, Your Honor.

25 MS. MOORE: No, Your Honor.

Christy Cofield - Direct examination
by solicitor Mowry

1 THE COURT: without objection it will be marked and
2 admitted into evidence.

3 (WHEREUPON, the diagram was marked as State's Exhibit
4 No. 6 and received into evidence at this time.)

5 Q Now, captain, if you can step down here for just a
6 moment.

7 A (Witness comes down from the stand.)

8 Q If you could place a sticker on the Guatemex Store in
9 the City of Laurens?

10 A Just any color?

11 Q Any color is fine.

12 A (Witness complies.)

13 Q And if you would place another sticker at 104 watts
14 Street.

15 A (Witness complies.)

16 Q Thank you, ma'am.

17 A (Witness returns to the stand.)

18 Q Captain, I believe that's all the questions I have for
19 you. If you'd answer any questions from Ms. Moore or
20 Mr. Mitchell.

21 A Okay.

22 THE COURT: Mr. Mitchell, your witness.

23 MR. MITCHELL: Yes, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. MITCHELL:

Christie Cofield - Cross-examination
by Mr. Mitchell

1 Q Ms. Cofield, I represent Mr. Smiley.

2 Did you or any of your officers find Mr. Smiley within
3 the perimeter?

4 A No.

5 Q Did your officers find Mr. Smiley at 104 watts Street?

6 A No.

7 Q Are you the officer that booked Mr. Smiley?

8 A I don't remember.

9 Q And when you---

10 A I would have to see the booking report.

11 Q All right. When you book someone, do you take their
12 clothes?

13 A It depends on what the charge is for.

14 Q What happened -- could you walk us through the process
15 of when you booked Mr. Smiley?

16 I'm sorry.

17 A I'm not sure that I booked him.

18 Q All right. Let's, let's go back a second. I'm sorry.

19 I have a booking report from the Laurens Police
20 Department. It says the booking officer's name is
21 Lieutenant Christie Cofield.

22 May I approach, Your Honor?

23 THE COURT: You may.

24 A Okay.

25 Q So, do -- does that refresh your memory?

Christie Cofield - Cross-examination
by Mr. Mitchell

1 A It does. Thank you.

2 MR. MITCHELL: All right. Your Honor, I'd like to
3 enter this as exhibit for defense. It's the Laurens Police
4 Department report.

5 THE COURT: Any objection from the State?

6 SOLICITOR MOWRY: No, sir.

7 THE COURT: Any objection, Ms. Moore?

8 MS. MOORE: Beg your indulgence, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. MOORE: Thank you.

11 (Pause.)

12 MS. MOORE: No objection.

13 THE COURT: Without objection it will be marked and
14 entered into evidence as a Defense Exhibit.

15 (WHEREUPON, the booking record was marked as
16 Defendant's Exhibit No. 2 and received into evidence at this
17 time.)

18 Q All right. When you booked someone, what -- could you
19 explain that process to us, what happens?

20 A On a normal booking we would take the individual into
21 the booking room. We have them stand up in front of our
22 screen and take a picture. We have them sit down. We get
23 all their personal information, their date of birth, their
24 address, social security numbers, update any emergency
25 contacts, that type of thing.

Christie Cofield - Cross-examination
by Mr. Mitchell

1 Because we don't have anybody at the police department
2 anymore, we don't take property from them. We just take
3 their property and seal it in a Ziploc bag and carry it out
4 to the county jail with them. We do fingerprints depending
5 on what the case or what the charge is. But for the most
6 part the county jail will do our fingerprinting and
7 processing.

8 MR. MITCHELL: All right. May I approach, Your Honor?

9 THE COURT: You may.

10 Q Could you tell us, based on this booking report, how
11 tall Davoris Smiley is?

12 A Says 5'2".

13 Q And how accurate do you think that is?

14 A Probably within a few inches or so.

15 Q All right. Do you actually measure their height?

16 A No.

17 Q You just ask them?

18 A Right.

19 Q If -- do you ever ask if they're right-handed or
20 left-handed?

21 A It just depends on what the case is. It's not normal
22 practice for us to ask them because, once they sign their,
23 their booking report and their fingerprinting cards, they'll
24 use the hand that they write with. So, we'll just make note
25 of that.

Christie Cofield - Cross-examination
by Mr. Mitchell

1 Q Okay. From this report can you tell which hand my
2 client writes with?

3 A No, I don't know.

4 Q Okay. And also -- could you also say if any personal
5 property was taken?

6 A No, the -- again, we do not take personal property,
7 property off of them unless it is being used as evidence,
8 and then that would be noted in the investigative report and
9 the supplemental and the incident report.

10 Q All right. And at the time of this booking, how old
11 was Mr. Smiley?

12 A Says he's 18.

13 Q All right. All right. Let me ask you this, Christie.
14 what is -- what led the, the police department to look
15 for Mr. Smiley that night?

16 A We were advised by one of the other defendants that
17 Mr. Smiley had participated in the armed robbery.

18 Q All right. So, was there anything from the video that
19 made you pursue Mr. Smiley as a suspect?

20 A I did not watch the video beyond a certain point. The,
21 the police chief and some of the other officers watched the
22 video, and they were able to have, come up with Mr. Smiley's
23 identification I believe.

24 Q All right. Did Mr. -- did anybody, any of the victims
25 identify Mr. Smiley and that's one of the reasons why you

Christie Cofield - Cross-examination
by Mr. Mitchell

1 went to look for him?

2 A Do you mean---

3 Q Yeah.

4 Did any of the victims in this crime identify
5 Mr. Smiley?

6 A Do you mean they said his name is Mr. Smiley?

7 Q No, that, that -- anything that -- did anything that
8 the victims tell you lead you to believe that you need to go
9 look for Mr. Smiley?

10 A I'm not sure I'm understanding your question.

11 Q All right. Were any of the victim's comments what led
12 you to say hey, let's go look up, let's go find Mr. Smiley?

13 A No.

14 Q Okay. So, only the word of some of the other suspects
15 led you to go look for Mr. Smiley?

16 A I do believe that's correct.

17 Q Okay. Do you know where the police found Mr. Smiley?

18 A I believe that it was at Laurens Terrace Apartments.

19 Q Approximately how far is that from what we looked at
20 and where the Guatemex Store was?

21 A Oh, maybe four, five miles.

22 Q So, it wasn't within the perimeter?

23 A No, not the immediate perimeter. It was within the
24 city.

25 Q Okay. About what time did you locate Mr. Smiley?

Christie Cofield - Cross-examination
by Mr. Mitchell

1 A There again, I don't remember.

2 MR. MITCHELL: Okay. I have nothing else for this
3 witness, Your Honor.

4 THE COURT: Ms. Moore, your witness.

5 MS. MOORE: Your Honor, I have no questions for this
6 witness.

7 THE COURT: Redirect?

8 SOLICITOR MOWRY: Yes, sir.

9 REDIRECT EXAMINATION

10 BY SOLICITOR MOWRY:

11 Q Captain Cofield?

12 A Yes, sir.

13 Q Mr. Mitchell has talked about the booking report and
14 you -- there's nothing on there to indicate right-handed or
15 left-handed.

16 Let me ask you if you can, hand you this document and
17 ask you if you can identify that. I'm not gonna ask you
18 what is it.

19 But can you identify that?

20 A Yes, I can.

21 Q All right. What does this show?

22 What does this depict?

23 A It shows Mr. Smiley signing either his booking report
24 or fingerprint card.

25 Q All right.

Christie Cofield - Redirect examination
by Solicitor Mowry

1 A I can't see.

2 Q Thank you very much.

3 Let me ask that this be admitted into evidence as a
4 State's Exhibit please.

5 THE COURT: Any objection?

6 MR. MITCHELL: No, Your Honor.

7 MS. MOORE: No, Your Honor.

8 THE COURT: Without objection it will be marked as a
9 State's Exhibit.

10 (WHEREUPON, the photograph was marked as State's
11 Exhibit No. 7 and received into evidence at this time.)

12 Q Now, I'm gonna hand you what's now been marked as
13 State's Exhibit No. 7.

14 Describe the contents of that photograph please.

15 A Mr. Smiley is standing inside of our fingerprinting
16 room signing his booking form with his left-hand.

17 Q Okay. Now, you say that you didn't see anymore of the
18 video than of Mr. Pulley coming in to buy a Coke, is that
19 right?

20 A That's not correct.

21 Q Okay.

22 A Right.

23 Q Explain what, what else you saw then.

24 A Once he left out of the store he come back into the
25 store, and that's when the robbery occurred. I did watch

Christie Cofield - Redirect examination
by Solicitor Mowry

1 that portion of the video.

2 Q All right.

3 MR. MITCHELL: Objection, Your Honor. I thought this
4 was redirect. It's like he's starting over again.

5 THE COURT: You want to stand up when you state an
6 objection?

7 MR. MITCHELL: I'm sorry, Your Honor.

8 THE COURT: Thank you.

9 MR. MITCHELL: I'm sorry, Your Honor. This -- I
10 thought this was redirect, Your Honor, and he seems to be
11 starting up with a new---

12 THE COURT: Well, I'll ask the State to explain the
13 purpose of the questioning.

14 SOLICITOR MOWRY: Your Honor, this was a matter that
15 was brought up on cross-examination.

16 THE COURT: What matter are we talking about?

17 SOLICITOR MOWRY: This is on the video, on what of the
18 video she saw.

19 THE COURT: Okay. That was asked on cross-examination.
20 I'll allow him to go forward.

21 SOLICITOR MOWRY: While we're waiting for the machine
22 to warm-up, Your Honor, may I ask the two defendants to
23 stand?

24 THE COURT: Yes, sir, you may.

25 Please stand, gentlemen.

Christie Cofield - Redirect examination
by Solicitor Mowry

1 (Defendants comply.)

2 Q How would you describe their respective height?

3 A I'd say Mr. Pulley was probably, or excuse me, Mr.
4 Smiley was probably about 5'5"ish, 5'5", 5'4".

5 Q Okay. And how about Mr. Pulley?

6 A Same thing, same height.

7 Q All right.

8 A 5'5", 5'4".

9 Q All right. So both fairly short?

10 A Right.

11 THE COURT: You may be seated, gentlemen.

12 (Defendants comply.)

13 Q Is this the video you observed?

14 A Yes, sir.

15 Q Were you able to recognize either one of these figures?

16 A Yes, sir.

17 Q Which one?

18 A Mr. Pulley.

19 Q The gentleman behind the counter?

20 A Yes, sir.

21 Q Who was pointing at the register?

22 A Right.

23 Q And that is now taking---

24 A Right.

25 Q ---money out of it?

Christie Cofield - Redirect examination
by Solicitor Mowry

1 A Right.

2 (WHEREUPON, a portion of the video was played for the
3 jury at this time.)

4 Q Captain, were you able to see what kind of clothing the
5 other individual had on?

6 A I don't -- no.

7 Q Okay.

8 A No.

9 Q what is the property sheet -- there, there's a thing
10 down at the bottom where it says personal property receipt.
11 what does that indicate?

12 A This portion right here?

13 Q Yes.

14 A This indicates any property that we take off of the
15 prisoner that we intend to give back --

16 Q Okay.

17 A -- so that it can be accounted for.

18 Q I'm sorry.

19 And that, Your Honor, is with regard to Defendant's
20 Exhibit No. 2. I apologize. I did not point that out.

21 I don't believe I have anything further.

22 THE COURT: Mr. Mitchell, your witness.

23 MR. MITCHELL: I have nothing.

24 THE COURT: Recross.

25 MR. MITCHELL: I have nothing, Your Honor.

Christie Cofield - Recross examination
by Ms. Moore

1 THE COURT: Ms. Moore.

2 MS. MOORE: Yes, thank you. Very briefly.

3 RE CROSS EXAMINATION

4 BY MS. MOORE:

5 Q Captain?

6 A Uh-huh. (Affirmative).

7 Q Isn't it true that this gentleman that you identified
8 as Jakeivan Pulley, during the robbery portion of that
9 video, his face is covered, right?

10 A Correct. Correct.

11 Q So, you can't say definitively that that's Jakeivan
12 Pulley?

13 A I can because I've grown-up with him, and I can -- I
14 know what his face looks like and his facial features. I
15 know how he walks, and it's the same exact walk that was in
16 the video when he first walked into the store. So, from
17 growing up with him, seeing him, knowing him, I can tell you
18 that that was him.

19 Q But, in fairness -- well, describe for him what,
20 what -- describe for us what was distinctive about that
21 person on the video.

22 A His hair, his hairline, the way his hairline was, the
23 portion between his nose and his forehead because the
24 bandanna only covered this portion. So, the -- here and
25 above I can see and I could tell through his hairline.

Christie Cofield - Recross examination
by Ms. Moore

1 Q Okay. But, in fairness, you can't see his nose, right?

2 A Right. Right.

3 Q Can't see his mouth?

4 A Right.

5 Q Right?

6 A Right.

7 Q And, Captain, I believe you've testified that you've
8 been with Laurens City Police for about 12 years?

9 A Correct.

10 Q Could you possibly estimate how many defendants you've
11 come in contact with in 12 years of, of your service?

12 A No.

13 Q So -- and your testimony is, is that it's not possible
14 that it's someone else besides Jakeivan Pulley?

15 A No.

16 Q Even though you can't see his nose?

17 A No.

18 Q Even though you can't see his mouth?

19 A No.

20 Q Thank you.

21 I have no further questions.

22 THE COURT: You may step down, ma'am.

23 The State may call its next witness.

24 SOLICITOR MOWRY: We call Lakasion Robinson.

25 THE COURT: Come over to my right, sir, to be sworn

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 right over here.

2 Please swear the defendant.

3 LAKASION ROBINSON, being first duly
4 sworn, testified as follows:

5 THE COURT: Have a seat please. Once you're seated,
6 sir, state your name.

7 Move close to the microphone please.

8 State your name.

9 WITNESS: My name is Lakasion Robinson.

10 THE COURT: Thank you.

11 Mr. Mowry, your witness.

12 SOLICITOR MOWRY: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY SOLICITOR MOWRY:

15 Q Mr. Robinson, do you go by the nickname of Kasion, is
16 that right?

17 A Yes, sir.

18 Q Do you know these two gentlemen seated here at this
19 table?

20 You need to talk directly into the microphone please.
21 You need to lean forward.

22 A Yes, sir.

23 Q what are their names?

24 A (No response.)

25 Q what are their names?

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 A (No response.)

2 Q Mr. Robinson, let me ask you this.

3 would you rather be anywhere else in the world right
4 now than here?

5 A (No response.)

6 Q Mr. Robinson, are you gonna answer my question?

7 A (No response.)

8 SOLICITOR MOWRY: Your Honor, could we have a, just a
9 minute or two recess?

10 THE COURT: well, what we're gonna do at this time, I'm
11 gonna ask the jury to step back to the jury room. I'll ask
12 you not to begin any discussions about this case until such
13 time as I've instructed you to do so.

14 You may retire to the jury room. Thank you very much.

15 (WHEREUPON, the following takes place outside the
16 presence of the jury.)

17 THE COURT: Now, Mr. Robinson -- first of all, let me
18 ask the State the status of this gentleman's case?

19 SOLICITOR MOWRY: He has pled guilty to the charge of
20 misprision of a felon, Your Honor, related to this charge or
21 these charges.

22 THE COURT: Has he yet been sentenced?

23 SOLICITOR MOWRY: Yes, sir, he pled guilty just before
24 or right at about the same week I started in this office in
25 July of last year.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 THE COURT: Are there any other charges pending against
2 this individual---

3 SOLICITOR MOWRY: None pending against him.

4 THE COURT: ---at this time?

5 SOLICITOR MOWRY: No, sir.

6 THE COURT: All right. Mr. Robinson, I'm going to make
7 you aware of the fact that you do have the right to remain
8 silent if you feel that you might, your testimony might, in
9 some way, incriminate yourself. However, you must inform
10 the Court if you are making use of that particular amendment
11 to the Constitution.

12 Now, other than that, you have an obligation to respond
13 to the questions that have been asked of you. I do not know
14 if you were represented by counsel during -- was he
15 represented by counsel---

16 SOLICITOR MOWRY: Yes, sir.

17 THE COURT: ---during the---

18 SOLICITOR MOWRY: He was represented by Kate Anderson
19 of the Public Defender's Office, Your Honor.

20 THE COURT: Have you consulted with Ms. Anderson
21 concerning your testimony here today?

22 I'm asking you a question, Mr. Robinson.

23 WITNESS: I didn't understand that.

24 THE COURT: You didn't understand.

25 well, let me ask it again then.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 WITNESS: Yeah.

2 THE COURT: Have you consulted -- let me ask the
3 question.

4 WITNESS: Yes, sir.

5 THE COURT: Have you consulted with Ms. Anderson about
6 your testimony here today?

7 WITNESS: Did I talk to her about it?

8 THE COURT: Yes, sir.

9 WITNESS: Today?

10 THE COURT: Let me ask the question again.

11 At anytime have you discussed with your attorney your
12 testimony that, in this case?

13 DEFENDANT: Uh-huh, yes, sir.

14 THE COURT: Okay, sir. Has she given you advice
15 concerning that?

16 WITNESS: Yes, sir.

17 THE COURT: And do you wish to discuss this matter with
18 her further at this time?

19 WITNESS: Uh-huh. (Affirmative).

20 THE COURT: Is that a yes?

21 WITNESS: I got, I got to ask a question.

22 THE COURT: Is that a yes?

23 WITNESS: Yes, sir.

24 THE COURT: So, you'd like to consult with your lawyer
25 before you testify in this case?

1 WITNESS: Yes, sir.

2 THE COURT: I think that would be an excellent idea.
3 So, at this point in time we'll take a short recess.

4 Do you wish to call another witness and perhaps call
5 this gentleman later, give him an opportunity to talk to his
6 lawyer?

7 SOLICITOR MOWRY: I can do that, Your Honor, yes, sir.

8 THE COURT: All right. Sir, I'm gonna ask you to step
9 down. I'm going to ask you to go with the officer over
10 here. If you'll let him have a seat.

11 Is there somebody from your office who can let Ms.
12 Anderson know that she needs to come speak with her---

13 SOLICITOR MOWRY: Yes, sir, Mr. Wilshire can do that.

14 THE COURT: Mr. Wilshire, if you'll let his attorney
15 know that he would like to consult with her about his
16 testimony here today.

17 MR. WILSHIRE: Yes, sir.

18 THE COURT: Thank you, sir.

19 (WHEREUPON, the witness leaves the courtroom.)

20 THE COURT: All right. Are you ready to proceed or do
21 you need a moment?

22 SOLICITOR MOWRY: Your Honor, the, the, the next
23 witness that I would call would be the one that I had talked
24 about yesterday that has the expertise with firearms, and
25 comparison of the gun in the photo of the Defendant Smiley

1 that, that we talked about yesterday with the gun that is in
2 the video.

3 THE COURT: All right. Has that photo been placed into
4 the record yet?

5 SOLICITOR MOWRY: Not yet.

6 THE COURT: Okay. You tell me. I don't know what
7 order you want to call your witnesses in.

8 Are you prepared to call another witness at this time?

9 SOLICITOR MOWRY: I can do that, yes, sir.

10 THE COURT: Okay. All right. Let's bring the jury in.
11 I'll allow him to call the next witness.

12 Ma'am, you need to remain seated until you're called
13 forward. We'll do that shortly.

14 (WHEREUPON, the following takes place within the
15 presence of the jury.)

16 THE COURT: Ladies and gentlemen of the jury, I've
17 asked the State to call an additional witness at this time.

18 Sir, you may call your next witness.

19 Ma'am, excuse me. I'm sorry.

20 SOLICITOR MOWRY: Ms. Commander will call the next
21 witness, Your Honor.

22 THE COURT: All right.

23 SOLICITOR FIELDER-COMMANDER: At this time the State
24 calls Davoris Dorrah.

25 THE COURT: Come forward, ma'am, to be sworn please or

Davoris Dorrah - Direct examination
by Solicitor Fielder-Commander

1 sir, please.

2 DAVORIS DORRAH, being first duly
3 sworn, testified as follows:

4 THE COURT: Have a seat please, sir. Once seated,
5 state your name for me.

6 WITNESS: My name is Davoris Dorrah.

7 THE COURT: Ms. Commander, your witness.

8 DIRECT EXAMINATION

9 BY SOLICITOR FIELDER-COMMANDER:

10 Q Where were you on April 24th, 2011?

11 A I was at home.

12 Q what was your home at that time?

13 A At that time my home was 104 watts Street.

14 Q watts Street.

15 And what county and state is that?

16 A Laurens, South Carolina.

17 Q How far is -- have you had an opportunity to walk past
18 the Guatemex Store in your past?

19 A I have walked past it before, yes, ma'am.

20 Q From your home?

21 A Like from my house, yes, ma'am.

22 Q About how long does it take for you to get to that
23 point?

24 A Not long. Maybe five minutes. Five or ten minutes it
25 take me to---

Davoris Dorrah - Direct examination
by Solicitor Fielder-Commander

1 Q Can you make sure you speak loud into the microphone?

2 A I said not long. Maybe about five or ten minutes.

3 Q On April 24th, 2011, did some people stop by your
4 house?

5 A Yes, ma'am.

6 Q who stopped by your house?

7 A It was, it was Mr. Smiley, Mr. Pulley, and Lakasion
8 Robinson.

9 Q And what do you know them as?

10 A I know, I know them by their nicknames.

11 Q what are heir nicknames?

12 A Kasion, Debo, and J Rock.

13 Q And who is Debo?

14 A Mr. Smiley.

15 Q So, Smiley's name is Debo and J Rock is?

16 A Mr. Pulley.

17 Q Mr. Pulley.

18 And Kasion is Lakasion Robinson?

19 A Lakasion Robinson, yes, ma'am.

20 Q How long have you known these individuals?

21 A I've known their families -- I've, I've hung out with,
22 with Lakasion Robinson older brother and whatnot. I've
23 known that family better than I've know them per se.

24 Q About what time did they come by your home?

25 A I don't know the exact time. It was nighttime. I

1 don't know the exact time. It would of been a little while
2 ago. So, I don't know the exact time they came.

3 Q What did they do when they were at your house?

4 A They just stopped by, wanted to use the bathroom, they
5 called their rides, and we probably sat on the porch for
6 maybe ten, twenty minutes, and---

7 Q And when their rides came, were you in the house or
8 outside the house?

9 A Well, where my house is, where that house is located,
10 you can see cars coming down the street. So, we was all
11 sitting on the porch when they said there was a ride. I was
12 in the house. So, I didn't see who got them in their car or
13 car they got in.

14 Q I'm already -- it's already been admitted into evidence
15 as State's Exhibit No. 6.

16 Mr. Dorrah, can you step down and point to where your
17 house was on April 24th?

18 A (Witness comes down from the stand and points.)

19 Q Well, what's the street here?

20 A This here is my apartment. Yeah, that's my apartment.

21 Q Uh-huh. (Affirmative).

22 A Right there.

23 Q Go ahead and read the street names.

24 A This is North Harper, and this is Camp Street. Watts
25 Avenue, Watts Street. This is [REDACTED] [REDACTED] right here. My

Davoris Dorrah - Direct examination
by Solicitor Fielder-Commander

- 1 house, [REDACTED].
- 2 Q what is -- what is -- what's on your house?
- 3 A what is on my house?
- 4 Q Yeah.
- 5 what do you see on this map?
- 6 what was placed on your house?
- 7 A It's a sticker right there.
- 8 Q what color is the sticker?
- 9 A It's green.
- 10 Q Green sticker.
- 11 And that address again what was?
- 12 A 104 watts Street.
- 13 Q 104 watts Street?
- 14 A Yes, ma'am.
- 15 Q You have to speak up because she's taking---
- 16 A Oh, this is [REDACTED] [REDACTED], street name.
- 17 Q You can have a seat.
- 18 A (Witness returns to the stand.)
- 19 Q Did any of them say what, where they came from?
- 20 A No, ma'am.
- 21 Q Did they say what they had been doing?
- 22 A No, ma'am.
- 23 Q what were their appearance at that time?
- 24 A They didn't, didn't seem out of the ordinary. I mean
- 25 like they just came, came from walking around I guess.

Davoris Dorrah - Direct examination
by Solicitor Fielder-Commander.

1 Q Do you remember what they were wearing that night?

2 A No, ma'am.

3 Q And you said -- what time of day was it?

4 A It was nighttime.

5 SOLICITOR FIELDER-COMMANDER: Nothing further from the
6 State.

7 THE COURT: Mr. Mitchell, your witness.

8 MR. MITCHELL: Yes, Your Honor.

9 May it please the Court?

10 THE COURT: Yes, sir.

11 CROSS-EXAMINATION

12 BY MR. MITCHELL:

13 Q Could you, could you tell me your last name again
14 please?

15 A My last name is Dorrah.

16 Q Dorrah?

17 A Yes, sir.

18 Q All right. And do you know Kasion Robinson, correct?

19 A Yes, sir.

20 Q Do you know if he's in a gang?

21 A No, sir.

22 Q You don't know if he's in a gang?

23 A (Witness nods negatively.)

24 Q So, on the night of four, April 24th, 2011, two of
25 the men that are sitting in here, Mr. Smiley and Mr. Pulley,

Davoris Dorrah - Cross-examination
by Mr. Mitchell

1 came by your house?

2 A Yes, sir.

3 Q And your testimony is they were just on a walk and that
4 they called someone to come pick them up?

5 A Yes, sir.

6 Q And that's all your testimony is really to, today?

7 A Yes, sir.

8 MR. MITCHELL: I have nothing else, Your Honor.

9 THE COURT: Ms. Moore.

10 MS. MOORE: No questions, Your Honor.

11 THE COURT: Sir, you may step down.

12 The State may call its next witness.

13 SOLICITOR FIELDER-COMMANDER: At this time the State
14 calls Deloris Byrd.

15 THE COURT: Come forward please and be sworn. Step up
16 to my right, ma'am.

17 DELORIS BYRD, being first duly sworn,
18 testified as follows:

19 THE COURT: Have a seat please, ma'am, and once you're
20 seated, move close to the microphone and state your name.

21 WITNESS: My name is Laquintheur Deloris Byrd.

22 THE COURT: Your witness, counselor.

23 SOLICITOR FIELDER-COMMANDER: All right.

24 DIRECT EXAMINATION

25 BY SOLICITOR FIELDER-COMMANDER:

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 Q Can you spell your first name for the court reporter?

2 A Yes, it's will L-A-Q-U-I-N-T-H-E-A-U-R.

3 Q Thank you.

4 And you go by Deloris?

5 A Yes.

6 Q Okay. Where were you living on April 24th, 2011?

7 A Laurens Terrace.

8 Q Laurens Terrace.

9 What type of place is that?

10 A It's an apartment complex.

11 Q How far is it from Watts Mills area?

12 A Maybe like four, four miles away from.

13 Q About four miles?

14 A (Witness nods affirmatively.)

15 Q On April 24th, 2011, did someone come to your
16 apartment?

17 A Yes, ma'am.

18 Q Who did?

19 A Sierra Cunningham.

20 Q What did she want you to do?

21 A Take her up to go pick her boyfriend up, that's Debo,
22 and basically just take them to the projects where they need
23 to go.

24 Q What did you decide to do?

25 A I went and took her. I took her up there.

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 Q When you -- before she got in the car, did she have any
2 money on her?

3 A No, ma'am, she just said she wanted to go somewhere.

4 MR. MITCHELL: Objection. Hearsay.

5 THE COURT: Her testimony, I couldn't make it out
6 quite.

7 what was the testimony you're objecting to?

8 MR. MITCHELL: She was saying what, what Sierra was
9 saying.

10 THE COURT: The question was did she have any money on
11 her I think, and---

12 WITNESS: I said no and she just wanted to go
13 somewhere.

14 MR. MITCHELL: Oh, I'm sorry, Your Honor. I thought
15 she was saying what Sierra was saying.

16 THE COURT: I, I didn't hear that she quoted anything.
17 That's the reason I maybe misheard. So, overruled.

18 You may proceed.

19 Q So, April 24th she came to your apartment.

20 where did she live at that time?

21 A Next door.

22 Q Do you know a Porsha Miller?

23 A Yes, ma'am.

24 Q And where did she live?

25 A At the end apartment.

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 Q Is that -- how far is Porsha Miller's apartment from---

2 A Four apartments down.

3 Q How far?

4 A Three apartments down. I'm sorry.

5 Q How far is it from the street, the main street?

6 A The main street, it's not far. It's just right up
7 beside the street.

8 Q Right beside the street?

9 A Yes.

10 Q And what was your apartment number?

11 A 902.

12 Q So, on that night you went to, you agreed to go take,
13 pick up her boyfriend?

14 A Correct.

15 Q And which one is her boyfriend again?

16 A Debo.

17 Q Can you tell us what happened after you went to go pick
18 him up?

19 A Well, we got in the car. We went up Watts Mill. As we
20 was approaching Watts Mills we seeing police lights
21 everywhere, and I was like what is going on. She, she was
22 like she didn't know. So, as we turned down Watts Street,
23 we went to go pick up two, two people, and we got in the
24 car -- well, they got in the car and we turned around and we
25 left.

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 Q And who were the two people that got in your car?

2 A It was J Rock and Kasion.

3 Q Did you want -- did you know where Debo had went?

4 A I didn't ask.

5 Q Did you know why you were picking them up?

6 A No, they just called and said they just needed a ride.

7 That's it.

8 Q And when you got there, what happened after you picked
9 them, they got in your car?

10 A As they got in the vehicle, we left from Watts Street.
11 We continued to go down the street. Well, the Honda Shop is
12 at, on the right-hand side as you go down right across the
13 street from this Car Time where I got pulled over at. And
14 as I got pulled over, the officer had told us that the store
15 had been robbed, that they was looking for somebody, and
16 that's when they had got them out the car.

17 Q Did they also get you out of the vehicle?

18 A Uh-huh. (Affirmative).

19 we just stood out the side.

20 Q Did they search your vehicle?

21 A Yes, ma'am.

22 Q Did they do an extensive search of you?

23 A No, ma'am.

24 Q Did they do an extensive search of Sierra?

25 A No, ma'am.

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 Q Once you -- who did they take from the car at that
2 time?

3 A They took Kasion out first, and they took J Rock out.

4 Q were you able to go back and to go on to about where
5 you were going after that?

6 A Yes, ma'am. well, I had stopped there for a while and
7 did the statement.

8 Q You did the statement first?

9 A Uh-huh. (Affirmative).

10 Q Okay. Once you left Car Time area, who was with you?

11 A Sierra.

12 Q where did y'all go?

13 A we went to the projects.

14 Q And when you went to the projects, was she able to give
15 you any money or anything?

16 A Yes, ma'am. She gave me \$10 for gas.

17 SOLICITOR FIELDER-COMMANDER: Beg the Court's
18 indulgence.

19 THE COURT: Yes, ma'am.

20 (Pause.)

21 Q why did you pick up Kasion and J Rock?

22 A I don't know why because when we, we was riding she
23 just told me we were going to pick Debo up, and when we got
24 up there it wasn't nobody up there but J Rock and Kasion.

25 Q How did you feel when you saw the police in the area?

Deloris Byrd - Direct examination
by Solicitor Fielder-Commander

1 A I felt very nervous because I ain't know what was going
2 on for one, and when they stopped me, I was even more
3 nervous because I didn't do anything for one. why did they
4 stop me until I found out why they the one stopped me.

5 Q How did you feel now that you found out what was going
6 on?

7 How do you feel now or how did you feel after that
8 point of fact and when the police told you what was going
9 on?

10 A I was mad. I was mad simply I got stopped, and I was
11 mad because J Rock got in trouble, and that that was just,
12 that was just it.

13 Q Are you still friends with Sierra Cunningham?

14 A Hu huh. (Negative).

15 Q why not?

16 A Cause she got me in this trouble, and I didn't want to
17 come up here and testify against him.

18 SOLICITOR FIELDER-COMMANDER: Nothing further from the
19 State.

20 THE COURT: Yes, Mr. Mitchell. Your witness.

21 CROSS-EXAMINATION

22 BY MR. MITCHELL:

23 Q So, on the -- may I approach, Your Honor?

24 THE COURT: You may.

25 Q On the night that that, that this all happened, you

Deloris Byrd - Cross-examination
by Mr. Mitchell

1 were asked to actually pick up Mr. Smiley?

2 A Uh-huh. (Affirmative).

3 Q But you didn't pick him up?

4 A No, sir.

5 Q So, you picked up J Rock and Kasion?

6 A Correct.

7 Q And did they have any money on them?

8 A I didn't see anything.

9 Q Did they give you any money?

10 A No, sir.

11 Q Did they give Sierra any money?

12 A No.

13 Q And the police did search your vehicle for money?

14 A Yes.

15 MR. MITCHELL: I have nothing else for this witness,

16 Your Honor.

17 THE COURT: All right. Ms. Moore, your witness.

18 MS. MOORE: No questions, Your Honor.

19 THE COURT: Anything further from the State?

20 SOLICITOR FIELDER-COMMANDER: Beg the Court's

21 indulgence.

22 (Pause.)

23 SOLICITOR FIELDER-COMMANDER: Just a few questions,

24 Your Honor.

25 THE COURT: Yes, ma'am.

Deloris Byrd - Redirect examination
by Solicitor Fielder-Commander

1 REDIRECT EXAMINATION

2 BY SOLICITOR FIELDER-COMMANDER:

3 Q The opposing counsel asked if Sierra, if anyone gave
4 Sierra any money.

5 Is that -- did -- do you remember that question?

6 A Yes, I remember it.

7 Q Do you remember any exchange taking place in your
8 vehicle?

9 A The only thing I heard was okay, J Rock gave Sierra his
10 wallet and the phone, and I heard them say get this money.
11 I don't -- I can't -- I don't -- I'm not sure, but when
12 she -- when we left off, when we left from the police, she
13 had money on her.

14 SOLICITOR FIELDER-COMMANDER: Okay. Nothing further.

15 THE COURT: Anything, follow-up questions,
16 Mr. Mitchell?

17 MR. MITCHELL: No, Your Honor.

18 THE COURT: Ms. Moore.

19 MS. MOORE: No, Your Honor.

20 THE COURT: All right, ma'am. You may step down.
21 Thank you very much.

22 The State may call its next witness.

23 SOLICITOR MOWRY: Your Honor, could we approach for
24 just a moment?

25 THE COURT: Yes, you may.

1 Counsel.

2 (WHEREUPON, a bench conference was held out of the
3 hearing of the jury at this time.)

4 THE COURT: All right. Ladies and gentlemen, given the
5 way the witnesses are falling, we're gonna stop at this time
6 for lunch. It's about 12 minutes till 12:00. So, it's a
7 good time to do that.

8 We -- as always, I'll give you the same instructions
9 when you leave the courthouse, and that is not to discuss
10 this case with anyone. Don't allow anyone to discuss it
11 with you. Don't listen to, watch, or read any media reports
12 concerning this case. Don't attempt to gather any
13 information outside of the courthouse.

14 Should anyone attempt to or contact you concerning your
15 service on this jury panel, please report that to the Court.
16 I can assure you I'll see that the appropriate action is
17 taken should that occur.

18 I'll ask you to be back in the jury room at one o'clock
19 this afternoon. We should be in a position to resume the
20 trial at that time.

21 Have a good lunch. You're free to go.

22 Remain seated while the jury retires please.

23 (WHEREUPON, the following takes place outside the
24 presence of the jury.)

25 THE COURT: All right. Court is in recess until one

1 o'clock.

2 Defendants remain in custody.

3 Thank you very much.

4 (WHEREUPON, Court was in recess for the lunch break.)

5 THE COURT: All right. Based on our in camera
6 discussion, it's my understanding the State intends to
7 recall a previous witness.

8 SOLICITOR MOWRY: Yes, sir.

9 THE COURT: Is that correct?

10 I'm gonna ask that witness to return to the stand.
11 Sir, if you'll come back to the witness stand please,
12 sir.

13 (Witness returns to the stand.)

14 THE COURT: I'm going to remind the witness that he has
15 already been sworn in this case to tell the truth. If
16 you'll have a seat, sir, and you remain under that oath at
17 this time.

18 Now, it's my understanding that the, before we begin
19 the presentation of his testimony, that the defense wishes
20 to make a proffer in the matter. I don't know if
21 Mr. Mitchell or Ms. Moore wishes to go first.

22 Ms. Moore, do you wish to go first?

23 MS. MOORE: I would, Your Honor.

24 THE COURT: All right. I'll allow you to question the
25 witness in the form of a proffer.

1 MS. MOORE: May I approach the witness, Your Honor?

2 THE COURT: You may.

3 MS. MOORE: Thank you.

4 LAKASION ROBINSON, having been
5 previously sworn, testified as follows:

6 CROSS-EXAMINATION

7 BY MS. MOORE:

8 Q Hello, Mr. Robinson. I'm Scarlet Moore, and I
9 represent Jakeivan Pulley. I just have a few questions to
10 ask you.

11 Have you been offered anything or a grant of immunity
12 relating to a fine, forfeiture, sentence, charge reduction,
13 prosecution, or punishment in this or any other potential
14 case?

15 A No, ma'am.

16 Q You haven't been offered anything?

17 A No, ma'am.

18 Q Okay. And have you been given any promises or rewards
19 or inducements in this case---

20 A No, ma'am.

21 Q In exchange for your testimony?

22 A (No response).

23 Q Let me, let me -- Your Honor, let me ask it another
24 way.

25 Is it your intent to testify in this case today?

1 THE COURT: Sir, if you'll move a little closer to the
2 microphone. I'm not sure I can hear everything you're
3 saying.

4 A Are you saying yeah, well, I want to testify or---

5 Q No, that's not what I'm asking.

6 Are, are you going to take the witness stand and
7 testify in this case?

8 A Yes.

9 Q Yes, you are?

10 A Yes.

11 Q Okay. And are you doing that because you've been made
12 an offer or you've, that you have been made an offer in
13 regard to a fine, a forfeiture, sentence, charge reduction,
14 prosecution, or punishment in this or any other case?

15 Is that why you're testifying?

16 A They say it got something to do with my probation.

17 Q I'm sorry. I can't---

18 A They said it was like -- they said it was a deal.

19 MS. MOORE: May I follow-up, Your Honor?

20 THE COURT: Beg your pardon?

21 MS. MOORE: May I follow-up, Your Honor?

22 THE COURT: Well, I'm not sure -- did you say there is
23 a deal?

24 WITNESS: No, they said it was a deal that I, that I
25 got probation, that I testify.

1 MS. MOORE: May I follow-up, Your Honor?

2 THE COURT: Well, ma'am, I'll allow you to follow-up.

3 Now, he's saying the deal was he would get probation. I

4 think the plea record would speak for itself on whether

5 there was a recommendation of probation or whether there was

6 a negotiated sentence of some kind. I'll let you ask him

7 about it, but I'm also gonna take a look at the plea record

8 on the case.

9 MS. MOORE: Thank you, Your Honor.

10 THE COURT: I'm not sure he understands what you're

11 asking him exactly.

12 MS. MOORE: I'm trying---

13 THE COURT: And I do intend to look at the plea record

14 in the case.

15 CONTINUED CROSS-EXAMINATION

16 BY MS. MOORE:

17 Q You say that it was, it's -- it was a deal related to
18 your probation?

19 Is that what you said?

20 A I don't -- (witness shakes negatively.)

21 I don't get it.

22 MS. MOORE: I'm sorry. I can't -- I'm sorry, Your

23 Honor. I can't understand the witness.

24 THE COURT: I can't either.

25 Sir, you got---

1 A I don't get it. I don't get it.

2 THE COURT: Sir, you've got to speak into the
3 microphone. Get up there and talk to me and speak up so I
4 can hear you so we can get this done. Please speak so
5 everyone can hear what you're saying.

6 Q Go ahead. Answer the question.

7 A Ask me again.

8 Q Okay. You, you stated that, that it was your
9 understanding or there was a, a deal for probation, is that
10 correct?

11 A Yes, ma'am.

12 Q Okay. And why, why do you say that?

13 A I -- because of probation. They said that, that what I
14 come back and testify.

15 MR. MOORE: Okay. And may I ask one follow-up
16 question, Your Honor?

17 THE COURT: Yes, ma'am.

18 Q And when you say they, who do you mean is they?
19 A who I was talking to.

20 Q Is it the state?

21 A Yeah.

22 Q Or, or the prosecutor?

23 A No. No, ma'am.

24 Q It wasn't a prosecutor?

25 A I don't think so.

1 Q It wasn't -- do you know who it was?

2 A No, ma'am.

3 MS. MOORE: Okay.

4 THE COURT: Anything further you'd like to ask him?

5 MS. MOORE: No. No, Your Honor.

6 THE COURT: All right. Thank you.

7 MS. MOORE: Thank you, judge.

8 THE COURT: Mr. Mitchell, any questions?

9 MR. MITCHELL: Yes, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. MITCHELL:

12 Q Mr. Robinson, I represent Mr. Smiley.

13 Could -- do you remember what you originally charged
14 with in this case?

15 A What I had, what I had on my warrant?

16 Q Right.

17 A Armed robbery and conspiracy.

18 Q A conspiracy to commit armed robbery?

19 A And armed robbery.

20 Q And armed robbery.

21 And how did that -- how did it come about that you were
22 only charged or that you pled guilty to -- I'm sorry.

23 What, misprision---

24 SOLICITOR MOWRY: Misprision of a felony.

25 Q How did that come that your charges were reduced from

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 those two big things to that smaller thing?

2 A Cause I told them I hid my shirt and where I hid it at.

3 Q All right. So, you gave them some leads in the case?

4 You told them some things about the case that they
5 didn't know before?

6 A Nah.

7 Q You told the detective that?

8 A Nah.

9 Q So, why did they drop your charge down from armed
10 robbery/conspiracy?

11 why did they drop it down for you?

12 A I don't know.

13 Q You don't know.

14 All right. I have nothing else, Your Honor.

15 THE COURT: Thank you.

16 State wish to ask any questions?

17 SOLICITOR MOWRY: No, sir.

18 THE COURT: All right. Any motions in connection with
19 this witness' testimony?

20 MS. MOORE: Beg your indulgence, Your Honor.

21 THE COURT: Yes, ma'am.

22 MS. MOORE: Thank you.

23 (Pause.)

24 MS. MOORE: Your Honor, at this time I would move to
25 exclude the testimony of Mr. Robinson. Your Honor, I did,

1 in fact, serve upon the prosecution a Rule 5 and Brady
2 motion, Your Honor. Provisions 3 and 4 of Brady requests
3 are exactly what I, I asked of Mr. Robinson, Your Honor, and
4 from my client's prospective, he, he was, in fact, offered
5 something in exchange for testimony. He is testified that
6 he thought there was a deal in place. It's clear to me, on
7 the basis of Mr. Robinson's statements, that, that his
8 understanding was that, that something was gonna happen if
9 he didn't testify, Your Honor.

10 So, at this time I would move to exclude his, his
11 testimony. Your Honor, I don't know if this is an
12 appropriate time either, but I would also move to exclude
13 his testimony under Rule 601.

14 would the Court entertain that motion as well?

15 THE COURT: Certainly.

16 MS. MOORE: Your Honor, Rule 601 states, in regard to
17 witnesses and the evidence code, talks about competency, and
18 Provision B says a person is disqualified if, one, incapable
19 of expressing himself so as to be understood either directly
20 or by an interpreter, and then certainly Provision 2 is
21 incapable of understanding the duty to tell the truth, Your
22 Honor.

23 I have grave concerns, in this criminal case, that,
24 based on what we've seen so far, that Mr. Robinson is not
25 going to, to satisfy Rule 601.

1 THE COURT: I assume what you're talking about is
2 601(b)(1)?

3 Is that the basis of your motion?

4 MS. MOORE: It is, Your Honor.

5 THE COURT: All right. I'll hear from you,
6 Mr. Mitchell.

7 Do you wish to be, comment on either of the motions
8 made by Ms. Moore?

9 MR. MITCHELL: Your Honor, I believe that my client's
10 position is the same as Mr. Pulley's, and I would concur and
11 make the same motion.

12 THE COURT: All right. I'll hear from the State.

13 SOLICITOR MOWRY: Your Honor, he was competent enough
14 to enter into a guilty plea. He was competent enough to
15 make a statement to Detective Riggott. So, I would say that
16 this does not, does not qualify in the least.

17 THE COURT: Well, as far as Rule 601, while it is
18 difficult to hear him, he did respond appropriately to the
19 questions that were asked. There was no challenge made to
20 the witness as to whether or not he understood a duty to
21 tell the truth. So, as to the question of competency, it
22 would be my finding that, while it was difficult to hear
23 him, I think those issues can be resolved.

24 In fact, they were resolved during his testimony, and
25 I'm not gonna find that he's not competent to testify.

1 There's no showing that he's ever been adjudicated or, or
2 examined as determined to be not competent to handle his own
3 affairs. So, I'm gonna allow him to testify.

4 Now, as to the other question that's before the Court,
5 I'll hear from the State on that.

6 SOLICITOR MOWRY: Your Honor, I have a copy of the plea
7 sheet as -- I'm just gonna go ahead and put on the record
8 what I told you back in chambers, Your Honor, when all of us
9 were back there discussing this case.

10 Mr. Robinson entered his guilty plea on, get you the
11 exact date, actually I can't find it immediately, 7/20/11
12 during the first week basically that I was employed in this
13 office. Another attorney whose place I was going to be
14 taking named Ron Fleming is the one that entered into the
15 negotiations with Kate Anderson from the Public Defender's
16 office to allow the defendant to plead guilty to misprision
17 of a felony.

18 There's absolutely nothing on this plea sheet that I
19 have here that I will give to the Court to indicate that
20 that, there was any kind of deal. I certainly did not enter
21 into one with him. I was not privy to any conversations
22 that might of been undertaken in this matter.

23 So, as far as inducement for testimony, I don't know
24 that there is any. I have no proof of anything. I have, I
25 have been forthright to the defense attorneys. I don't

1 think there's anything that is inducing his testimony.

2 THE COURT: Is there anything in the State's file that
3 would indicate some type of written agreement---

4 SOLICITOR MOWRY: No, sir.

5 THE COURT: ---between counsel concerning content of
6 testimony or what he would say in this particular case?

7 SOLICITOR MOWRY: I'm aware of nothing, Your Honor. If
8 there was anything, it would of been an informal vocal
9 agreement, oral agreement that he would come back and
10 testify for us. I'm not -- but I'm not even aware of that.

11 THE COURT: well, I'll hear from you, Ms. Moore.

12 I'm looking at the sheet. The plea sheet indicates
13 that he pled to a charge of misprision of a felony. I
14 realize, it appears from this, that he had not been indicted
15 on that charge. However, he did waive indictment and did
16 plead. I know you've had an opportunity to also discuss
17 this with his counsel at that time.

18 Is there anything else that you'd like to present to
19 the court other than his testimony this morning that, this
20 afternoon, excuse me, that would indicate there was any type
21 of an arrangement or deal for what he would testify to, the
22 content of his testimony?

23 MS. MOORE: May we approach the bench, Your Honor?

24 THE COURT: Yes, ma'am.

25 MS. MOORE: Thank you.

1 (WHEREUPON, a bench conference was held at this time.)

2 THE COURT: All right. My understanding at, about the
3 side bar, Ms. Moore, you wish to call Mr. Robinson's
4 attorney, Ms. Anderson, for this proffer, is that correct?

5 MS. MOORE: I would, Your Honor.

6 THE COURT: All right. Mr. Robinson, I'm gonna ask
7 that you step down and have a seat in the gallery.

8 Ms. Anderson, if you'll come forward please.

9 MS. MOORE: Your Honor, just, just for abundance of
10 caution, I, I do, I do want to note my objection, for the
11 record, in regard to the Court's ruling on the 60, my 601
12 motion, Your Honor.

13 THE COURT: You've made your motion made, I've made my
14 ruling, and you certainly have the right to appeal it if you
15 wish.

16 MS. MOORE: I just want that noted for the record.
17 Thank you, Your Honor.

18 THE COURT: It's in the record.

19 MS. MOORE: Thank you, judge.

20 THE COURT: Step up please ma'am.

21 KATE ANDERSON, being first duly sworn,
22 testified as follows:

23 THE COURT: All right, ma'am. Have a seat please.
24 State your name.

25 WITNESS: Kate Anderson Kendall with the Public

Kate Anderson - Direct examination
by Ms. Moore

1 Defender's Office.

2 THE COURT: Thank you.

3 Your witness.

4 MS. MOORE: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MS. MOORE:

7 Q Is it Mrs. Anderson-Kendall or Mrs. Kendall?

8 A I go by Mrs. Kendall legally.

9 Q Okay. Mrs. Kendall, you represent Lakasion Robinson?

10 A I represented Lakasion Robinson.

11 Q Okay. And did you represent him during the course of
12 a, a guilty plea following his arrest in regard to the
13 incidents that we are trying in this case?

14 A Yes.

15 Q Okay. I'm gonna read these -- I'm gonna read these,
16 read these provisions to you.

17 To your knowledge, were, were there any, any promises,
18 rewards, inducements made to a codefendant in this case
19 whether or not they will testify at trial?

20 A The best thing to look at would be the guilty plea
21 transcript. As far as a written agreement or an oral
22 agreement of you get to plea because you testified, no. I
23 do believe, during the guilty plea, I mentioned that he
24 would cooperate and I told him that he may be called as a
25 witness in this trial.

Kate Anderson - Direct examination
by Ms. Moore

1 Q Okay. And I believe that when we were meeting in
2 chambers you used the word cooperation?

3 A Yes.

4 Q Is that an accurate -- well, strike that.

5 I guess the key question here is will there, in fact,
6 be consequences to Mr. Robinson if he does not testify today
7 in regard to what happened at that plea?

8 A In his regards to his plea, no, that case has been
9 closed.

10 Q Okay. So, if, if he, his probation can't be revoked,
11 is that correct?

12 A Unless he just does not answer questions and could be
13 held in contempt. I don't believe his probation could be
14 revoked for not testifying today unless there was a citation
15 for contempt or something.

16 Q Okay.

17 A And I'd have to look at that a little bit more, but
18 there's no violation of his probation if he didn't testify.
19 It's not a term of his probation.

20 Q So, the bottom line is, is, whether he testifies or he
21 doesn't testify, your testimony is that that is not, in
22 fact, a term of his probation in, in and of itself?

23 A It's not -- I don't believe -- it should not be a term
24 of his probation to have to testify today. But I do believe
25 I said there would be cooperation during the guilty plea,

Kate Anderson - Direct examination
by Ms. Moore

1 and the best thing to look at would be the transcript
2 word-for-word. It's been sometime.

3 Q Okay. Thank you.

4 I have no further questions of this witness, Your
5 Honor.

6 THE COURT: Mr. Mitchell, do you wish to ask any
7 questions of the witness?

8 MR. MITCHELL: No. No, Your Honor.

9 THE COURT: Just for the record, Mrs. -- is it Mrs.
10 Kendall?

11 WITNESS: Yes, Your Honor.

12 THE COURT: Mrs. Kendall, in chambers I inquired of you
13 as -- let me set the foundation for the question. I had
14 earlier, because of a request from Mr. Robinson, asked that
15 you consult with him because he indicated you were his
16 lawyer and he would like to consult with you concerning his
17 testimony here today.

18 Have you, in fact, consulted with him?

19 WITNESS: I have.

20 THE COURT: I asked you directly, if, to your
21 knowledge, Mr. Robinson intends to claim the Fifth Amendment
22 right and at that time you informed me that he did not.

23 Is that still the case as far as you know?

24 WITNESS: Yes, Your Honor.

25 THE COURT: All right. Any follow-up questions to

Kate Anderson - Cross-examination
by Solicitor Mowry

1 that?

2 SOLICITOR MOWRY: Just a couple, Your Honor.

3 THE COURT: Yes, sir, Mr. Mowry.

4 CROSS-EXAMINATION

5 BY SOLICITOR MOWRY:

6 Q Mrs. Kendall, prior to the guilty plea, were you aware
7 of a, of a statement that Mr. Robinson had made to Detective
8 Riggott?

9 A Yes.

10 Q Okay. That laid out his versions of the facts?

11 A I'm aware he wrote a statement, yes.

12 Q Okay. Were you aware of the video also that existed---

13 A Yes.

14 Q ---in the case?

15 Did you look at the video?

16 A I did.

17 Q Did you compare the video with the statement that he
18 made?

19 A I believe so, yes.

20 Q And did not the, the statement that he made coincide
21 with what you saw in the video?

22 Do you recall?

23 A I'd have to rewatch the video. It's been quite
24 sometime since I've read that statement and fully watched
25 the video.

Kate Anderson - Cross-examination
by Solicitor Mowry

1 Q Was there anything that struck you, after reading his
2 statement and seeing the video, that, that he had told an
3 untruth?

4 A I'd have to---

5 Q Okay. That's fine. I'm sorry.

6 A ---look at the evidence.

7 Q But based on the fact that he had given the statement,
8 would it surprise you that the State was wanting to use him
9 as a, as a witness in this case?

10 A No.

11 Q Okay. Thank you.

12 That's all.

13 THE COURT: Any other questions, Ms. Moore?

14 MS. MOORE: No, Your Honor.

15 THE COURT: Mr. Mitchell?

16 MR. MITCHELL: No, Your Honor.

17 THE COURT: Thank you. You may step down,

18 Mrs. Kendall.

19 Any other evidence, Ms. Moore, that you want to present
20 in the proffer?

21 MS. MOORE: No, Your Honor.

22 THE COURT: Mr. Mitchell, anything you'd like to
23 present?

24 MR. MITCHELL: No, Your Honor.

25 THE COURT: All right. I'll hear from you concerning

1 this issue, Ms. Moore.

2 Any further argument?

3 MS. MOORE: Your Honor, at the heart of Brady is
4 fairness, and not only that, but we are talking about, and
5 we have a statutory right to any and all promises, rewards,
6 or inducements made to codefendants in the course of an
7 action, Your Honor. We also are entitled to any offers in
8 regard to charge reduction, prosecution, or punishment in
9 this and/or any other case, Your Honor.

10 It doesn't say anything that's actually written in, in
11 paper. The question becomes why is this defendant
12 testifying.

13 In his mind, does he think that he has been offered and
14 there's going to be some type of penalty or specifically a
15 punishment if, in fact, he does not testify?

16 And I do believe, Your Honor, that that's what the
17 question is before this Court, and, Your Honor, when I hear
18 defense counsel make the statement, use the word
19 cooperation, I have grave concerns about, about whether or
20 not the defense is been provided with all the information
21 that we need in regard to this, this issue, Your Honor.

22 So, I would ask that this, this testimony be excluded,
23 Your Honor.

24 THE COURT: Mr. Mitchell.

25 MR. MITCHELL: The, the testimony -- the -- this is one

1 question that we have had from the very beginning as to why
2 he is not being charged with conspiracy, why he's, because
3 of the fact that, that I think we're gonna hear testimony
4 that all three of them were involved outside the store
5 planning this. we're gonna hear testimony later that he was
6 involved in after the fact, what went on after.

7 And, so, because he was not charged with conspiracy, he
8 was not charged with armed robbery, it begs the question why
9 was he not charged with these things if he is a party to
10 this crime, a codefendant, as everyone, as everyone else.
11 The fact that his, his sentence or his charge went from, you
12 know, something very serious down to, I'm sorry, I keep
13 messing up this word---

14 THE COURT: Misprision of a felony.

15 SOLICITOR MOWRY: Misprision---

16 MR. MITCHELL: That makes it---

17 THE COURT: Now, that carries, that carries up to ten
18 years?

19 MR. MITCHELL: But his sentence was only or his, his
20 agreement was only probation. It begs the question why is
21 this reduction being happened so dramatically for this
22 codefendant.

23 THE COURT: well, now, there -- according to the plea
24 sheet, there's a recommendation made by the State. I don't
25 know about the judge that took the plea. I can tell you

1 that this judge makes it clear to every defendant it's a
2 recommendation. I'm not required to follow it, and that's
3 not a promise or a guarantee.

4 MR. MITCHELL: Yes, Your Honor.

5 But that -- my, my argument is that there was something
6 that went down that gave him this very sweet deal, and we
7 are not left -- neither one of the defendants' attorneys
8 were, were given any information about this.

9 THE COURT: Well, now, just one, just one second. Let
10 me ask a question because the testimony of the, the attorney
11 that handled the plea indicated that she, at the plea,
12 taking of the plea, which was July of last year, she
13 mentioned the fact that he would cooperate with the State.
14 That's a public record available to any of you that could of
15 seen it.

16 Isn't that out there?
17 wasn't it out there for over a year?
18 Ma'am?

19 MR. MITCHELL: I was under the assumption that a Brady
20 motion asked for the prosecution to give us what they know,
21 and that would be one of the things that they would know.

22 THE COURT: Well, let's look at what Brady says.
23 Anything else?

24 MR. MITCHELL: No, Your Honor.

25 THE COURT: Ma'am?

1 MS. MOORE: Your Honor, I would, I would just submit to
2 the Court that, that it is a statutory obligation for the
3 State to do that, and, Your Honor, in a criminal case, the
4 defendant does not have any obligation to do anything, and,
5 again, it's the obligation---

6 THE COURT: No, there's no obligation to present
7 evidence. That's for sure. There's an obligation on
8 defense counsel's part to do research and look into things.

9 MS. MOORE: But, Your Honor, again, there's an
10 affirmative duty, statutory duty upon the prosecutor to give
11 us Brady material, Your Honor. Thank you.

12 THE COURT: Thank you, ma'am.

13 MS. MOORE: Thank you, judge.

14 THE COURT: Mr. Mowry.

15 SOLICITOR MOWRY: Your Honor, if it pleases the Court.

16 As I stated in chambers, I have examined the, the case
17 myself. Mr. Robinson made a confession that dovetails with
18 what we can see in the video. You can see---

19 THE COURT: when was the confession given?

20 SOLICITOR MOWRY: The confession was given that night,
21 the, the -- early the next morning after he was caught.

22 THE COURT: Is that been in the possession of the --?

23 SOLICITOR MOWRY: All of that---

24 THE COURT: The trial---

25 SOLICITOR MOWRY: ---was part of the original

1 discovery, Your Honor.

2 THE COURT: Thank you.

3 Go ahead.

4 SOLICITOR MOWRY: And given the circumstances, given
5 you can see on the video Mr. Robinson walk away from the
6 scene and continue down the street, I mean there, there was
7 some question in my mind as to what -- perhaps whether he
8 was guilty of even misprision of a felony. Given what he
9 was charged with, obviously that entered into the plea.

10 But the plain fact of the matter is that his actions
11 that night, as seen on the video, would indicate that he was
12 not guilty of armed robbery or possession of a firearm
13 during the commission of a violent crime. It could be
14 argued whether or not he was guilty of conspiracy, but the,
15 the plain fact of the matter is misprision of a felony
16 carries twice as much time as a potential conspiracy charge
17 does.

18 So, he had more liability as far as potential prison
19 sentence was concerned with misprision than he did with
20 conspiracy.

21 THE COURT: I'm gonna take a short recess.

22 Court's in recess at this time.

23 SOLICITOR MOWRY: Thank you, Your Honor.

24 MS. MOORE: Thank you, Your Honor.

25 (WHEREUPON, a short recess was taken at this time.)

1 SOLICITOR MOWRY: Your Honor, would you need to hear
2 from Mr. Hammock?

3 He has reviewed the electronic copy of the file. It's
4 all been scanned and shredded. He went through it in
5 looking for any kind of written agreement, any kind of
6 notation that there was an agreement, and found nothing but
7 he can come in and report on that if you, if you need.

8 THE COURT: I think it would be wise to put that on the
9 record.

10 SOLICITOR MOWRY: Good.

11 THE COURT: Let's be sure we get the other defendant in
12 here before we call him.

13 SOLICITOR MOWRY: Yes, sir.

14 (Pause.)

15 THE COURT: All right. You indicated that you might
16 wish to call Mr. Hammack concerning a review of the file in
17 this case?

18 SOLICITOR MOWRY: Yes, sir.

19 THE COURT: I'm allow you to do so.

20 SOLICITOR MOWRY: Call Jack Hammack.

21 THE COURT: Sir, come forward and be sworn to my right
22 please.

23 JACK HAMMACK, being first duly sworn,
24 testified as follows:

25 THE COURT: State your name once you're seated please,

Jack Hammack - Direct examination
by Solicitor Mowry

1 sir.

2 WITNESS: Yes, sir, Jack William Hammack, Junior.

3 THE COURT: Mr. Mowry, I'll allow you to take testimony
4 from this individual.

5 SOLICITOR MOWRY: Thank you, Your Honor.

6 DIRECT EXAMINATION

7 BY SOLICITOR MOWRY:

8 Q Mr. Hammack, you are a deputy solicitor for the Eight h
9 Judicial Circuit, is that right?

10 A Yes, sir.

11 Q And you're headquartered in Laurens, is that right?

12 A Yes, sir.

13 Q But you also do work in Newberry County?

14 A Yes, sir.

15 Q Were you employed in that capacity back in the Spring
16 and early Summer of 2011?

17 A I was.

18 Q So, you were employed in that capacity on the date of
19 the armed robbery of the Guatemex and on the date of the
20 plea for Lakasion Robinson, is that right?

21 A Yes, sir.

22 Q Who in the solicitor's office handled that particular
23 case?

24 A Ron Fleming.

25 Q Was Mr. Fleming well versed with electronic

Jack Hammack - Direct examination
by Solicitor Mowry

1 recordkeeping or anything?

2 A No, sir.

3 Q Have you attempted to find the written file, the, the
4 hard copy file in this case?

5 A The paper file has been sent to Greenwood. It's been
6 scanned and shredded. I have an electronic copy, but the
7 hard copy no longer exists.

8 Q All right. So, have you reviewed, in the, in the
9 interim since this hearing started, have you reviewed the
10 electronic copy of the file?

11 A I have.

12 Q Do you find any notation whatsoever that would involve
13 any kind of agreement, any kind of meeting of the minds in
14 order to get the guilty plea for Mr. Robinson?

15 A No, sir.

16 Q Mr. Fleming, how long did you work with him?

17 A Five or six years.

18 Q There has been some question -- Mrs. Kendall testified
19 that, that in the guilty plea there was probably some
20 agreement for cooperation.

21 would you characterize that as the kind of plea that
22 Mr. Fleming might of made?

23 A It would be somewhat speculation because I do not
24 remember this particular plea, but my---

25 Q Knowing Mr. Fleming as you did.

Jack Hammack - Direct examination
by Solicitor Mowry

1 A Knowing Mr. Fleming as I did, he would have reviewed
2 the file. Based on the information I do know about the
3 case, would have come to the conclusion that the appropriate
4 charge was misprision of a felony and offered a plea to
5 that.

6 Q would -- and what about testimony or any kind of
7 inducement to, to, to enter the plea?

8 A Certainly if, if the defendant, excuse me, a
9 codefendant wanted to testify, I'm sure and certain he
10 wouldn't discourage it. However, I don't think he would of
11 conditioned the plea on that.

12 Q Okay. Thank you, sir. That's all I have.

13 THE COURT: Questions, Mr. Mitchell?

14 MR. MITCHELL: No, Your Honor.

15 THE COURT: Ms. Moore.

16 MS. MOORE: Just briefly.

17 THE COURT: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MS. MOORE:

20 Q You're speculating though, Mr. Hammack, aren't you?

21 A Absolutely. I have no -- Mr. Fleming handled it. I
22 didn't handle it with him.

23 Q Thank you.

24 No further questions.

25 THE COURT: All right. You may step down. Thank you.

Jack Hammack - Cross-examination
by Ms. Moore

1 WITNESS: Thank you, Your Honor.

2 THE COURT: Any additional discussion after that
3 testimony, Ms. Moore?

4 MS. MOORE: No, Your Honor.

5 THE COURT: Mr. Mitchell.

6 MR. MITCHELL: Nothing, Your Honor.

7 THE COURT: Mr. Mowry.

8 SOLICITOR MOWRY: No, sir.

9 THE COURT: All right. It appears to me that there's
10 several factors in this matter that stand out to the Court.

11 First of all, a voluntary statement was made by Mr.
12 Robinson. Now that's not in evidence at this point in time,
13 but it's been characterized, during this hearing, as a
14 statement which lays out information that coincides with
15 evidence that is in the record in this case, which is the
16 videos that have already been put in the record and played.

17 I have not heard that his testimony, in this case, is
18 expected to be anything other than what is in the statement
19 that he had already given to the police the night of this
20 occurrence. That particular statement has been provided to
21 both defendants in a written form and is been available to
22 them throughout this particular proceeding.

23 The question concerning his plea, and whether or not
24 his current statement is somehow induced or brought about by
25 some promise or guarantee or, or some agreement does, that

1 does not appear from the documents from the plea. It does
2 appear that a recommendation was made by the State in this
3 case, which is not unusual for the State to make
4 recommendations.

5 Generally Trial Courts, accepting pleas, inform
6 defendants that recommendations are recommendations. While
7 we pay attention to them, we're certainly not bound by them.
8 The judge has the right to sentence any defendant up to the
9 maximum in any charge where a recommendation is made. It is
10 simply a recommendation.

11 Now, that plea was conducted in public, and the
12 testimony of Mr. Robinson's attorney was that the fact that
13 he was going to "cooperate" in this case was made public at
14 this time by a statement made during the plea. That
15 information would of been available to counsel for the
16 defense at that time had they attended the plea or had they
17 obtained a transcript of that plea.

18 I'll call counsel's attention to the case of Anderson
19 versus Leake, a South Carolina Supreme Court case, 1978. I
20 do not find that that case has ever been overruled or over,
21 or overturned, and a quote from that case says "the Brady
22 rule pertaining to suppression of evidence by prosecution
23 applies only to favorable evidence which the prosecution
24 has, but which is unavailable to the defendant. Where
25 evidence is equally available to the accused, the obligation

1 on the part of the State to furnish such evidence to the
2 accused is relieved."

3 In this particular case, a public plea in which
4 statements were made that cooperation by a pleading
5 defendant would be given in a future case, that information
6 was public at that time. It was available to both sides in
7 this case.

8 I find that there is no evidence of any other written
9 agreement or any other agreement in this case. There is not
10 been any documentation indicating that, and in this
11 particular case the defendant has pled and been sentenced.
12 He is currently on probation on that case. Whether or not
13 his testimony today is favorable or unfavorable, I do not
14 find that there is anything from what's been placed in the
15 record of this Court that would indicate that he would
16 somehow either be punished or rewarded at this time since he
17 has already pled and already been sentenced.

18 The only possible consequence could be, if the
19 defendant were to refuse to honor a subpoena or to refuse to
20 testify to matters that are not privileged under the law,
21 under the Fifth Amendment, or any other privilege, then this
22 Court could take action to hold that a person refusing to
23 testify under those circumstances in contempt. That has not
24 yet occurred in this case.

25 The defendant appeared on the stand. He asked for the

1 advice of his attorney. He was granted an opportunity to
2 have that advice. He is now informed the Court that he does
3 intend to testify in this case. I see no reason for him to
4 be held in contempt of Court if he does that. He still has
5 the right to claim the Fifth Amendment privileges to any
6 question that's asked in this case. Should he do that, then
7 the Court would review that situation given the nature of
8 the question and also the response by the defendant. But,
9 again, I was informed by his counsel that, as far as she
10 knows, he does not intend to claim the Fifth Amendment in
11 this case.

12 So, based on my findings concerning this matter, any
13 agreement, if there were any, was public. It was public
14 knowledge. It was given at the plea. It was placed on the
15 record at the plea that took place in November of 2011. I
16 find no other agreements other than that one, and that that
17 would of been equally available to both the State and to the
18 defense based on that information being placed in the record
19 at that time.

20 Therefore, the motion is denied. I'll allow the
21 individual to testify.

22 SOLICITOR MOWRY: Thank you, Your Honor.

23 MS. MOORE: Thank you.

24 THE COURT: Anything further?

25 I know you take exception to my ruling. That's noted.

1 MS. MOORE: Thank you, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. MOORE: Thank you, judge.

4 THE COURT: All right. Are you ready to proceed at
5 this time, Mr. Mowry?

6 SOLICITOR MOWRY: I think so, Your Honor.

7 THE COURT: Defense ready to proceed?

8 MR. MITCHELL: Yes, Your Honor.

9 THE COURT: Ms. Moore.

10 MS. MOORE: Yes, Your Honor.

11 THE COURT: Bring the jury in.

12 (WHEREUPON, the following takes place within the
13 presence of the jury.)

14 THE COURT: Ladies and gentlemen of the jury, if any of
15 you had any difficulty in complying with my instructions
16 when you left the courthouse, please stand.

17 (No response.)

18 THE COURT: It appears that all of you have been able
19 to comply with my instructions that I previously gave you.

20 I want to apologize to you for making you wait in the
21 jury room. I told you, when the case started, that
22 sometimes searching for the truth and trying to do justice
23 is a slow and a deliberate process, and you're probably in
24 much agreement with me at this point in time on that point.

25 But at any rate, we've been resolving some issues in

1 the case that hopefully will allow the case to move along in
2 a more expeditious fashion at this point in time.

3 The State has the right to call its next witness.

4 Mr. Mowry.

5 SOLICITOR MOWRY: We would call Lakasion Robinson back
6 to the stand, Your Honor.

7 THE COURT: Mr. Robinson, if you'll come to the stand
8 please, sir, over here to my right.

9 As you approach, I will remind you that you have been
10 placed under oath in this case already. At this time you
11 are under oath to tell the truth before this Court.

12 Mr. Robinson, do you understand that?

13 WITNESS: Yes, sir.

14 THE COURT: All right. Mr. Robinson, I'll ask that you
15 move as close to the microphone as you can. Speak clearly
16 into the microphone.

17 You may proceed, counsel.

18 SOLICITOR MOWRY: Your Honor, if it please the Court.

19 LAKASION ROBINSON, being first duly
20 sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY SOLICITOR MOWRY:

23 Q First of all, let me -- Mr. Robinson, let me show you
24 what's been marked previously as State's Exhibit No. 4 for
25 identification.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 Who is that in that picture?

2 A That's me.

3 Q That's you.

4 Okay. When was that picture taken?

5 Do you remember?

6 A No, when I got locked up.

7 Q When you got locked up.

8 What's that on your wrist?

9 A Handcuff.

10 Q Okay. So, that was the night of the robbery, is that
11 right?

12 A Uh-huh. (Affirmative).

13 SOLICITOR MOWRY: Okay. Your Honor, at this time I
14 would offer this as State's Exhibit.

15 THE COURT: Any objection, Mr. Mitchell?

16 MR. MITCHELL: No, Your Honor.

17 THE COURT: Ms. Moore.

18 MS. MOORE: No, Your Honor.

19 THE COURT: All right. It will now be marked as an
20 exhibit and it will be numbered as it was previously marked.

21 SOLICITOR MOWRY: Okay.

22 THE COURT: Just one second till she finished.

23 SOLICITOR MOWRY: Thank you, sir.

24 (WHEREUPON, the photograph was marked as State's
25 Exhibit No. 10 and received into evidence at this time.)

- 1 THE COURT: All right, sir. You may proceed.
- 2 Q Lakasion, let me ask you this.
- 3 Are you right-handed or left-handed?
- 4 A Left-handed.
- 5 Q Left-handed.
- 6 Okay. Do you know Jakeivan Pulley and Davoris Smiley?
- 7 A Uh-huh. (Affirmative).
- 8 Q Sit a little closer.
- 9 A Yes, sir.
- 10 Q Do you know them?
- 11 A Yes, sir.
- 12 Q Okay. What do you know Jakeivan Pulley by?
- 13 What's his nickname?
- 14 A J Rock.
- 15 Q What's Davoris Smiley's nickname?
- 16 A Debo.
- 17 Q How long have you known them?
- 18 A Not long.
- 19 Q Not long?
- 20 A Well---
- 21 Q Okay.
- 22 A ---you know.
- 23 Q Does Smiley have any kind of relationship with your
- 24 sister?
- 25 A No.

- 1 Q They're not staying together?
- 2 A Use to.
- 3 Q Oh, use to.
- 4 Okay. Did you see them on the night of the robbery,
5 the night we're talking about, April 24th of last year?
6 Were you with them that day?
- 7 A Yes, sir.
- 8 Q Okay. Please sit up and speak into the microphone.
9 what was your answer?
- 10 A Yes, sir.
- 11 Q You did see them?
- 12 A Uh-huh. (Affirmative).
- 13 Q Okay. Some time that evening what did y'all decide you
14 were gonna do?
- 15 A we would go walking.
- 16 Q Go for a walk?
- 17 A Uh-huh. (Affirmative.)
- 18 Q where did you go to a walk from?
- 19 A The projects.
- 20 Q Say again. I couldn't understand you.
- 21 A Projects.
- 22 Q The projects, which is -- are you talking about Laurens
23 Terrace?
- 24 A No.
- 25 Q whereabouts?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A Laurens Projects.
- 2 Q Okay.
- 3 A In---
- 4 Q where, where is that located in Laurens?
- 5 Do you know?
- 6 A No.
- 7 Q Okay. Let me ask you this.
- 8 Do you know where the Guatemex Store is?
- 9 A Yeah.
- 10 Q The -- on Harper Street.
- 11 How far is that from where y'all started?
- 12 A I don't know.
- 13 Q Is it a long distance?
- 14 A Yeah.
- 15 Q But y'all walked it, is that right?
- 16 A Uh-huh. (Affirmative).
- 17 Q Okay.
- 18 A Yes, sir.
- 19 Q Let me show you some video.
- 20 All right. Mr. Robinson, I want to ask you to look at
- 21 that middle frame at the top if you would. I'll step over
- 22 here.
- 23 Can you see around me?
- 24 A (witness nods affirmatively.)
- 25 Q who is this right here next to the street?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A Debo.
- 2 Q That -- who is that?
- 3 A Debo.
- 4 Q You talking about Davoris Smiley?
- 5 A Uh-huh. (Affirmative).
- 6 Q Who is that in the middle right there in the gray tank
7 top?
- 8 A Jakeivan Pulley.
- 9 Q Speak into the microphone please.
- 10 A Jakeivan Pulley.
- 11 Q Okay. J Rock?
- 12 A Uh-huh. (Affirmative).
- 13 Q And who is that right there?
- 14 A Me.
- 15 Q That's you..
16 what you got on your feet?
- 17 A white shoes.
- 18 Q white shoes.
19 what did Mr. Pulley have on his feet?
- 20 A Black shoes.
- 21 Q Black shoes.
22 what did Mr. Smiley have on his feet?
- 23 A Boots.
- 24 Q Boots.
25 what color were they?

1 Do you remember?

2 A (Witness nods negatively.)

3 Q Okay. How high were they on his, on his legs?

4 How high were the boots?

5 were they up to his knees or---

6 A No.

7 Q where, his ankles, or where?

8 A I guess so.

9 Q Okay. What did he have on his head?

10 A A hat.

11 Q What kind of hat?

12 Do you remember?

13 A (Witness nods negatively.)

14 Q Okay. But that's three of y'all, and where, where is
15 that picture taken?

16 A Walking past the store.

17 Q Walking past the Guatemex?

18 A Uh-huh. (Affirmative).

19 Q Okay. See if I can get this to move forward. There we
20 go.

21 (WHEREUPON, a portion of a video was played for the
22 jury at this time.)

23 All right. Mr. Robinson, did y'all discuss anything
24 when y'all went around the corner there?

25 Was there talk of anything?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A We were talking about---
- 2 Q I'm sorry, sir. I couldn't understand you.
- 3 A You said did we talk about anything?
- 4 Q Yes.
- 5 When you went around the corner, did you and the two
- 6 defendants talk about anything or did they talk about
- 7 anything?
- 8 A Yeah.
- 9 Q what did they say?
- 10 A They talking about robbing the store.
- 11 Q Talking about robbing the store.
- 12 Okay. Let me move it forward just a little bit.
- 13 Sorry.
- 14 who is this coming up to the store?
- 15 A J Rock Pulley.
- 16 Q Say again.
- 17 A J Rock Pulley.
- 18 Q J Rock Pulley?
- 19 A Yeah.
- 20 Q Okay. The defendant over there at the far end in the
- 21 white shirt?
- 22 A Uh-huh. (Affirmative).
- 23 Q Okay. So, that is this defendant going into the store
- 24 in that moment?
- 25 A Yes, sir.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 Q Where were you and Mr. Smiley when he was doing that?

2 A Same spot.

3 Q Same spot right at the coin laundry?

4 A Uh-huh. (Affirmative).

5 Q Okay. Do you know why Mr. Robinson went into the, into
6 the store?

7 A What?

8 Q Do you know -- Mr. Robinson, pardon me.

9 Do you know why Mr. Pulley went into the store?

10 Do you know why he went into the store?

11 MS. MOORE: Objection, Your Honor.

12 Q Had he, had he told you any reason?

13 THE COURT: Just one second. Let me rule on the
14 objection.

15 A He, he---

16 THE COURT: Sir, be quiet for a moment. Thank you.

17 MS. MOORE: He's being asked to, to testify in regard
18 to what was in my client's head, Your Honor.

19 THE COURT: I'll sustain the objection. Calls for
20 speculation.

21 Restate the question please.

22 MS. MOORE: Thank you.

23 Q Did Mr. Pulley tell you why he was going in the store?

24 A He didn't tell me why he was going in the store.

25 Q Okay. But this was after there had been a discussion

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 of robbing the store, is that right?

2 A Uh-huh. (Affirmative).

3 MS. MOORE: Objection, Your Honor. It's leading.

4 THE COURT: I'll ask you not to lead the witness.

5 SOLICITOR MOWRY: I appreciate that, Your Honor. I'll
6 rephrase.

7 THE COURT: Although leading in some cases is
8 permissible in this state.

9 MS. MOORE: Thank you, Your Honor.

10 THE COURT: You may proceed.

11 Q All right. Mr. Robinson, I want to show you another
12 video here.

13 (WHEREUPON, a portion of a video was played for the
14 jury at this time.)

15 Q You see two individuals there walking down the street.
16 who are they?

17 You want to, you want to run the video forward a little
18 bit?

19 You want to see some more if I can get it to work.
20 who are those two individuals?

21 A I don't know.

22 Q You don't know who they are?

23 A Hu huh. (Negative).

24 Q You can get up and look closer if you need to.
25 Are you able to tell who those people are?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A Uh-huh. (Affirmative).
- 2 Q Who are they?
- 3 A J Rock and Debo.
- 4 Q J Rock and Debo.
- 5 who's the one on the left, the shorter one it appears?
- 6 This one right there, and then the other one.
- 7 A Debo.
- 8 Q That's Debo?
- 9 A (Witness nods affirmatively.)
- 10 Q who's the one with the jeans on?
- 11 A J Rock.
- 12 Q J Rock.
- 13 A Uh-huh. (Affirmative).
- 14 Q All right. Mr. Robinson, it appeared that Mr. Pulley
- 15 was dressed differently than he had been just a couple of
- 16 minutes before.
- 17 Had he changed clothes at all?
- 18 A Uh-huh. (Affirmative).
- 19 Q Had he put on something different?
- 20 A Yeah, I gave him my shirt.
- 21 Q You gave him your shirt?
- 22 A Yeah.
- 23 Q what kind of shirt did you have?
- 24 A A black thermal.
- 25 Q A black thermal and you gave him that.

1 Did he put that on over his, over the tank top he had
2 on?

3 A (witness nods negatively.)

4 Q You don't know?

5 A I don't know.

6 Q Okay. Did Mr. Smiley give you anything while y'all
7 were back there?

8 Did he give you a hat, for example?

9 A Yeah.

10 Q Did he give you---

11 A Yeah, he give me an old hat.

12 Q Okay. what kind of hat was it?

13 A I don't know what kind of hat it was. I don't know
14 what color it was.

15 Q Need to speak up.

16 A I don't know what color it was.

17 Q All right.

18 A I don't know what kind of hat it was.

19 Q I'll ask you to take a look at this video.

20 (WHEREUPON, a portion of a video was played for the
21 jury at this time.)

22 Q who's that figure coming down the street?

23 A That's me.

24 Q That's you.

25 A Uh-huh. (Affirmative).

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 Q what you got on your head?
- 2 A A hat.
- 3 Q what -- whose hat?
- 4 A Debo's hat.
- 5 Q Debo's hat.
- 6 what you got on your feet?
- 7 A white shoes.
- 8 Q Same white shoes, is that right?
- 9 A Uh-huh. (Affirmative).
- 10 Q Let me ask you this.
- 11 what did you have on the lower part of your body?
- 12 what else were you wearing?
- 13 A Huh?
- 14 Q what else were you wearing?
- 15 what kind of pants did you have on?
- 16 A Blue jeans.
- 17 SOLICITOR MOWRY: Okay. I'm gonna offer these for---
- 18 THE COURT: Have these marked?
- 19 SOLICITOR MOWRY: ---State's Exhibits, yes, sir. For
- 20 identification at this point, Your Honor.
- 21 THE COURT: Mark them for identification only.
- 22 (WHEREUPON, a pair of jeans was marked as State's
- 23 Exhibit No. 8. for identification purposes only at this
- 24 time.)
- 25 Q Are these the jeans you were wearing that night?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A Uh-huh. (Affirmative).
- 2 Q Okay. Like this?
- 3 A (Witness nods affirmatively.)
- 4 Q Okay. Are these the jeans that the Defendant Pulley
5 had on that night?
- 6 A Uh-huh. (Affirmative).
- 7 THE COURT: Referring to exhibit what?
- 8 SOLICITOR MOWRY: I'm sorry, Your Honor. Referring to
9 State's Exhibit No. 3 for identification at this point.
- 10 THE COURT: Thank you.
- 11 Q Where were you heading in this video?
- 12 A To a friend's house.
- 13 Q To a friend's house.
14 Who's your friend?
- 15 A Davoris Dorrah.
- 16 Q Davoris Dorrah.
17 Do you know the address he lives at?
- 18 A Nope.
- 19 Q What street does he live on?
- 20 A Don't know.
- 21 Q Okay. Did you, in fact, go there from this video?
- 22 A Yes.
- 23 Q Okay. Did you ever come back to the Guatemex Store
24 that night?
- 25 A No.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 Q Did you ever go inside the store at all that night?

2 A No, sir.

3 Q So, at this point you have given Mr. Pulley your black
4 thermal, you've taken the hat from Mr. Smiley, and you have
5 left the scene, is that correct?

6 A Uh-huh. (Affirmative).

7 Q Did you ever come back?

8 A Hu huh. (Negative).

9 (WHEREUPON, a portion of a video was played for the
10 jury at this time.)

11 Q All right. Mr. Robinson, who are the two men in that
12 upper left-hand video?

13 I'll back it up for you if you need.
14 who are those two people?

15 A I don't know.

16 Q You don't know?

17 A Hu huh. (Negative).

18 Q Is that better?

19 A I don't know.

20 Q what's that?

21 A I don't know. Look like old boys got pants on.

22 Q who does that look like to you?

23 A (witness shrugs shoulders.)

24 Q Okay. It's not you though, is it?

25 A No, it ain't me.

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 MS. MOORE: Objection. Leading, Your Honor.

2 THE COURT: It is a leading question, but I'll allow
3 that one.

4 MS. MOORE: Thank you, Your Honor.

5 SOLICITOR MOWRY: Thank you, Your Honor.

6 Q Was that you?

7 A No, sir.

8 (WHEREUPON, a portion of a video was played for the
9 jury at this time.)

10 Q All right. Who is that going back by?

11 Can you tell?

12 I'll back it up a bit for you.

13 Could you tell who that was?

14 A (No response.)

15 Q What did -- what kind of pants did Mr. Smiley have on
16 that night?

17 A He had on what?

18 Q What kind of pants did Mr. Smiley have on?

19 A He had---

20 Q I'm sorry, sir. I can't hear a word you're saying.

21 A Blue jeans.

22 Q Mr. Smiley?

23 A Oh, he had on shorts.

24 Q Had on shorts.

25 Your Honor, I would ask that these be marked as a

1 State's Exhibit for identification.

2 THE COURT: They'll be marked for identification
3 purposes only.

4 (WHEREUPON, a pair of shorts was marked as State's
5 Exhibit No. 9 for identification purposes only at this
6 time.)

7 Q Does this look like what he was wearing that night?
8 I'm referring now, Your Honor, to State's Exhibit No. 9
9 for identification.

10 A Uh-huh. (Affirmative).

11 Q That does look like what he was wearing that night?

12 A Yeah.

13 Q Are you able to identify the two individuals in the
14 upper left-hand frame?

15 MS. MOORE: Your Honor, asked and answered. I would
16 object.

17 THE COURT: Overruled. He's gone over some additional
18 information since the last question, and he has a right to
19 check and see if the witness' recollection has changed. So,
20 overruled.

21 MS. MOORE: Thank you.

22 Q Mr. Robinson, do you know whether or not Mr. Smiley had
23 a gun at all?

24 A No.

25 Q Mr. Robinson, do you recall making a statement to

1 Detective Riggott later on that night?

2 A Uh-huh. (Affirmative).

3 Q And Detective Riggott wrote it for you, wrote her,
4 wrote down what you told her, and is that your signature
5 down there at the bottom?

6 A Yes, sir.

7 Q Do you recall saying in there that Debo had the gun on
8 him, it was a black .40 caliber?

9 A Yes, sir.

10 Q You said that?

11 A Yes.

12 Q So, what is your statement about whether or not
13 Mr. Smiley had a gun on him?

14 A I don't know if he had a gun on him or not. I don't
15 know.

16 MS. MOORE: Your Honor, I'm sorry. I can't, I can't
17 hear the witnesses response.

18 THE COURT: sir, if you'll get close to the microphone.
19 Again, we have to hear what you're saying.

20 Okay, sir?

21 WITNESS: Uh-huh. (Affirmative).

22 THE COURT: I ask you to speak right into the
23 microphone for me.

24 You may ask the question again, sir.

25 Q Did you not say to Detective Riggott Debo had the gun

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 on him, it was a black .40 caliber?

2 A Yes, sir.

3 Q Okay. And that statement was made later on that same
4 night, is that right?

5 A Uh-huh. (Affirmative).

6 Q And when you say Debo, who are you referring to?

7 A Smiley.

8 Q The defendant in this case, Mr. Smiley?

9 A Uh-huh. (Affirmative).

10 SOLICITOR MOWRY: I'll move it forward just a bit, Your
11 Honor.

12 Mr. Robinson, Robinson, who are the two individuals
13 that are entering the store at this time?

14 A I don't know.

15 Q You don't know.

16 Are they the same individuals that have been walking up
17 and down the street to the best of your knowledge?

18 A I wasn't there.

19 Q All right. You can look at them though, and if you
20 recognize them you can tell us.

21 Do you recognize either one of them, sir?

22 A Hu huh. (Negative).

23 Q I noticed that the gun was in the gun, gunman's
24 left-hand.

25 That was not you, was it?

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 A No, it wasn't me.
- 2 Q All right.
- 3 A You seen me walking down the street.
- 4 Q After you left, did you see the two defendants again?
- 5 A Yes, sir.
- 6 Q where did you see them?
- 7 A walking to Davoris house.
- 8 Q walking to Davoris Dorrah's house?
- 9 A Uh-huh. (Affirmative).
- 10 Q At [REDACTED] [REDACTED]?
- 11 A Uh-huh. (Affirmative).
- 12 Q who came up to you?
- 13 A J Rock and Debo.
- 14 Q Okay. The two of them came up together, is that right?
- 15 A Uh-huh. (Affirmative).
- 16 Q How were they dressed?
- 17 were they dressed the same as when you'd last seen
- 18 them?
- 19 A Uh-huh. (Affirmative).
- 20 Q what did Mr. Pulley have on?
- 21 A Like?
- 22 Q His top.
- 23 A A tank top.
- 24 Q Tank top.
- 25 where was your thermal?

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 A Threw it in the bushes.

2 Q You -- how did you get it back?

3 A I just told you.

4 Q well, tell me. Tell me again.

5 A I was walking to Davoris house and they got, and you---

6 Q Okay. You said he was just wearing a black tank top
7 then.

8 Did he give you the hoodie back?

9 A Yeah.

10 Q All right. And what did you do with it?

11 A I threw it away.

12 Q All right. Did he tell you anything at the time?

13 A No.

14 Q Once again, I'm gonna hand you a statement, which was
15 written on April 25th at 1:25AM, a few hours after the
16 incident. I want you to look right there.

17 A Yeah.

18 Q J Rock said man, I got a lot of money.

19 Did he say that?

20 A Yeah.

21 MS. MOORE: I'm sorry, Your Honor. I couldn't hear
22 the---

23 WITNESS: Yeah.

24 THE COURT: The answer was yes.

25 MS. MOORE: Thank you.

Lakasion Robinson - Direct examination
by Solicitor Mowry

- 1 Q why did you throw the thermal in the bushes?
- 2 A I don't know.
- 3 Q sir?
- 4 A I don't know. I ain't want it.
- 5 Q Speak into the microphone please.
- 6 A I don't know. I didn't want it.
- 7 Q Okay. Did you give -- what did you do with the hat,
8 the hat that you were wearing when you left the scene?
- 9 A I gave it back to him.
- 10 Q Gave it back to who?
- 11 A Davoris Smiley.
- 12 Q Davoris Smiley, this defendant over here?
- 13 A Uh-huh. (Affirmative).
- 14 Q Now, Mr. Robinson, you have pled guilty to a, to a
15 crime based on this incident, isn't that right?
- 16 A Yes, sir.
- 17 Q You pled guilty to misprision of a felony?
- 18 A Yes, sir.
- 19 Q Isn't that right?
- 20 And you're on probation for that charge right now,
21 isn't that right?
- 22 A Yes, sir.
- 23 Q Is there any kind of deal made, any kind of promises
24 made to induce your testimony here today?
- 25 A Like what?

Lakasion Robinson - Direct examination
by Solicitor Mowry

1 Q well, if -- did anybody promise you anything to get you
2 to testify?

3 A That I wouldn't go to jail.

4 Q who did that?

5 A You.

6 Q sir?

7 Did I not just ask you to testify truthfully?

8 Isn't that right?

9 A Yeah.

10 Q All right, sir.

11 A That's what I'm doing.

12 Q Thank you.

13 A That's what I'm doing.

14 Q And would you rather be somewhere else, anywhere else
15 today than here?

16 A Yep, at home.

17 SOLICITOR MOWRY: I think that's all I have, Your
18 Honor. Thank you.

19 THE COURT: Mr. Mitchell, your witness.

20 MR. MITCHELL: Your Honor, I would like to use State's
21 Exhibit No. 5 for a moment.

22 THE COURT: Certainly. It's in evidence.

23 CROSS-EXAMINATION

24 BY MR. MITCHELL:

25 Q Can you see this all right?

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 A (Witness nods affirmatively.)

2 Q Mr. Robinson, do you see that this is the Guatemex
3 store?

4 A Uh-huh. (Affirmative).

5 Q And that this -- on this side of the Guatemex Store is
6 the coin laundry?

7 Do, do you see that?

8 A Uh-huh. (Affirmative).

9 Q All right. And this here is Harper Street, the street
10 that you claim that you were walking up and down the night
11 of the incident.

12 Right?

13 You see this?

14 A (Witness nods affirmatively.)

15 Q All right. Now, from here, from the Guatemex Store,
16 the coin laundry's this direction, which direction is your
17 friend's house?

18 This way or this way?

19 Isn't Watts Street over this direction?

20 A This way.

21 THE COURT: Sir, speak, speak into the microphone
22 please.

23 Q So, is Watts Street the same direction as going to the
24 laundromat or is Watts Street the other direction away from
25 the laundromat?

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 A The same direction. I don't know -- I really couldn't
2 tell you that.

3 Q All right. Let me, let me see if I can refresh your
4 memory with another exhibit. I'm going to put up State's
5 Exhibit No. 6.

6 All right. Thank you.

7 All right. See this pink dot right here?

8 A Uh-huh. (Affirmative).

9 Q That was marked earlier as the location of the Guatemex
10 Store. This building next to it is the laundromat.

11 A Uh-huh. (Affirmative).

12 Q All right. Now, your friend's house is over here on
13 Watts Street.

14 So, if you leave the store and go -- I guess if you
15 walk out the store and you turn left, this is the coin
16 laundry, right?

17 A Uh-huh. (Affirmative).

18 Q And then if you go -- if you walk out of the store and
19 go right, you're heading towards your friend's house,
20 correct?

21 A Uh-huh. (Affirmative).

22 Q Okay. Mr. Mowry just showed us five different video
23 clips, and you commented -- I'm sorry -- six video clips and
24 you commented on each one of those clips.

25 For clarification, I want to go through that one more

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 time. I'm not gonna replay the clips.

2 But the first time he showed a video, there were three
3 guys walking towards the laundromat?

4 A Uh-huh. (Affirmative).

5 Q And you identified those three guys as you, Mr. Pulley,
6 and Mr. Smiley, correct?

7 A Uh-huh. (Affirmative).

8 Q All right. The second video clip he showed there are
9 two guys walking this direction towards Mr. Dorrah's house,
10 which is way over here, and you identified those as Pulley
11 and Smiley, correct?

12 A Uh-huh. (Affirmative).

13 Q The third video clip you said that there was, there was
14 one man walking this direction toward Mr. Dorrah's house,
15 and you said that was yourself, correct?

16 A (Witness nods affirmatively.)

17 Q All right. And then, from that point forward, we have
18 two men coming this direction again, and you did not
19 identify them, correct?

20 The two guys that were coming back this direction, you
21 couldn't identify them, correct?

22 A Correct.

23 Q All right. Then there's two guys going this direction
24 back this way again, and you couldn't identify them,
25 correct?

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 A Correct.

2 Q All right. And then the sixth scene that we saw was
3 the actual armed robbery, and you couldn't identify those
4 guys either, could you?

5 A (No response.)

6 Q So, after you identified Mr. Smiley and Mr. Pulley
7 walking away, you haven't identified them ever again since
8 then, have you, in any of these video clips, is that
9 correct?

10 A what you---

11 Q So, you didn't, you didn't identify after you
12 identified them as walking away---

13 A No.

14 Q ---and going to your friend's house over on watts
15 Street?

16 A (No response.)

17 Q Mr. Robinson, are you under the influence of drugs,
18 alcohol, or prescription drugs today?

19 A No.

20 Q Do you take any prescription drugs?

21 A No.

22 Q All right. Just earlier you testified that the next
23 time -- after you parted ways from Mr. Pulley and
24 Mr. Smiley, when they were walking away, the next time that
25 you saw them is when they walked into Mr. Dorrah's house, is

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 that correct?

2 A walked into Dorrah's house. We was walking to Dorrah's
3 house.

4 SOLICITOR MOWRY: Microphone. Microphone.

5 MR. MITCHELL: May I beg your indulgence?

6 THE COURT: Yes, sir.

7 MR. MITCHELL: I just need to find a statement, Your
8 Honor.

9 (Pause.)

10 Q All right. Let, let's go to -- let's talk about -- you
11 testified about the gun. You said in your statement that
12 Debo had a gun, a black .40 caliber gun.

13 Did you also testify that the gun was not Debo's gun?

14 A Uh-huh. (Affirmative).

15 Q whose gun was it?

16 A Jakeivan Pulley.

17 Q It was J Rock's gun?

18 A Uh-huh. (Affirmative).

19 Q How did J Rock get the gun?

20 A I don't know.

21 Q All right. Do you remember in your statement that you
22 said that he had stolen the gun?

23 A Yeah, but I don't know where he got it from.

24 Q Do you know about how long he had the gun before?

25 A No.

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 Q Do you remember telling the police that you, he had
2 stole the gun about a month before?

3 A No, I don't remember telling them that.

4 Q All right. Can I you, show you your statement?

5 A Uh-huh. (Affirmative).

6 Q And can you read this highlighted portion?

7 May I approach, Your Honor?

8 THE COURT: You may.

9 Q Can you read this statement right here that I have
10 highlighted right here?

11 All right. Do you -- may I read it for him, Your
12 Honor?

13 THE COURT: The entire statement?

14 MR. MITCHELL: Just this, this, this one sentence.

15 THE COURT: Yes, sir.

16 Q All right. It says -- this was a, written down for you
17 by the policeman. The gun was J Rock's and he stole it from
18 somebody. He had -- he has had the gun about a month.

19 Do you remember saying that?

20 A (Witness nods negatively.)

21 I don't know. I don't know how long he had that gun.

22 Q Okay. So, you don't remember saying that?

23 A (Witness nods negatively.)

24 Q All right. Let's, let's look at one of these maps
25 again.

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 Do you know where the Li'L Cricket is?

2 A Yeah, like close to the store. Close to the pawn shop
3 store. Beside the pawn shop.

4 Q There's the Guatemex.

5 A Uh-huh. (Affirmative).

6 Q There's your friend's house on Watts Street.

7 where is Li'L Cricket?

8 Do you know?

9 A Right there.

10 Q Right here on the corner---

11 A (Witness nods affirmatively.)

12 Q ---of Watts Street and Harper Street?

13 A Uh-huh. (Affirmative).

14 Q All right. So, you said earlier that Mr., that you
15 gave your black thermal shirt to Mr. Pulley --

16 A Uh-huh. (Affirmative).

17 Q -- and that he came back from you don't know where, and
18 he gave you the shirt back, and you decided to throw it
19 away.

20 A Uh-huh. (Affirmative).

21 Q And you decided to throw it away behind the Li'L
22 Cricket store.

23 Isn't that where you threw it out?

24 A No.

25 Q Didn't you tell the police to go look for it behind the

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 Li'L Cricket?

2 A No.

3 Q You didn't tell them that?

4 A I told them to look for it behind Li'L Cricket, but it
5 wasn't behind Li'L Crick.

6 Q where did you tell them to go look for it?

7 A Behind Li'L Cricket, but it wasn't behind Li'L Cricket.

8 Q Okay. So, so, they didn't find it?

9 A It's somewhere -- it was somewhere near Li'L Cricket,
10 but it wasn't behind Li'L Cricket. It was behind Li'L
11 Cricket, but it wasn't -- you --.

12 Q why did you want to hide the evidence the night of this
13 incident that you were wearing or the shirt that you were
14 wearing?

15 A Huh?

16 Q why did you want to hide the evidence of the shirt that
17 you were wearing?

18 A (No response.)

19 Q Didn't you throw the shirt away so that you couldn't be
20 identified in the video as the one wearing the black shirt?

21 Isn't that why you threw it away?

22 A No, I threw it away cause he gave it back to me.

23 Q Because -- what was the reason you threw it away?

24 A He gave it back to me.

25 Q So, your, your testimony is you gave him a shirt, he

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 used it in the commission of a crime, and you threw it out?

2 A Yes.

3 Q Isn't the truth that you used it in the commission of a
4 crime and---

5 A No.

6 Q ---you threw it out because you were afraid it was
7 gonna link it to---

8 A No.

9 Q ---the crime to you?

10 A No.

11 Q No?

12 A No.

13 Q All right. So, your testimony is, and all these jurors
14 are suppose to believe, that you switched clothes, then you
15 walked away, and you never did anything. Yet, you testified
16 earlier that Smiley and Pulley walked away before you did,
17 and that, that some unknown people walked back and forth a
18 few times that you don't know who they were.

19 How do we know that you didn't switch shoes and not
20 shirts?

21 How do we know that you didn't switch---

22 A Cause I didn't.

23 Q How do we know that you guys didn't switch clothes two
24 or three times before these people walked back and forth?

25 A Cause I didn't.

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 Those got locked up with the same thing on, right?

2 Q No, you weren't. You -- there's, there's a black shirt
3 missing in all of this.

4 A Yeah, I told you where that was black shirt---

5 Q You identified yourself as walking past the store with
6 your two friends wearing a black shirt, were you not?

7 A (Witness nods affirmatively.)

8 Q You -- there was a man with a black shirt involved in
9 the armed robbery.

10 A No, I also said I gave it to Jakeivan Pulley too.

11 Q And then you testified that you took the black shirt
12 and threw it out behind the Li'L Cricket.

13 A Yeah.

14 Q So, so---

15 A He gave it back to me---

16 Q Okay.

17 A ---and I threw it out.

18 Q When the police stopped you that night, who were you
19 with?

20 A Jakeivan Pulley.

21 Q All right. So, you were with -- there were two people
22 who robbed the store, and the police found two people, you
23 and Mr. Pulley.

24 A Uh-huh. (Affirmative).

25 Q There were two people who robbed the store, and one of

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 them was left-handed, the one that held the gun, and you're
2 left-handed.

3 A Yeah.

4 Q So, don't you think it makes more sense for the jury to
5 believe that you and Mr. Pulley were the ones that went into
6 the store?

7 A It's possible they can believe it, but that ain't, that
8 ain't what happened.

9 Q You're the left-handed person holding the gun?

10 A No.

11 Q And that you and Mr. Pulley were found later together
12 by the police?

13 Doesn't that make more sense?

14 A No.

15 Q The one person who was walking away by himself in all
16 this was a person wearing a yellow hat, is that correct?

17 A Yes, sir.

18 Q You weren't, you weren't wearing a yellow hat, were
19 you?

20 A You mean at the time walking through there?

21 Q The person walking away by himself from the scene of
22 the crime was the guy with the yellow hat, right?

23 A Yes, sir.

24 Q The two guys that were in the store were the two guys
25 wearing the black clothes, one wearing a black hoodie, one

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 wearing a black shirt, right?

2 A Yes, sir.

3 Q So, it sounds to me like you and someone else were
4 wearing a black shirt were the ones in the store robbing the
5 place?

6 A No.

7 Q The one with the yellow hat walked off and didn't
8 participate.

9 That's what you testified to, right?

10 Isn't that what you testified to?

11 A Yeah, I walked away, yeah.

12 Q No, you're the one who walked away?

13 A Yeah.

14 Q And you expect us to believe that?

15 A Yes.

16 Q All right. Did you testify on the night of the crime,
17 April 25th, 2011?

18 A Talking about the statement?

19 Q Yeah.

20 Didn't you take a statement?

21 A Uh-huh. (Affirmative).

22 Q Did you say that you were at a friend's house playing
23 video games?

24 A Yeah, at first I did.

25 Q All right. That's the first statement to the police on

1 April 25th.

2 All right. Did you make another statement to the
3 police three days later on April 28th?

4 A Three days later, I don't know about all that.

5 Q All right. There's a, there's a statement that you
6 made to the police, and it's dated April 28th, 2011, at
7 10:00AM. You made the statement to Leann Riggott, and in
8 this statement you said you were walking away from the scene
9 of the crime, and Mr. Pulley caught up to you.

10 Do you remember making that statement?

11 A I don't know what you talking about.

12 Q And that you knew he threw evidence behind Li'L
13 Cricket.

14 A where I say he threw evidence behind Li'L Cricket?

15 THE COURT: Sir, if you'll move up to that microphone.

16 A I ain't, I ain't say he threw evidence behind Li'L
17 Cricket.

18 Q All right. I'm gonna read for you from your statement
19 that you made on April 28th. That evening, when they went
20 back to the store, I kept walking down the street heading to
21 Davoris Dorrah's house on Watts Street. Debo and J Rock had
22 caught up with me.

23 All right. Your statement three days later is they
24 caught up with you. Just a few minutes ago you said that
25 you met them at the house, you were already at the house.

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 A No, I did not. I ain't say that.

2 Q You said the next time you saw them was at the house.

3 A No, I did not. I said we was -- I said I was walking
4 on my way to Davoris Dorrah's house and that's when they had
5 ran up behind me. That's what I said.

6 Q All right. I thought you just told us in front of the
7 jury just a few minutes ago that the next time you saw them
8 was at, was in the house of, on Watts Street.

9 A I didn't say that.

10 Q Let me keep reading.

11 J Rock had to have thrown my black thermal somewhere
12 down the street in some bushes on the Li'L Cricket side.

13 So, you told the police that day that J Rock threw your
14 shirt away, is that right?

15 A Uh-huh. (Affirmative).

16 Q You just told us a few minutes ago that you threw the
17 shirt away cause you didn't want it anymore.

18 Is there anything that we can believe about what you
19 said today?

20 A Yeah, that I ain't do it.

21 Q So, you weren't playing video games, were you?

22 A When I walked in the house, yeah. I was about to sit
23 down and start playing games.

24 Q But your testimony earlier was that, in the statement,
25 was that you were playing video games when they came back

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 from robbing the store.

2 You want to see this?

3 A Uh-huh. (Affirmative).

4 Q Is there anything from the statement that you want to,
5 you want to say to the Court today?

6 A I threw something, I threw something in the bushes.

7 Q Okay. But that---

8 A J Rock didn't throw it in there.

9 Q On this day you told the police that, that J Rock threw
10 it in there?

11 A Yeah, I was mistaken or whatever you call it.

12 Q You were mistaken?

13 A Yeah.

14 Q Were you afraid of going to jail because of this
15 incident?

16 A Yes, sir.

17 Q Isn't it true that you would say anything that you
18 need to say to get out of going to jail?

19 A No, sir.

20 Q Isn't it true that you said that you were wearing the
21 yellow hat to, so that it would look like that you were the
22 one walking away from this crime?

23 A Huh?

24 Q Isn't it true that you just said that you were wearing
25 the yellow hat so it looks like you're the one walking away

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 from this?

2 A I did walk away from the crime.

3 Q And isn't it, isn't it true that you, you're the one --
4 you say someone else wore your black shirt even though you
5 were wearing your black shirt to commit this crime?

6 A No, I wasn't wearing it. No, I wasn't wearing the
7 shirt to, to commit no crime.

8 Q It seems very convenient that all the things that would
9 implicate you you say someone else was wearing them or the
10 things that would exculpate my client you say you were
11 wearing his hat.

12 Doesn't that seem a little fishy?

13 All the evidence seems to fall in your favor, and
14 you're the only one that has, that has any, has been, the
15 one to say any of this.

16 Everything works out for you in this case, doesn't it?

17 A What you mean by that?

18 Q You get off with probation. Your, your friends here
19 are facing armed robbery charges, conspiracy to commit a
20 crime charges, possession of deadly weapon charges.

21 Everything's worked out for you really well, hasn't it,
22 and it's all because the police believed your testimony and
23 went off and constructed their case based on your testimony,
24 correct?

25 A Yeah, you right, but I ain't do it.

Lakasion Robinson - Cross-examination
by Mr. Mitchell

1 MR. MITCHELL: All right. I have, I have nothing else,
2 Your Honor.

3 THE COURT: Thank you.

4 MS. MOORE.

5 MS. MOORE: I beg---

6 THE COURT: Your witness.

7 MS. MOORE: I beg your very brief indulgence, Your
8 Honor.

9 THE COURT: Beg your pardon?

10 MS. MOORE: I beg the Court's very brief indulgence,
11 Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. MOORE: Thank you.

14 (Pause.)

15 MS. MOORE: Thank you for your indulgence, Your Honor.

16 THE COURT: Yes, ma'am. You may proceed.

17 MS. MOORE: Thank you.

18 CROSS-EXAMINATION

19 BY MS. MOORE:

20 Q Mr. Robinson, I'm Scarlet Moore, and I represent the
21 defendant, Jakeivan Pulley.

22 Do you recall making a statement in your testimony that
23 the reason you were testifying today is because you didn't
24 want to go to jail?

25 A Uh-huh. (Affirmative).

Lakasion Robinson - Cross-examination
by Ms. Moore

1 Q I'm sorry. Can you---

2 A Yes, ma'am.

3 Q why did you say that?

4 A Cause I don't want to go to jail.

5 Q why do you think that you're gonna go to jail?

6 A I don't think, I don't think I'm going to jail.

7 MS. MOORE: Your Honor, I have no further questions of
8 this witness.

9 SOLICITOR MOWRY: Your Honor, if I could ask a few---

10 THE COURT: Yes, sir, redirect.

11 SOLICITOR MOWRY: ---in redirect.

12 THE COURT: Yes, sir.

13 REDIRECT EXAMINATION

14 BY SOLICITOR MOWRY:

15 Q Mr. Robinson, do you have any more charges pending in
16 this case?

17 A No, sir.

18 Q No.

19 So, everything has been dealt with?

20 A (Witness nods affirmatively.)

21 Q Now, Mr. Mitchell asked you a number of different
22 questions about your statements. Let me ask you one more.
23 You say that you saw, that the defendants, smiley and
24 Pulley, came up to you around Davoris Dorrah's house, is
25 that right?

Lakasion Robinson - Redirect examination
by Solicitor Mowry

- 1 A Uh-huh. (Affirmative).
- 2 Q And I asked you about something that Mr. Pulley had
3 said to you about we just -- let's see. I'm sorry. Man, I
4 got a lot of money.
- 5 Isn't that what he said?
- 6 A Uh-huh. (Affirmative).
- 7 Q Did Mr. Smiley say anything to you as well?
8 Let me show you your statement from that same night.
9 That's your signature down there at the bottom?
- 10 A Uh-huh. (Affirmative).
- 11 Q Can you read this line right here, this second line or
12 would you rather I read it for you?
- 13 A Uh-huh. (Affirmative).
- 14 Q Did you say Debo said he just made a good come up---
- 15 A Uh-huh. (Affirmative).
- 16 Q ---or something to that effect.
- 17 A Uh-huh. (Affirmative).
- 18 Q What did that mean to you?
- 19 A You know, a good come up mean anything.
- 20 Q What does a good come up mean?
- 21 A It mean anything.
- 22 Q So, he said something to you, you didn't think it meant
23 anything, but you thought enough of it to put it in the
24 statement?
- 25 A A good come up could mean anything.

1 SOLICITOR MOWRY: All right. That's all I have of this
2 witness, Your Honor.

3 THE COURT: Anything further, Mr. Mitchell, based on
4 that question?

5 MR. MITCHELL: Can you let me look at this one more
6 time real quick?

7 THE COURT: Yes, sir.

8 (Pause.)

9 MR. MITCHELL: Nothing, Your Honor.

10 THE COURT: Ms. Moore.

11 MS. MOORE: No, Your Honor.

12 THE COURT: Sir, you may step down. Thank you very
13 much.

14 The State may call its next witness.

15 SOLICITOR MOWRY: Your Honor, we call Patrick Durkin.

16 THE COURT: Come forward please and be sworn.

17 Is he outside?

18 SOLICITOR MOWRY: Your Honor, this is the witness that
19 I've said we might need to take a matter up.

20 THE COURT: All right. Ladies and gentlemen, I'm going
21 to ask you to step back to the jury room. Don't begin any
22 deliberations until such time as I've asked you to do so.

23 You may retire.

24 (WHEREUPON, the following takes place outside the
25 presence of the jury.)

Patrick Durkin - Direct examination
by Solicitor Mowry

1 THE COURT: Sir, if you'll come over.

2 PATRICK DURKIN, having been first
3 duly sworn, testified as follows:

4 THE COURT: Have a seat in the witness stand, sir.
5 Once you're seated, state your name.

6 WITNESS: I'm Officer Patrick Durkin with Grand City
7 Police Department.

8 THE COURT: You may proceed.

9 DIRECT EXAMINATION

10 BY SOLICITOR MOWRY:

11 Q Now, Mr. Durkin, back in April of last year were you
12 still employed with the Greenwood City Police Department?

13 A I was not. I was employed with Laurens City.

14 Q Laurens City.

15 And were you a patrol officer on April 24th of last
16 year?

17 A I was.

18 Q In the evening?

19 A I was.

20 Q were you on the same shift with Captain Cofield?

21 A She -- yes.

22 Q Yes.

23 what did you do as a, as a response that night?

24 A From when the came call out?

25 Q well, let me, let me ask you this.

1 As far as this incident is concerned, have you had a
2 chance to look at the video of the, the incident?

3 A I -- briefly.

4 Q well, did we, did we not look at it yesterday?

5 A we did.

6 Q what was the purpose of our looking at the video?

7 A To see if we could determine what type of weapon was
8 used.

9 Q Okay. And what experience have you got with weapons?

10 A All right. Going back about 15 years. As far as law
11 enforcement, military base weapons, small arms, pistols,
12 rifles, shotguns, weapons. I do a lot of shooting,
13 competition shooting, and just kind of try to familiarize
14 myself with things that I run into on the street.

15 Q Okay. And you've had experience with weapons with law
16 enforcement as well?

17 A I have.

18 Q All right. Would you consider yourself very well
19 educated as far as weapons are concerned?

20 A I do.

21 Q Have you ever been declared an expert before in Court
22 as far as weapons are concerned?

23 A I have not.

24 Q All right. Let me ask you.

25 I showed you some pictures yesterday as well, did I

Patrick Durkin - Direct examination
by Solicitor Mowry

1 not?

2 A You did.

3 Q And let me ask one if that's one of the pictures that I
4 showed you.

5 A It was yes.

6 Q Okay. Are you able, from just looking at that picture
7 and perhaps these -- well, let me, let me have these marked
8 as identified, for identification purposes, and we have
9 redacted the one picture, Your Honor, that was the problem
10 yesterday.

11 THE COURT: Thank you.

12 SOLICITOR MOWRY: I've blacked it out and placed a
13 blocking sticker over it.

14 (WHEREUPON, two photographs were marked as State's
15 Exhibit Nos. 11 and 12 for identification purposes only at
16 this time.)

17 Q Mr. Durkin, I'd like for you to take a look at these
18 pictures, and I'd ask you if you can identify the picture
19 that is or the gun that is in the, in those pictures.

20 A It's either a .40 caliber or a .45 caliber Highpoint.

21 Q Okay.

22 A Two pistols that are full sized. Forty, which is a .40
23 Smith and Wesson or a .40 S&W E, and then a .45, then .45
24 ACP is what they're called.

25 Q What gives you the information that it is a Highpoint?

1 A Their slides are made of cast steel, not forced. So
2 they're a lot thicker. But cocking considerations are on
3 the backhand of the slide. It is stepped seriation which is
4 characteristics of only that pistol that I'm aware of. The
5 thickness of the slide, the curve to the back, which would
6 be right above the shooter's hand, and the other side, the
7 polymer frame has a magazine that sits down a little bit.
8 It's kind of boxy that adds an extra round or two.

9 That .40 caliber has ten rounds magazine, .45 has nine.
10 And as far as just a sight picture, and the small ejection
11 port on the right-hand side of it. By looking at it, that's
12 a -- it's, for the slide, it's very small.

13 Q Okay.

14 A Characteristics like that.

15 Q Do you have any, any pictures that you might have
16 obtained?

17 A These are two of the .40 calibers Highpoint.

18 Q And where did you get these pictures, sir?

19 A Google.

20 Q On Google?

21 A There's -- on the first page, it's this one, they're
22 also available on the Highpoint website.

23 SOLICITOR MOWRY: Your Honor, I'd offer these -- well,
24 not offer, but ask that these be marked as State's Exhibits
25 for identification.

1 THE COURT: Objections?

2 MR. MITCHELL: No, Your Honor.

3 THE COURT: Ma'am?

4 MS. MOORE: No objection from marking, Your Honor.

5 THE COURT: They're marked for ID purposes then.

6 (WHEREUPON, two photographs were marked as State's
7 Exhibit Nos. 13 and 14 for identification purposes only at
8 this time.)

9 Q And I'll hand you now what have been marked as State's
10 Exhibits 13 and 14 for identification.

11 You -- and you say you got these where?

12 A From just a Google search on the Internet.

13 Q Okay. And did the pictures, 13 and 14, do they
14 coincide with your knowledge of the gun?

15 A They do.

16 Q All right. Have you had a chance to look at the video
17 and compare the gun that you see in the pictures with
18 Mr. Pulley, 10, 11, and 12 for identification, with that
19 gun?

20 A I have and it does.

21 Q I'm sorry, sir?

22 A I have reviewed the video.

23 Q All right. And have you compared the gun that you see
24 on the video to the pictures, to the gun in the pictures
25 with Mr. Pulley there?

Patrick Durkin - Direct examination
by Solicitor Mowry

1 A I have.

2 Q And do you have a conclusion as to---

3 MS. MOORE: Your Honor, objection. He -- I would say
4 that that's, Your Honor, misstating the evidence. So,
5 that's actually an issue before the, before the jury, Your
6 Honor, as to whether or not Mr. Pulley had the gun, Your
7 Honor. That's an issue for the trier of fact for Mr.---

8 THE COURT: Well, the jury's not present. This is a
9 proffer.

10 MS. MOORE: I'm sorry, Your Honor. Just, just
11 thinking.

12 THE COURT: Okay. Go ahead.

13 SOLICITOR MOWRY: I'm sorry. I think I said Mr. Pulley
14 in the gun in the picture. These are pictures of
15 Mr. Smiley, Your Honor. My apologies.

16 were you able to compare the gun from the video to the
17 gun that you saw in the pictures?

18 A I was.

19 Q And what was your conclusion?

20 A I can't say that's the same pistol, but it's the same
21 make and model, either a .40 or a .45 caliber.

22 SOLICITOR MOWRY: Your Honor, my intention is to offer
23 Mr. Durkin's testimony. If you wish to declare him an
24 expert I would certainly offer him as such in firearms
25 identification based on his past experience and training and

Patrick Durkin - Cross-examination
by Mr. Mitchell

1 his experience as a police officer.

2 THE COURT: I'll allow you to examine, Mr. Mitchell.

3 You may examine the witness.

4 MR. MITCHELL: Yes, thank you, Your Honor.

5 THE COURT: He's offering him as I suppose an expert to
6 identify the firearm.

7 CROSS-EXAMINATION

8 BY MR. MITCHELL:

9 Q Mr. Durkin, do you have any ballistics training?

10 A I do not.

11 Q Do you have any kind of certification in handguns from
12 the police academy?

13 A I'm qualified to carry and I certify through the South
14 Carolina Criminal Justice Academy.

15 Q All right. In that training at the academy, how much
16 gun identification training do you have?

17 A That wasn't necessarily part of the training.

18 Q All right. So, the only training that you have is your
19 self-education, is that correct?

20 A That is correct.

21 Q And doing Google searches?

22 A And firsthand experience with the weapons.

23 Q All right. How many manufacturers of guns are there
24 approximately in the United States?

25 A That I'm aware of, over 30.

Patrick Durkin - Cross-examination
by Mr. Mitchell

1 Q And how many of them make .40 caliber guns?

2 A At least ten that I'm aware of.

3 Q And aren't most, most of these guns very similar in
4 their construction?

5 A They are.

6 Q So, you're saying that out of all the manufacturers
7 none of them really look alike?

8 A Not with a Highpoint.

9 Q Okay. Now, let's talk about the video for a second.
10 You said you've compared the video.

11 How big of a screen was it that you were looking at
12 this video?

13 A Approximately 15-inches.

14 Q Was it a computer screen?

15 A It was.

16 Q Did the prosecution project it on a big screen for you?

17 A They did not.

18 Q All right. So, in the video, on the 15-inch screen,
19 did they show you the scene, the crime, when it was on the
20 nine images, nine camera shot?

21 A Initially it included all.

22 Q Or they did have it on the one screen, one, one camera
23 shot for a full screen?

24 A The one camera shot.

25 Q One camera shot, full screen.

1 All right. How many -- out of that 15-inch screen, how
2 many inches was the, the image of the, of the gun out of a
3 15-inch screen?

4 Was it one inch, a quarter inch?

5 A It was probably close to one inch or larger. I didn't
6 measure it.

7 Q All right. So, from that tiny little image on a
8 computer screen, you're able to identify the gun?

9 A I am.

10 Q Beyond with a hundred percent certainty?

11 A Yes, sir.

12 Q And how---

13 SOLICITOR MOWRY: Your Honor, he doesn't need to do it
14 to a hundred percent certainty. It's to a reasonable degree
15 of certainty in the field.

16 THE COURT: He's, he's questioning him, and he says
17 it's a hundred percent.

18 Go ahead.

19 MR. MITCHELL: Okay.

20 Q In your experience as a police officer, how many of
21 these Highpoint guns are out on the street?

22 A Of the seven guns that I've taken off of people, six of
23 them were Highpoints.

24 Q So, a lot of people carry this gun?

25 A They're inexpensive. Therefore, yes.

1 MR. MITCHELL: All right. I have, I have nothing else
2 for this witness, Your Honor.

3 THE COURT: Ms. Moore.

4 MS. MOORE: No, Your Honor. Nothing.

5 THE COURT: All right. I'll hear from you on the
6 matter.

7 SOLICITOR MOWRY: Your Honor, in the case of the State
8 versus White, this is experience based knowledge rather than
9 scientific knowledge, and an expert's testimony is
10 admissible when experience and observation in a particular
11 calling give the expert knowledge of a subject beyond common
12 intelligence and ordinary experience. In this case neither
13 Frye nor Dalbert standards apply. I would submit that the
14 experience and knowledge that the officer has or have, has
15 in these fields would, would qualify him as an expert in the
16 field of firearms identification.

17 THE COURT: Mr. Mitchell.

18 MR. MITCHELL: Your Honor, I would, I would submit that
19 just self-education as to different types of gun and what
20 they look like does not make one an expert. He has no
21 experience as a dealer. He has no experience with any kind
22 of certification in ballistics or any other kind of handgun
23 certification. So, I would argue that he is not qualified
24 as a witness, I mean as an expert witness. I'm sorry.

25 THE COURT: Ms. Moore.

1 MS. MOORE: Nothing, Your Honor.

2 SOLICITOR MOWRY: Your Honor, if it please the Court,
3 we're not asking for any qualification as an expert in
4 ballistics. we're not asking for powder or comparison of
5 projectiles or anything like that. we are simply asking for
6 identification of firearms, and I think that he is
7 demonstrated considerable skill and experience in that area,
8 and would be well qualified to be declared an expert in this
9 matter.

10 THE COURT: Mr. Mitchell, was this individual
11 identified to you as an expert prior to trial?

12 MR. MITCHELL: No, Your Honor. He was not.

13 THE COURT: Any objection on that ground?

14 MR. MITCHELL: Yes, Your Honor.

15 I object that this was brought upon -- this was
16 actually brought up yesterday when I did the motion in
17 limine or was it the day before?

18 I'm not sure what day that was. But when I did the
19 motion in limine that I did not want the cell phone records
20 in because there was no way for them to link one gun to the
21 other and that I felt that that was prejudicial. And then
22 Mr. Mowry has sprung on us that he does have an expert in
23 the, waiting in the wings. So, I also object on that
24 ground, Your Honor.

25 SOLICITOR MOWRY: Your Honor, I have no intention

1 whatsoever of going into this until he, until he mentioned
2 that in his opening statement, and when that was done, I
3 happened to mention this to the, to the officer and we began
4 the discussion.

5 THE COURT: Well, I understand that, but when you offer
6 expert testimony, that is a matter under Rule 5---

7 SOLICITOR MOWRY: Yes, sir.

8 THE COURT: ---that needs to be disclosed prior to
9 trial.

10 SOLICITOR MOWRY: Yes, sir.

11 THE COURT: My recollection of our earlier discussion
12 of this indicated that this gentleman was not identified as
13 a potential expert in the case.

14 Now, was he listed as a witness?

15 SOLICITOR MOWRY: He was listed as a witness, yes, sir.

16 THE COURT: But not as an, not---

17 SOLICITOR MOWRY: Not---

18 THE COURT: Not as an expert?

19 SOLICITOR MOWRY: No, sir.

20 THE COURT: All right. All right. I'm gonna take a
21 short recess.

22 Court's in recess for about five to ten minutes.

23 (WHEREUPON, a short recess was taken at this time.)

24 THE COURT: All right. Mr. Mowry, it's gonna be my
25 ruling that this witness should of been identified as an

1 expert prior to trial.

2 SOLICITOR MOWRY: Yes, sir.

3 THE COURT: I -- now, my ruling does not prevent
4 comment either by yourself or however you want to present it
5 as to the similarity of the guns, but as far as an expert's
6 opinion saying that that is---

7 SOLICITOR MOWRY: Yes, sir.

8 THE COURT: ---the type of gun, that information should
9 of been disclosed to the defense so that they could of been
10 prepared to either have their own experts testify or to, you
11 know, examine the testimony and be able to effectively
12 cross-examine the witness. So---

13 SOLICITOR MOWRY: Thank you, Your Honor.

14 THE COURT: ---I'll refuse to certify the witness as an
15 expert.

16 SOLICITOR MOWRY: Very good. I will cover that in
17 closing argument then.

18 THE COURT: All right.

19 SOLICITOR MOWRY: Thank you, sir, as you suggest.

20 THE COURT: All right. And I did -- I neglected,
21 during our earlier discussion concerning the testimony of
22 Mr. Robinson, to have the plea sheet marked as a Court's
23 Exhibit. That's a plea sheet for case number or sentencing
24 sheet for Case Number 11-GS-30-1178. I will have it marked
25 as a Court's Exhibit and made a part of the record for

1 purposes of that hearing.

2 SOLICITOR MOWRY: Thank you, Your Honor.

3 (WHEREUPON, the sentencing sheet was marked as Court's
4 Exhibit No. 1 for identification purposes only at this
5 time.)

6 THE COURT: All right. Now, you're gonna call this
7 gentlemen as a witness otherwise?

8 SOLICITOR MOWRY: Yes, sir.

9 THE COURT: All right. Sir, I'm gonna ask you to step
10 down and have a seat.

11 You want to bring him up when the jury is present?

12 SOLICITOR MOWRY: And while we are waiting for the
13 jury, Your Honor, I intend to offer these two photographs.
14 In addition -- as, as exhibits in addition to having the
15 witness further identify State's Exhibit No. 4 for
16 identification to the point that we can move it into---

17 THE COURT: Evidence.

18 SOLICITOR MOWRY: ---evidence as well.

19 THE COURT: All right. we'll cover that when the time
20 comes to be presented.

21 All right.

22 SOLICITOR MOWRY: Could I, could I have these marked
23 for identification purposes?

24 THE COURT: You may.

25 SOLICITOR MOWRY: That was my point while we got a few

1 seconds.

2 (WHEREUPON, two photographs were marked as State's
3 Exhibit Nos. 15 and 16 for identification purposes only at
4 this time.)

5 SOLICITOR MOWRY: Thank you.

6 THE COURT: And they have been marked as --?

7 SOLICITOR MOWRY: They are State's Exhibits 16 for
8 identification and 15 for identification.

9 THE COURT: Thank you.

10 All right. Let's bring the jury in.

11 (WHEREUPON, the following takes place within the
12 presence of the jury.)

13 THE COURT: Thank you, sir.

14 State may call its next witness.

15 SOLICITOR MOWRY: Call Patrick Durkin.

16 THE COURT: Come forward, sir, to be sworn.

17 PATRICK DURKIN, being first duly sworn,
18 testified as follows:

19 THE COURT: Sir, have a seat in the witness stand.
20 Once seated, I'd ask that you state your name please, and
21 speak into the microphone.

22 WITNESS: My name is Patrick Durkin.

23 THE COURT: Counselor, your witness.

24 SOLICITOR MOWRY: Thank you, Your Honor.

25 DIRECT EXAMINATION

Patrick Durkin - Direct examination
by Solicitor Mowry

1 BY SOLICITOR MOWRY:

2 Q Mr. Durkin, I see you're wearing a uniform.

3 Are you a law enforcement officer?

4 A I am.

5 Q And by whom are you employed?

6 A Greenwood City Police Department.

7 Q Greenwood City.

8 All right. Were you employed in that capacity back in
9 April of last year?

10 A Not with Greenwood City.

11 Q All right. Who were you employed by?

12 A Laurens City.

13 Q You were employed by Laurens City Police Department in
14 April of 2011?

15 A That's correct.

16 Q All right. Were you on-duty on April the 24th of
17 2011?

18 A I was.

19 Q And what shift were you working that day, sir?

20 A Night shift.

21 Q Night shift.

22 What hours did that run between?

23 A 7:00PM to 7:00AM.

24 Q And was Captain Cofield, who testified earlier, was she
25 your shift supervisor I guess?

Patrick Durkin - Direct examination
by Solicitor Mowry

1 A She was.

2 Q Around nine o'clock or a little after that evening, did
3 you answer a call over the radio?

4 A I did.

5 Q And what was your response to the call?

6 A As in how I -- how -- what I went to get there or---

7 Q What did you -- what did you do after you received that
8 call a little after nine o'clock?

9 A The call came out as a, initially as an alarm call and
10 a single officer was dispatched, and then shortly after
11 dispatch redispached the call saying it was an armed
12 robbery, and policies stated that we initiated blue lights
13 and sirens, and got there as quickly and safely as possible.

14 Q All right. And where did you respond to?

15 A I responded to the area of North Harper Street, Watts,
16 and Cora street.

17 Q Okay. North Harper is Highway 221?

18 A It is.

19 Q Is there a particular place on North Harper Street that
20 you responded to?

21 A To the Hispanic store right next to the coin laundry.

22 Q The Guatemex Store?

23 A Yes.

24 Q And was this the location of it about right here?

25 A Yes.

Patrick Durkin - Direct examination
by Solicitor Mowry

1 Q All right. what is this street here?

2 A That is Camp Street.

3 Q Camp Street.

4 All right. Did you actually go to the store itself?

5 A I did not.

6 Q All right. what was -- what were you asked to do?

7 A We were dispatched to the armed robbery, and when I was
8 running a code, which is lights and sirens to get to the
9 location, I would of been the, I believe the third or fourth
10 officer on scene, and how policy goes is the first officer
11 on scene, if the scene is clear, then gets as much
12 information as possible, and broadcasts it over the radio.
13 while I was approaching the scene, they had got out over the
14 radio that two males had left the scene and headed in the
15 direction of watts Street.

16 So, I turned off my blue lights and sirens, slowed
17 down, and went down or turned left down Cora Street, and
18 then took a left, which I believe was willis and circled
19 back headed towards North Harper slowing down or traveling
20 very slowly trying to see if I noticed anything out of
21 place, and upon heading back towards North Harper Street,
22 watts Street---

23 Q Down in this area?

24 A Yes, I got closer towards the green dot.

25 Q Right.

Patrick Durkin - Direct examination
by Solicitor Mowry

1 Referring, Your Honor, to State's Exhibit No. I believe
2 that's 6 closer to the green dot---

3 A Yes.

4 Q ---down here?

5 A I was heading towards the, towards 221.

6 Q Okay. So, you were coming up this way?

7 A I was.

8 Q All right. What did you see?

9 A As I saw a vehicle heading towards maybe the opposite
10 direction slow down pulling up to the curb, which would be
11 on the side of the road with the green dot, and two males
12 walking down the front yard, one of the houses, and got into
13 the vehicle as it came to a stop, and then the vehicle
14 pulled off.

15 Q And what description did you have for the people that
16 you were looking for?

17 A At that point I just had two males.

18 Q Okay.

19 A The situation that they were walking down a house, got
20 into a vehicle that had just come to a stop, and immediately
21 pulled off, that struck me as very suspicious especially in
22 the situation that there had just been an armed robbery with
23 two males.

24 Q All right. Did you call Captain Cofield for anything?

25 A I did. I called over the radio to try to get a

1 description of the individuals and they responded with
2 asking what I had, and I related what they just told me
3 condensed. Over the radio they told me to stop the vehicle,
4 which I was in the process of doing at that point.

5 Q Captain Cofield told you to stop the vehicle?

6 A Yes.

7 Q what did -- where had the vehicle gone after it had
8 left 104 watts Street?

9 A It had -- it was heading away from 221. I had turned
10 around in the dirt part, the little dirt pull-off behind
11 Riches Pawn, which is cleared---

12 Q Right in here?

13 A Yes.

14 Q Okay.

15 A To turn around to follow them at which point they were
16 turning around in a house. I believe it was a third house
17 on watts Street on the right. They were turning around in
18 the driveway heading back, at that point, heading towards
19 221.

20 Q So, they were coming back up in the same direction you
21 had been headed?

22 A Yes.

23 Q All right. what happened then?

24 A I passed them a second time, and then I turned around
25 in the same driveway, and got up behind them as they were,

1 well, leaving the watts Street pulling right on 221 heading
2 towards the city.

3 Q Heading towards town?

4 A Yes.

5 Q This way?

6 A Yes.

7 Q All right. what happened then?

8 A I was able to get behind them. I initiated blue
9 lights, performed a traffic stop, which ended in a pull-off
10 of a used car parking lot. At that point, there was
11 numerous other law enforcement officers that had backed me
12 up, and we got out and identified Mr. Pulley and Mr.
13 Robinson as two of the four people in the vehicle.

14 Q All right. who were the other two?

15 A They were in -- the driver and the passenger, I don't
16 remember their names, two females.

17 Q Two females.

18 All right. Let me hand you what is now been marked as
19 State's Exhibit No. 16 for identification.

20 Do you recognize the person in that picture?

21 A I do.

22 Q who is that?

23 A Mr. Pulley.

24 Q Is that the way he was dressed when you saw him?

25 A He was.

1 Q All right. Thank you, sir.

2 Your Honor, I would now offer this as a State's
3 Exhibit.

4 THE COURT: Any objection?

5 MR. MITCHELL: No, Your Honor.

6 THE COURT: Any objections?

7 MS. MOORE: No objection.

8 THE COURT: All right. Without objection, it will now
9 be marked as an exhibit, the same number.

10 (WHEREUPON, State's Exhibit No. 16 was received into
11 evidence at this time.)

12 Q I'm handing you now State's Exhibit No. 16.

13 Can you describe what Mr. Pulley has on in that
14 picture.

15 A A light colored or a white or gray tank top with blue
16 jeans with orange sort of type shape on the rear pockets and
17 black shoes.

18 Q Okay. I'm gonna show you now what's been marked as
19 State's Exhibit No. 3 for identification, and ask you if you
20 can identify that?

21 A That appears to be the same pants.

22 Q All right. Same pants worn by --?

23 A Mr. Pulley.

24 SOLICITOR MOWRY: Your Honor, I would now offer these
25 as a State's Exhibit.

1 THE COURT: Any objection?

2 MS. MOORE: I do. I have an objection, Your Honor.

3 THE COURT: Yes, ma'am.

4 MS. MOORE: Your Honor, I don't believe the proper
5 foundation has been laid to link those particular jeans
6 through this witness to my client, Your Honor. I don't
7 believe the foundation has been laid.

8 THE COURT: And I'll be happy, glad to hear you on
9 that.

10 MS. MOORE: Okay. Your Honor, if, in fact, the State
11 purports to introduce those jeans as my clients, Your Honor,
12 they would have to establish the chain of custody versus
13 Mr. Durkin just testifying that those appear to be the same
14 jeans in the picture, Your Honor.

15 THE COURT: You want to tell me what the chain of
16 custody might be on this?

17 SOLICITOR MOWRY: well, the chain of custody is we
18 brought them, we brought them into the courtroom today, Your
19 Honor, from the police department.

20 THE COURT: Okay. well, have they been evidence in a
21 bag?

22 SOLICITOR MOWRY: Yes, sir.

23 THE COURT: Do you want to show him that and see if he
24 can identify that?

25 I'll ask him to lay a better foundation.

Patrick Durkin - Direct examination
by Solicitor Mowry

1 MS. MOORE: Thank you, Your Honor.

2 SOLICITOR MOWRY: I tell you what, Your Honor, I'll
3 hold off on that for the time being.

4 THE COURT: All right.

5 Q And, likewise, let me show you what have now been
6 marked as State's Exhibit No. 4 and State's Exhibit No. 15
7 for identification.

8 Do you recognize those pictures?

9 A Yes, that's Mr. Robinson.

10 Q That's Mr. Robinson, Lakasion Robinson?

11 A It is.

12 Q Okay. And is that the way he was clad when you saw
13 him?

14 A It is.

15 Q white t-shirt, white shoes, and these jeans?

16 A It was.

17 SOLICITOR MOWRY: All right. Your Honor, State's
18 Exhibit No. 4 is already in evidence. I would offer State's
19 Exhibit No. 15 into evidence at this time.

20 THE COURT: Any objection, Mr. Mitchell?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Ms. Moore.

23 MS. MOORE: No, your Honor.

24 THE COURT: Without objection it will now be allowed
25 into evidence with the same number.

Patrick Durkin - Direct examination
by Solicitor Mowry

1 (WHEREUPON, State's Exhibit No. 15 was received into
2 evidence at this time.)

3 THE COURT: You may proceed.

4 SOLICITOR MOWRY: Thank you, Your Honor.

5 Handing you what is now been marked as State's Exhibit
6 No. 15, this photograph. I'd ask you to refer to State's
7 Exhibit No. 8 for identification.

8 Do these appear to be the same jeans that Mr. Robinson
9 has on in these, in that picture?

10 A It does.

11 Q All right. Thank you.

12 A They do.

13 Q Thank you, sir. That's all the questions I have. If
14 you'd answer any of the questions from the defense
15 attorneys.

16 THE COURT: Mr. Mitchell, your witness.

17 CROSS-EXAMINATION

18 BY MR. MITCHELL:

19 Q Mr. Durkin, did you say you're the one that apprehended
20 Mr. Pulley and Mr. Robinson?

21 A I was the officer that performed the traffic stop.

22 Q All right. And did you apprehend Mr. Smiley?

23 A I did not.

24 Q And, so, the two people that were together that you
25 apprehended were Smiley and -- I'm sorry. Pulley and

Patrick Durkin - Cross-examination
by Mr. Mitchell

1 Robinson?

2 A They were in the vehicle that I pulled over, yes, sir.

3 MR. MITCHELL: All right. Nothing else, Your Honor.

4 THE COURT: Ms. Moore, your witness.

5 MS. MOORE: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. MOORE:

8 Q Officer Durkin, you testified that it was suspicious
9 that there were two males in a vehicle.

10 why was that suspicion?

11 A It wasn't that there were two males in the vehicle. It
12 was a call came out two blocks away from where I was, had an
13 located armed robbery, and two males fitting that
14 description as heading in the direction of where I was on
15 watts Street, and the fact that a vehicle had barely come to
16 a complete stop. They walked out and got into the vehicle,
17 and drove off, and that's what I took as being suspicious.

18 Q Okay. Now, you said that, that the dispatch came from
19 your Lieutenant Chrissy Cofield, is that correct?

20 A That came from the Laurens County dispatcher.

21 Q Okay. And did you have an occasion to receive any
22 information from Lieutenant Cofield prior to the stop of
23 Mr. Pulley and Mr. Robinson?

24 A Could you restate as I'm not sure if I follow you?

25 Q Okay. Well, let me ask you this.

Patrick Durkin - Cross-examination
by Ms. Moore

1 You've stated that you stopped Mr. Pulley and Mr.
2 Robinson, correct?

3 A Correct.

4 Q Okay. And at some point, following the stop, you
5 placed Mr. Pulley and Mr. Robinson into investigative
6 detention, is that correct?

7 A They were separated after we got them or after the
8 vehicle was stopped.

9 Q And they were cuffed, right?

10 A Correct.

11 Q But they weren't under arrest, correct?

12 A Correct.

13 Q Okay. And, in fact, what evidence, at that point, did
14 you have linking my client, Jakeivan Pulley, to this alleged
15 robbery?

16 A Clothing description. At that point I think it was
17 clothing description.

18 Q It was just a clothing description.

19 That was it?

20 A I believe so.

21 Q Lieutenant Cofield did not inform anyone that she had
22 identified Jakeivan Pulley?

23 A When her -- I believe it came over the radio. I did
24 not have a way to compare photographs on scene, and
25 Lieutenant Cofield I believe, at that point, then come to

Patrick Durkin - Cross-examination
by Ms. Moore

1 the scene and positively identified herself.

2 Q But that was after they were placed in investigative
3 detention?

4 A That's correct.

5 MS. MOORE: Okay. No further questions of this
6 witness, Your Honor.

7 THE COURT: Anything further on redirect?

8 SOLICITOR MOWRY: I think, I think Mr. -- is
9 Mr. Mitchell had an opportunity to---

10 THE COURT: Yes, I---

11 MR. MITCHELL: Yes.

12 SOLICITOR MOWRY: Okay. I'm sorry. I have nothing
13 further, Your Honor.

14 THE COURT: All right, sir. You may step down.

15 MR. MITCHELL: Your Honor, may I follow-up on one of
16 her questions, on one of his statements from her question?

17 THE COURT: No, sir, I'd asked you if you had any
18 cross-examination earlier. You indicated you didn't.

19 MR. MITCHELL: But based on what she's asked him I, I
20 have a question.

21 THE COURT: Highly unusual, but I'll allow it.

22 MR. MITCHELL: Thank you, Your Honor.

23 RE-CROSS-EXAMINATION

24 BY MR. MITCHELL:

25 Q You just testified, based on her questions, that you

Patrick Durkin - Recross examination
by Mr. Mitchell

1 pulled over Mr. Pulley and Smiley.

2 How long after the, the alleged incident did you pull
3 them over?

4 A I didn't---

5 Q What was the time frame?

6 A I did pull over Smiley and Pulley.

7 Q I'm sorry. I said that wrong. Let me rephrase that.

8 when you pulled over Mr. Robinson and Mr. Pulley, what
9 time was that?

10 A I don't have the call sheet in front of me. I don't
11 know the exact time. It was moments after or a period, a
12 reasonable period of time after the call came out.

13 Q Do you believe it was less than an hour?

14 A I do not recall.

15 Q Okay. So, at less than an hour -- well, you already
16 had clothing descriptions at the time?

17 You -- they were broadcasting to you to look for
18 someone with certain clothing on?

19 A As far as I recall, yes.

20 Q Okay. Nothing else.

21 THE COURT: Mr. Mowry.

22 REDIRECT EXAMINATION

23 BY SOLICITOR MOWRY:

24 Q Do you know whether or not Lieutenant Cofield had an
25 opportunity to look at the video at that point?

Patrick Durkin - Redirect examination
by Solicitor Mowry

1 A She did.

2 Q And Detective Riggott?

3 A I believe Detective Riggott was on scene as well.

4 Q All right. Thank you, sir. That's all.

5 THE COURT: Anything further, Mr. Mitchell?

6 MR. MITCHELL: No, Your Honor.

7 THE COURT: Ms. Moore.

8 MS. MOORE: No, Your Honor.

9 THE COURT: You may step down.

10 WITNESS: Thank you.

11 SOLICITOR MOWRY: Your Honor, I'd ask that the officer
12 be released.

13 THE COURT: Any objection to this witness being
14 released from further testimony?

15 MR. MITCHELL: No, Your Honor.

16 THE COURT: Ma'am?

17 MS. MOORE: No, Your Honor.

18 THE COURT: You're free to go, sir. Thank you for
19 coming today.

20 SOLICITOR MOWRY: Thank you.

21 Call Chip Steppe. He is in my office.

22 THE COURT: Thank you.

23 Sir, if you'll come over to my right to be sworn
24 please.

25 CHIP STEPPE, being first duly sworn,

Chip Steppe - Direct examination
by Solicitor Mowry

1 testified as follows:

2 THE COURT: Have a seat in the witness stand. Once
3 you're seated, get as close to the microphone as you can.
4 State your name please.

5 WITNESS: My name is Claude Harry Steppe, IV.

6 DIRECT EXAMINATION

7 BY SOLICITOR MOWRY:

8 Q You go by Chip?

9 THE COURT: Your witness, sir.

10 SOLICITOR MOWRY: Thank you, Your Honor.

11 Q You go by Chip?

12 A Yes, sir, I do.

13 Q And, Mr. Steppe, by whom are you employed?

14 A I'm employed by the South Carolina Law Enforcement
15 Division.

16 Q And is that commonly known as SLED?

17 A Yes, sir.

18 Q What is your function with the State Law Enforcement
19 Division?

20 A I am a senior agent with the tracking team.

21 Q The tracking team?

22 A Yes, sir.

23 Q Tracking by what?

24 A Bloodhounds.

25 Q Bloodhounds?

Chip Steppe - Direct examination
by Solicitor Mowry

1 A Yes, sir.

2 Q So you run bloodhounds---

3 A Yes, sir, I do.

4 Q ---for SLED?

5 How long have you been employed in that capacity?

6 A I started with SLED as a bloodhound tracking agent back
7 in October of 2000.

8 Q All right. And did you have any prior experience as a,
9 as a, with bloodhounds?

10 A with, with tracking dogs, yes, sir.

11 Q Okay.

12 A Yeah, I started with the Department of Natural
13 Resources back in '95. But I started running dogs with them
14 back in '98. So, I have a year and a half prior to coming
15 to SLED.

16 Q Okay. So, over the last 14 years, let's say, 13 or 14
17 years, how much of that time have you spent with tracking
18 dogs?

19 A The majority of it -- I left the tracking team at SLED
20 probably in 2006 for approximately two and a half, three
21 years doing fugitives. But during that time I also still
22 ran calls with the tracking team, and then I came back to
23 the tracking team a few years later and I've been there ever
24 since.

25 Q And, again, what is your rank with SLED?

Chip Steppe - Direct examination
by Solicitor Mowry

1 A I'm a senior agent. Also a team leader of the tracking
2 team.

3 Q All right. Are you -- do you have any memberships in
4 recognized organizations in this area?

5 A I'm a member of SCLEA, South Carolina Law Enforcement
6 Association. Off hand I can't say, no, sir.

7 Q Okay. How about specialized training in the area of
8 tracking dogs?

9 A Yes, sir, I've been to -- I am an instructor, certified
10 instructor through the South Carolina Criminal Justice
11 Academy. I am certified as a physical instructor, rifle
12 instructor. I've also been to several schools to be trained
13 with dogs. I went to a nine week school with DNR back in
14 '98. I went to the Southeastern Bloodhound Training Seminar
15 back in 2000. I've been to the Tactical Explosion Entry
16 Tracking School, Man Tracking School. I'm not sure, 2002,
17 2004 maybe for that school, and I've been to lots and lots
18 of schools.

19 Q Okay. And how many trails have you run with tracking
20 dogs in your time with SLED and DNR?

21 A With, with SLED, I know -- just with SLED alone, we
22 recently pulled up the database, and every time you go on a
23 call it's -- we have something called Mapry (sic) we put all
24 our calls in, and sometimes your name gets thrown on the
25 call, sometimes it doesn't. But the last number I pulled, I

Chip Steppe - Direct examination
by Solicitor Mowry

1 think it was today was like 375 just, just at SLED. Not
2 including DNR and not including calls they just put my name
3 there.

4 Q So, that 375 tracks that you have---

5 A Yes, sir.

6 Q ---trailed with dogs in your experience?

7 A Yes, sir.

8 SOLICITOR MOWRY: Your Honor, I would offer him as an,
9 as an expert in this area.

10 THE COURT: Any objection to his qualification in that
11 area?

12 MR. MITCHELL: No, Your Honor.

13 MS. MOORE: No, Your Honor.

14 THE COURT: All right. Ladies and gentlemen, let me
15 explain to you what we're doing at this time so that you'll
16 understand what this is about.

17 Generally the rules of evidence that govern our courts
18 do not allow witnesses, lay witnesses, to testify concerning
19 their opinions on matters. They're allowed to testify
20 concerning facts within their knowledge. An exception to
21 that general rule is made for a witness that, that I qualify
22 as an expert within some science, field, or profession.

23 As to those witnesses who are qualified as an expert,
24 they are allowed to state their opinions within their area
25 of expertise, and also allowed to give the reasons why they

Chip Steppe - Direct examination
by Solicitor Mowry

1 hold those opinions.

2 In this particular case, this witness has been offered
3 as an expert in tracking with dogs, and the -- there's no
4 objection to that designation. So, I'm going to designate
5 him as an expert within the field. That will allow him to
6 give opinions within the field, and state his reasons for
7 these opinions.

8 I'm going over that with you because, in the future, if
9 there are other witnesses that are designated as experts in
10 the case, then you'll understand why we're going through
11 that process, and in this case, without objection, I'm
12 designating this witness as an expert within his field.

13 You may proceed, counsel.

14 SOLICITOR MOWRY: Thank you, Your Honor.

15 Mr. Steppe, did you respond to a call to Laurens back
16 on the evening of April 24th of last year?

17 A Yes, sir, I did.

18 Q And what kind of information did you receive prior to
19 coming up here?

20 A Generally what happens, when you get a call, after
21 hours, after five o'clock, they're two agents on call. We
22 get a call and generally the call is saying we have a armed
23 robbery or whatever it is. This particular call was a, I
24 believe, armed robbery at a store, convenience store, the
25 Guatemex.

Chip Steppe - Direct examination
by Solicitor Mowry

1 Q Guatemex?

2 A Guatemex, yes, sir, and I responded from my house,
3 headquarters, to headquarters. I know the other tracking
4 agent, and we put the dogs in the, in the Suburban and we
5 headed on to Laurens.

6 Q Okay. Which dog did you, did you run that night?

7 A That night I ran Sully.

8 Q All right. Let me ask you about Sully if I could.
9 What kind of dog is Sully?

10 A Sully is a red bone bloodhound mix. We, we try to
11 breed, mix breed all our dogs because bloodhounds don't give
12 us the endurance that red bones do, but red bones don't have
13 the nose that bloodhounds do. So, we mix breed our dogs and
14 we come up with what we look for.

15 Q Okay. Let me ask you, in general, about dogs and their
16 power, their sense of smell.

17 How would you characterize that in comparison to
18 humans, for example?

19 A Well, bloodhounds are -- bloodhounds alone I know for a
20 fact because I actually looked this up to make sure I was
21 correct on this, but bloodhounds have three million more
22 times more powerful nose than humans have, and I've given it
23 as an example before like you come into a building or
24 residence, you smell something, kind of, kind of smells good
25 like smell like something's freshly baked. Well, a

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by Solicitor Mowry

1 bloodhound could come in and tell you what's in it. He can
2 tell you they're blueberries in or whatever. Their nose is
3 that much stronger than human beings nose.

4 Q All right. And how would you characterize a bloodhound
5 as far as powers among dogs?

6 A They're stronger. That's why we use bloodhounds. I
7 mean their noses is -- the only dogs that we have ever found
8 that we have a large amount of success with are bloodhounds
9 cause their nose is so much more powerful stronger than
10 other dogs nose. The only -- like I said, the only reason
11 we crossbreed is to get that endurance cause bloodhounds,
12 they don't generally have that endurance for the hot days in
13 South Carolina.

14 Q All right. Was Sully trained to follow a trail by
15 scent?

16 A Yes, sir, he was trained by me.

17 Q Okay. How, how did you go about training him to do
18 that?

19 A The way they start training our dogs is we start them
20 as puppies. We never ever get a grown dog unless there's
21 something magical. We never mess with a grown dog. We
22 always start as puppies. For example, we'll start them at
23 six to eight weeks old, take them out, get them out of the
24 truck, and I'll start playing with them. I'll let them
25 follow me around a minute and then I'll run from them. And

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by Solicitor Mowry

1 when I start running from them, what they want to do is they
2 want to catch you because they want that attention.

3 So, I'll start this process while I run from them or
4 hide them or I'll be up on something, and they'll start
5 running and start running. Then I'll work with different
6 things I want them to do. I want them to bark. If I want
7 them to bark, I'm gonna agitate him. I'm gonna get him
8 excited to where they'll bark because when they're barking
9 that means they're doing what I'm asking them to do.

10 So, that will progress from six to eight weeks. Then
11 it will go on to where I actually look at them in the kennel
12 of the truck, I talk to them a little bit, and then I leave
13 them. They don't know where I went. So, at some point in
14 time they have to figure out they have to put their noses
15 down.

16 Now, I may let them see me run off for a second. Then
17 they got to find me. So, that just progresses from there to
18 the point where they have to come out and put the dog out
19 and they have to find the scent themselves, and that's
20 what, that's what, that's what puts them to the next level
21 because if they can't reach that level then we'll just start
22 cutting them and move them out the way, and the whole reward
23 for a bloodhound on our team, your tracking team, our rule
24 is affection at the end.

25 we want them to love on us. We want them to play with

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1 us. We want them to get whatever they want in so they enjoy
2 it so they want to do it again.

3 Q How much experience had Sully had in following trails?

4 A Sully had been on the ground probably two or three
5 years.

6 Q Okay. And how many trails would you estimate he had
7 run?

8 A And this is a guesstimation, 15 to 20 or so.

9 Q Okay. How reliable had he been?

10 A He'd been very reliable. Once they get to a year old,
11 if they're not cutting it, we cut them loose, and a lot of
12 local agencies will take them from us and use them. But we
13 have certain standards that we go by. We've got a set of
14 standards we set up a few years ago we got to follow.

15 SOLICITOR MOWRY: Okay. Your Honor, essentially I
16 would offer Sully as an expert dog.

17 THE COURT: I don't think that Mr. Sully will be
18 testifying. So, we'll allow this gentleman to testify
19 concerning his actions.

20 SOLICITOR MOWRY: Thank you, Your Honor.

21 THE COURT: You may proceed.

22 Q All right. Mr. Steppe, when you came up here with
23 Sully what did you do?

24 A Well, we first got here. We generally try to get a
25 little brief information before we start, number of

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1 suspects, what they were wearing, and weapons, and we --
2 hopefully we have some of that before we come because we
3 want to be prepared before we, you get here. If it's a
4 really bad call, we'll have more than two guys with us, and
5 we got here.

6 we, we understood that it was at least two guys.
7 Didn't understand exactly what all we had, but we did get
8 here and get to the arrest, to the store and they advised us
9 what they had. I think we looked at the videotape real
10 quick before we went off.

11 Q All right. And---

12 A we then took outside and figured out where the suspects
13 were last seen, where they knew they last had them, and we
14 looked at the area.

15 Urban areas like the city of Laurens are a little
16 tougher because, you know, scent doesn't pool as good on
17 concrete, but it does work fine. We run on concrete
18 everyday. No big deal. But you have to, you have to get
19 outside the contamination of the area.

20 Q Okay. Explain what you meant by pooling of scent.

21 what does -- what's the mechanism that dogs use to
22 trail?

23 A Dogs, dogs track people by the dropping of dead skin
24 cells, graft. Graft is what we call it. You are, you are
25 continuously dropping dead skin cells everyday, everywhere

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1 you go, and what our dogs do is our dogs actually smell --
2 they're not smelling actually the skin cell. They're
3 smelling the decay of that skin cell. So, they are smelling
4 what is being dropped off by that, by that person.

5 And, so, that's why you have such good individual
6 smells from each people, you know. I mean it has to affect
7 a dog, what he puts on in the morning, what I put on in the
8 morning, how we, how we dress and how our residence is, and
9 how we live and everything like that. So, everybody has
10 their own unique smell.

11 So, what we do is we train our dogs to, to, whenever --
12 we start them on the scent, and we make sure we get them
13 where the right scent starts at the right place, especially
14 if we have an article or if you don't have an article, we
15 can still do it without that.

16 We work them on that scent to where they know that
17 that's the one scent they get their own, and if they do not
18 stay on that scent and they go off that scent in training,
19 we correct them and put them back on it, raise them up,
20 level up, say you're doing a great job again.

21 So, with this, with this particular case, we do, we do
22 have an idea where the suspect's fled from. We tried to get
23 outside the area where the officers were because you got
24 officers coming in and out of places. We go outside of it
25 and work an area that they haven't seen any traffic at all,

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1 put the dog down.

2 The dog, the dog automatically will use its head and
3 tail to alert me. The head movements, changes of motion
4 tell me exactly if he's got it or he don't have it. The dog
5 gets out of the truck and he's walking around, I've had this
6 plenty of times, the dog will get around, walk out, and they
7 said somebody fled here, and I'll go down the road, and he
8 ain't got nothing.

9 well, this, at this point, this dog did come out. We
10 cut -- it was a laundromat or something over there. We cut
11 around a laundromat to -- yeah, to the right side of it in
12 that parking lot, and there was a dumpster in the corner
13 down there somewhere.

14 Yes, sir, right there, and we started cutting around
15 there, and at that point it was where he really -- he
16 started coming out the side of the door, but he really
17 struck it, picked it up going down the side of that road.

18 SOLICITOR MOWRY: And I'm referring again, Your Honor,
19 to State's Exhibit No. 6, the aerial chart.

20 THE COURT: Yes, sir.

21 Q I know we don't have anything like this in this case,
22 but so often in movies and dramas and everything you see
23 people running through water.

24 Does that necessarily fool a bloodhound?

25 A Not at all. The, the scent -- what I do -- what

Chip Steppe - Direct examination
by Solicitor Mowry

1 happens when people go through water -- I have caught a ton
2 of people in water. The scent pools on top of the water.
3 So, you, you may go under water, but your scent, your scent
4 is just coming off your skin, you're right, it is sitting on
5 top of that water. We've caught people under water. I've
6 caught people in swamps. I've caught people in ditches.
7 I've caught people in trees. You name it and I've probably
8 caught them there.

9 Q All right. Now, in this particular case, after you
10 began to run around the parking lot of the coin laundry next
11 to the Guatemex --

12 A Yes, sir.

13 Q -- what happened then?

14 A We worked beside that street right there.

15 I think that's what, Camp Street?

16 Q Camp Street.

17 A Yes, sir, we worked down that street a little ways, and
18 what will happen a lot of times, dogs will get fast,
19 especially in urban areas, they'll take it, fast runs. So,
20 we went on down that street. We actually passed a street on
21 our left, which is Spring or Spring or---

22 Q willis?

23 A willis. willis. Okay.

24 we passed it on the left, went down. What happened
25 with him is his head came up. When a dog's head comes up,

Chip Steppe - Direct examination
by Solicitor Mowry

1 he's lost it because if his nose isn't down and he isn't
2 working side-to-side and moving like he should, the head
3 comes up, I'm gonna start searching.

4 One or two reasons behind that is one, they're either
5 air scenting the person, they're really close, or you're
6 fixing to catch them, or, two, they come off the trail.

7 In this respect, he came off the trail. He did a
8 couple circles, did a couple loops, what we call 360. When
9 we lose a trail, we cut 360's around where we last had it
10 known that we'll find it from that point. We went down past
11 that street right there, and then came, came back up, and
12 then we came, came back up the next street to the left,
13 which is Willis?

14 Q This is, this is -- you talking about this street here?

15 A No, the parallel street.

16 Q Okay. Yes.

17 A Yeah, came up that parallel street, struck it, get
18 strong, and when I say struck it, again, head down, pulling
19 really hard, and Sully's a big dog. He's strong. I mean
20 I'm 210. I got to lean back on my heels to hold him back.
21 So, he's a strong dog.

22 So, that, that is one, one way of really knowing that
23 dogs are. Dogs struck the trail, started coming down the
24 road, working the left side of the road, crossing some
25 yards, going down parallel with some yards, and then he made

Chip Steppe - Direct examination
by Solicitor Mowry

1 a, a -- we call it a fade. He faded to the left and through
2 a couple yards and ended up on watts Street coming through a
3 little, a little, a short little wood right behind a house
4 on watts Street.

5 Q Okay. would it be about right here?

6 A Yes, sir, that would be it.

7 Q All right. Behind this green dot---

8 A Yes, sir.

9 Q ---which indicates 104?

10 A Yes, sir.

11 Q Okay. And where did he go after that?

12 A We came from behind that house, and we came behind that
13 house, we went to the back door, but then we did a circle
14 around the house. I planned -- if I recall right, sully
15 went up the stairs on the back steps, then came around, and
16 went up the stairs on the front steps.

17 So, we, we went around both sides, worked it several
18 times to where, you know, we didn't have anything. We went
19 and cleared the house. I think we ended up clearing the
20 house with some local guys. So, city guys I'm sure, and
21 then we started cutting down the road.

22 Q Okay. Did you find any suspects there at that time?

23 A No, sir.

24 Q Okay. But that was the indication to you what?

25 A That indication to me that he knew what, that he was on

1 the trail, that he was going to where the last suspects were
2 known on the ground.

3 Q Okay. And since there were the, no suspects were found
4 at the scene, what did that indicate to you?

5 A They had left the scene.

6 Q All right. And---

7 A And I did, I did a 360 not only around the house. I
8 crossed the street. There's a wooded area across the street
9 that goes -- I think we went down here, yes, sir.

10 Q Yes, sir.

11 A I cut everything, yes, sir, cause what, what we look
12 for is any way that the, the suspects get out of the scene,
13 and if they, if he would of, if he would of missed it, you
14 know, anything's possible. But after you do it several
15 times and he doesn't alert on anything else, then usually we
16 tell them that this person is left the scene, and nowadays
17 with cell phones and cars and all this stuff that people can
18 get in a car, get picked up in a car, we have it occurred a
19 lot of times.

20 Q So, that would not of indicated to you that he left on
21 foot or they left on foot?

22 A No. No, it wouldn't -- it would not indicate that, no.

23 Q Okay. How would you assume they had left from the
24 scene, from that scene?

25 A Well, my dog didn't take it any farther.

Chip Steppe - Direct examination
by Solicitor Mowry

1 Q Okay.

2 A If my dog would of taken it past that house, I would
3 of, I would of believed that he went past that house.

4 Q And -- well, what I was asking what -- the question was
5 focused on what mode of transportation would you believe
6 they used.

7 A Well---

8 MR. MITCHELL: Objection. Calls for speculation.

9 SOLICITOR MOWRY: He's an expert, Your Honor.

10 THE COURT: I don't know if he's an expert in that
11 particular field. I'm gonna sustain the objection.

12 SOLICITOR MOWRY: Let me, let me---

13 THE COURT: I rule in your favor, Mr. Mitchell.

14 Q Let me ask you this way. Let me ask it this way.
15 would you think they had left on foot?

16 A No.

17 Q Or vice versa?

18 A No.

19 Q what would be the most probable means of
20 transportation?

21 A A vehicle.

22 Q All right. Did you have any other function with this
23 investigation that night?

24 A Yes, sir, we had information about an apartment complex
25 where they thought one of the suspects were at.

Chip Steppe - Direct examination
by Solicitor Mowry

1 Q Okay. was this Laurens Terrace?

2 A Yes, sir, I believe so.

3 Q And what did you -- what time approximately did that
4 come up?

5 A Well, I'll be honest with you, I don't know the exact
6 time. Time's kind of running together when you're out in
7 the field. I'm not really looking at my watch, but I know
8 we got the call close to 10:00 and we were here at 4:30.
9 So, you know, in the middle some time I guess.

10 I mean we finished up the call, finished up that
11 tracking portion, you know, fairly quickly. You know, you
12 got to figure, we got the call at 9:56. It's 20 minutes
13 from my house to headquarters, and an hour or so from there
14 to here. So, it's pushing us closer to 11:30 or so before
15 we started the trail.

16 Q All right. So, the lack, the lack -- it was, was early
17 morning hours then?

18 A Yes, early morning hours. That be exactly, as best I
19 could give you.

20 Q Very good.

21 What did you, you see or what did you -- what kind of
22 activity did you take part in when you got to Laurens
23 Terrace?

24 A Well, I, you know, to explain to you what our job is,
25 we're an assisting agency. We are called to assist city

Chip Steppe - Direct examination
by Solicitor Mowry

1 agencies, county agencies, and whatever they want us to do.
2 So, if we run a trail, we are also SWAT team members. So,
3 our job is to assist the county and the cities in anyway
4 they want us to go.

5 On that night they said that they had information about
6 the apartment complex and one or two other suspects was over
7 there. They had a vehicle description. We told them we
8 would ride with them. If they had to do, if they had to do
9 a forced entry or something like that, we're SWAT guys,
10 that's what we do. We're glad to help with that.

11 We went over there and the vehicle description -- I
12 think the vehicle they had a description was there. I think
13 there were one or two guys in the vehicle. The
14 investigators or the county, I think the chief and everybody
15 was there. They were handling, talking to people, and we
16 get information that it was one or two apartments that one
17 of the guys was in. I think we assisted it and getting,
18 getting consent to go in and checking out the apartments for
19 the suspects.

20 Q Okay. Do you see anyone there that you dealt with that
21 night, anyone in this courtroom?

22 A Yes, sir, I believe so. Well, yeah.

23 Q Point him out please.

24 A Well, I mean I dealt -- you talking about that night?

25 Q Yes, sir.

Chip Steppe - Direct examination
by Solicitor Mowry

1 A I didn't, when I went in there, I come out, one guy was
2 coming down the stairs, and I'll be honest with you, to sit
3 here and say which one it is, I don't know if I want to do
4 that.

5 Q That's fine.

6 A Yeah.

7 Q I won't ask you.

8 A Okay.

9 Q But you were along---

10 A Yes, I was along for the ride, yes, sir, I was.

11 Q with other investigators?

12 A Yes, sir.

13 Q Let me just back up to your experience at [REDACTED]

[REDACTED] --

15 A Okay.

16 Q -- Mr. Davoris Dorrah house.

17 was anyone home when you got there?

18 A Yeah.

19 MR. MITCHELL: Objection, Your Honor. He just
20 identified [REDACTED] [REDACTED] at Mr. -- I'm sorry. Pardon me.
21 I heard it wrong.

22 THE COURT: All right. You may proceed.

23 Q was anyone home or was anyone in the, in the house when
24 you got there?

25 A The house, we came with the dog there to, [REDACTED]. Yes,

Chip Steppe - Direct examination
by Solicitor Mowry

1 they were, they were either a male or a female on the porch.

2 Q Okay. And how do you know that -- how did Sully know I
3 guess that the person at [REDACTED] was not the person at Guatemex?

4 A Well, we went up to the steps. He, he didn't show,
5 show any reaction to him at all.

6 Q Okay.

7 A He came back down like it wasn't them. You know, our
8 dogs are not like alert dogs. They're not gonna go up and
9 say, you know, point and say hey, this is the guy. Our
10 dogs, generally, if they're gonna alert on somebody, they'll
11 notice them or want to play with them. That's it. He did
12 not do any of that.

13 Q Okay. So, none of the signals that you would expect?

14 A None of the signals that I would know that the bad
15 guy's there, no.

16 Q Okay.

17 A No.

18 Q Did you also clear the house once you got to 104 watts?

19 A I know that, once we got there and started checking
20 around the house, we ended up calling some city guys and I
21 believe that we may of helped them. I know -- I believe we
22 went in the first room, but I think they cleared the house
23 and checked it. Yes, nobody was in the house, yes.

24 Q Nobody else was in the house?

25 A Not -- no, sir.

Chip Steppe - Direct examination
by Solicitor Mowry

1 Q Okay.

2 A That we could find, no, sir, and then I think we came
3 out and we were checking under the house to make sure they
4 didn't go under the house and nobody was under the house.

5 Q Right.

6 So, again, you got to [REDACTED], and Sully
7 indicated to you what about [REDACTED]?

8 A That's where the suspects were last at. The last
9 location of the suspects is what my dog is telling me.

10 Q Okay. And your belief was that they left by what
11 means?

12 A Vehicle.

13 Q Okay.

14 A They didn't leave on foot. If they left on foot my dog
15 would be telling me.

16 Q Right.

17 That's all I have, Your Honor.

18 You can answer any questions from the defense
19 attorneys.

20 THE COURT: Mr. Mitchell, your opportunity to
21 cross-examine.

22 MR. MITCHELL: Yes, Your Honor.

23 May it please the Court.

24 CROSS-EXAMINATION

25 BY MR. MITCHELL:

Chip Steppe - Cross-examination
by Mr. Mitchell

1 Q I'm gonna pull up this exhibit again, State's Exhibit

2 No.---

3 A Six.

4 Q ---6. I was sitting down when you were saying which
5 way you went.

6 A Okay.

7 Q Okay. This is the Guatemex Store?

8 A Okay.

9 Q And this is where you say you ended up---

10 A Okay. Yes.

11 Q ---at 104 watts Street.

12 A Yes.

13 Q which direction did your dog take you?

14 A we went down -- let me make sure I can -- we went down
15 this street here, and down the street away. we went --
16 there's a, a cross street, which is you're saying this
17 street right -- I mean this street. we went down actually
18 past that to where I was talking about he brought his head
19 up, and we did the circle back and he came back this way.
20 we faced left and then ended up working back here. Actually
21 I think he came up and around one time.

22 Q And the, the dog was leading you on the path of the---

23 A Of the suspects.

24 Q ---of the suspects?

25 A Yes, sir.

Chip Steppe - Cross-examination
by Mr. Mitchell

1 Q Would it surprise you if there was testimony earlier
2 today via the video that the suspects actually walked this
3 way away from the store?

4 A Yes, it would surprise me. What, what my dog did is he
5 went down the side road, went down to this, went down to
6 this Camp Street, and then, after he hung up, he went back
7 that back way, yes, sir.

8 Q Okay. Now, I'm not asking the jury to believe any of
9 the testimony before, but one of the, the witnesses that
10 spoke earlier said that he walked from here over to his
11 friend's house, and I don't know if he went this way or
12 which way he went, but he left that direction, and the last
13 time we saw two of the suspects, two supposed suspects, they
14 were also leaving that direction.

15 So, that -- does that surprise you?

16 A No, my dog told me they went that way. I believe my
17 dog.

18 Q Your dog told you they went this way?

19 A Yes, sir.

20 Q Okay. Now, how do you know -- what, what, at the
21 store, did the dog smell?

22 A Okay.

23 Q Did he smell clothing?

24 A No, he smelled human scent. He smelled human scent of
25 this, the two suspects that fled the scene, and what I

Chip Steppe - Cross-examination
by Mr. Mitchell

1 looked for---

2 Q How, how do you know it the, was the scent of the
3 suspects---

4 A Okay.

5 Q ---that fled the scene?

6 A what I look for is an area outside the contaminated
7 area meaning that I knew for a fact that the police arrived
8 and they walked through that door. So, a lot of times, as
9 far as just saying we're starting at the door because the
10 dog just don't want to -- is the dog gonna sit there is what
11 you're saying I guess.

12 But once you get outside that scene -- I was still
13 working in the parking lot. Once I get outside that scene,
14 by the time I got to the corner out here at the dumpster, he
15 had picked up a scent. After speaking with the officers,
16 the officer said nobody's been past that point. To their
17 knowledge, nobody's been back there. He struck a trail from
18 there going down that road on the left-hand side.

19 Q All right. Now, earlier the prosecution showed all of
20 us video that, in the store, there was a woman and a child.

21 How do we know that it wasn't the scent of the woman
22 and the child that went that direction?

23 A I'm going by what I was told. I was going by -- I was
24 going by what the officers told me the last location the
25 suspects fled in, and I'm going by them telling me that

Chip Steppe - Cross-examination
by Mr. Mitchell

1 there was nobody in that area. Now, I did not see any
2 children's footprints. No sign of that. I, you know---

3 Q If, if they're walking on sidewalks, why would there be
4 footprints?

5 A Well, it was not on the sidewalk. There was grass.
6 There's dirt. I mean you're not just talking about -- if
7 you look at the yards and stuff, there's not just always
8 gonna be dirt, and they're not always gonna be asphalt, and
9 concrete and everything. There's gonna be signs, small
10 places of dirt, grass that gets pushed down. There's gonna
11 always be areas you'll find some kind of scent.

12 Q Okay. You, you just mentioned footprints. You didn't
13 mention anything about footprints when you testified---

14 A No, and I didn't---

15 Q ---about the---

16 A ---say I had footprints. That's not what I said. I
17 said I didn't have any children footprints and I didn't. I
18 didn't have any children footprints at all.

19 Q Did you have any adults?

20 A No prints. I had, I had signs, but I'm not telling you
21 I had a child's footprint, and when I'm saying signs, I mean
22 disturbance in the ground.

23 Q All right. At the beginning of this case the woman who
24 worked in the store said that many people had been in the
25 store that day.

Chip Steppe - Cross-examination
by Mr. Mitchell

1 So, how do we know that there wasn't a patron of the
2 store that walked over here, maybe visited a friend, walked
3 over here, maybe they lived right there?

4 A Anything's possible, but the, the fresher scent is what
5 my dog's gonna run to. So, if, if I go by what the
6 officers' statements are, this is the last known location,
7 and nobody, from what they're saying, they secured the crime
8 scene, nobody's been past this point, I go by what they tell
9 me and that is the freshest scent he picked up and took that
10 way.

11 Q So, what's the, the shelf life of a scent?

12 A We've run trails for 20 hours.

13 Q So, somebody who is in the store 20 hours before could
14 of been the scent that you were following?

15 A Anything is possible if they went to that same house
16 that I went to.

17 Q Okay. Are you sure it wasn't this house?

18 A I know what house I went to. I saw it. I was there.
19 I don't know -- by this overhead map, you're pointing at a
20 house. By this overhead map, I can't tell you, but I know
21 which house it was I went to. So, the, the house that I
22 went to is the house location that we checked and cleared
23 and I was told that that was the last location of the
24 suspects.

25 Q Okay. Now, one other question, there was some

Chip Steppe - Cross-examination
by Mr. Mitchell

1 testimony earlier that one of the people who was wearing
2 clothing in this store at the time of the crime ditched
3 their clothing behind this store right here, which is just
4 two doors down from this house.

5 Did your dogs not smell this, the clothing over here?

6 A First of all, it looks farther than two doors down.

7 Q Okay. Here's, here's the house that---

8 A I see the house.

9 Q There's one house.

10 A That's right.

11 Q There's the empty lot and there's the -- it was found
12 somewhere back in here.

13 A Well, if you want me to show you where I cut I'll be
14 glad to show you, and this is the residence, right, we're
15 talking about?

16 Q That's, that's what the State has determined as---

17 A Okay. We come through this backyard through this
18 little -- it's a small little group of trees and bushes that
19 we come through. We cut -- this circle -- this is to start
20 with. That's our first 360 of the residence. This is when
21 he alerted on the steps here and the steps here. We
22 continued our search here.

23 We cut here and then we cut deeper here and because
24 looking at the area, that's more likely a place for somebody
25 to leave from is this area here. They're not gonna be seen

Chip Steppe - Cross-examination
by Mr. Mitchell

1 if they went out of the woods. That's a very good check.

2 I go by experience. That's what I've done for a period
3 of time. So, I looked in this area, checked this area, and
4 I never got out past this house over here. My 360
5 encompasses right here.

6 Q All right. would it surprise you if one of the
7 suspects testified earlier that he took clothing that was at
8 the scene of the accident, at the scene of the crime---

9 A Right.

10 Q ---and he ditched it somewhere behind the Li'L Cricket?

11 A If, if he, he told me---

12 Q He had to have walked to ditch it over there.

13 A Yeah, it would surprise me cause I would of thought my
14 dog would of taken it to the clothing.

15 Q So -- and, and would it surprise you also that the
16 police were tipped or told by one of the codefendants that
17 the clothing was ditched over here and the next day they
18 went and found it?

19 A It wouldn't of surprised me at all, but there's no
20 reason they could of ditched it from a vehicle, is there?

21 I've had people throwing clothing out of a vehicle, all
22 kinds of stuff like that.

23 Q Oh.

24 A I mean it's nothing that -- you can't tell me that you
25 don't know for a fact that he walked from Point A to Point B

Chip Steppe - Cross-examination
by Mr. Mitchell

1 and ditched clothing. I mean I -- I know what my dog did is
2 all I'm telling you. My dog went to that house, circled the
3 house three or four times, and I feel comfortable about the
4 whole thing.

5 Q Okay. I'm glad you're confident what your dog did
6 cause I still have lots of questions.

7 SOLICITOR MOWRY: Your Honor, I object to that.

8 MR. MITCHELL: I'm sorry. I'm sorry.

9 THE COURT: I'll strike the last comment from the
10 record. I find it to be argumentative. I'll allow you to
11 ask questions, but not argue with the witness.

12 MR. MITCHELL: I'm sorry. I know it was out of line.

13 THE COURT: Any other questions?

14 MR. MITCHELL: No, Your Honor.

15 THE COURT: Ms. Moore.

16 MS. MOORE: No, Your Honor. I have no questions,
17 questions for this witness.

18 THE COURT: Redirect?

19 MR. MITCHELL: Nothing on redirect, Your Honor.

20 THE COURT: Sir, you may step down.

21 Do you wish to have the witness excused?

22 SOLICITOR MOWRY: Yes, sir.

23 THE COURT: Any objection to his being excused?

24 MR. MITCHELL: No, Your Honor.

25 MS. MOORE: No, Your Honor.

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 THE COURT: You're free to go. Thank you for coming,
2 sir.

3 WITNESS: Yes, sir.

4 THE COURT: The State may call its next witness.

5 SOLICITOR MOWRY: Thank you, Your Honor.

6 SOLICITOR FIELDER-COMMANDER: At this time the State
7 calls Porsha Miller.

8 THE COURT: Come forward, ma'am, to my right and be
9 sworn.

10 PORSHA MILLER, being first duly
11 sworn, testified as follows:

12 THE COURT: Have a seat please, ma'am. Once seated,
13 state your name. State your name please, ma'am.

14 WITNESS: Porsha Miller.

15 THE COURT: Thank you.

16 Your witness, counselor.

17 DIRECT EXAMINATION

18 BY SOLICITOR FIELDER-COMMANDER:

19 Q Take your gum out of your mouth.

20 On April 24th, 2011, where did you live?

21 A Laurens Terrace Apartment.

22 Q About how far is that away from North Harper Street or
23 the Guatemex?

24 A Maybe two minutes.

25 Q who lives with you at the Laurens Terrace at that time?

1 A Just me and my kids. My two kids.

2 Q And could you describe if they're a boy or a girl?

3 A Boy and a girl, five and one.

4 Q Five and one.

5 At that time how old was your, your daughter?

6 A Two months.

7 Q Who was at the house on April 24th, 2011?

8 A Just me and my daughter. Me and my son.

9 Q Did you -- did someone stop by your apartment at that,
10 on that day?

11 A Yes.

12 Q Who stopped by your apartment?

13 A Davoris Smiley.

14 Q What do you know him as?

15 A Debo.

16 Q What did he want to do when he got into your apartment?

17 A Use the restroom.

18 Q Did you have a problem with that?

19 A No.

20 Q Where is the restroom in your apartment?

21 A Upstairs.

22 Q Did you follow him to the restroom?

23 A I didn't.

24 Q Did you notice anything around the area outside when he
25 went, when, after he came into your apartment?

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 A Outside or in the apartment?

2 Q Outside.

3 A Lots of police cars.

4 Q Did you ask him about the police cars?

5 A Yes, but I didn't get a response.

6 Q Where did you remain in your apartment while he was in
7 the restroom?

8 A Downstairs.

9 Q And you -- where is your daughter's room at, on that
10 day?

11 A Like in the -- I say the back, but like the front of
12 the building.

13 Q How many rooms are upstairs?

14 A Three including the restroom.

15 Q Three rooms including the restroom.

16 Beg the Court's indulgence.

17 (Pause.)

18 Q How do you know Debo?

19 A Just know him.

20 Q About what's -- about what time did he come to your
21 apartment?

22 A I'm not sure what time it was. It was late.

23 SOLICITOR FIELDER-COMMANDER: Permission for the
24 witness to step down for a second to---

25 THE COURT: She may step down.

1 Ma'am, you can step down and you can testify from the
2 floor.

3 (Witness comes down from the stand.)

4 Q Could you please show us or demonstrate to us about how
5 your upstairs is laid out as far as the rooms are concerned?

6 A (Witness complies.)

7 Q Thank you.

8 You can have a seat back.

9 A (Witness returns to the stand.)

10 Q Ms. Miller, it appears that the stairs are on the far
11 right-hand side of the room. The bed -- bathroom, master
12 bedroom, your son's room, your daughter's room, and the
13 closet, is that correct?

14 A Uh-huh. (Affirmative).

15 Yes.

16 Q From downstairs can you tell which room someone goes
17 into?

18 A No.

19 Q About how long was Debo upstairs?

20 A I'm not sure.

21 Q Can you give an approximation?

22 A Ten minutes. Not -- probably not even ten minutes.

23 Q when did he come back downstairs?

24 A when the police arrived.

25 Q Do you remember what he was wearing on that night?

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 A Boots and a jacket.

2 Q Boots and a jacket.

3 Had you seen him in the boots or the jacket before that
4 night?

5 A No.

6 SOLICITOR FIELDER-COMMANDER: State moves to mark these
7 as, for identification.

8 THE COURT: You can mark them for identification
9 purposes, yes, ma'am.

10 (WHEREUPON, a pair of boots were marked as State's
11 Exhibit No. 17 for identification purposes only at this
12 time.)

13 THE COURT: They've been marked how, ma'am?

14 SOLICITOR MOWRY: As State's Exhibit 17.

15 THE COURT: Thank you.

16 I'll describe them as a pair of boots.

17 You may proceed.

18 Q Ms. Miller, does this appear to be the same boots that
19 he was wearing when he came to your apartment that night?

20 A Yes.

21 Q Ms. Miller, this is already State's Exhibit No. 9 for
22 identification purpose.

23 Have you recognize these -- do you recognize these
24 pants?

25 A No.

1 Q Okay. when the police came to your house, did they ask
2 you for permission to search your house, your apartment?

3 A Yes.

4 Q And what did you say?

5 A Yes.

6 Q Did you have a problem with them searching your
7 apartment?

8 A No.

9 Q why is that?

10 A Because my son was upstairs and they said that a weapon
11 was involved in the robbery. So --.

12 Q Did you go upstairs before, after, before the police
13 came down -- excuse me. Let me rephrase.

14 From the time Debo was upstairs till the time he came
15 downstairs did you have a chance to go upstairs?

16 A I didn't.

17 Q And your daughter, at that time, was two months old?

18 A Yes.

19 Q And how old -- how did you keep her room?

20 A It was always clean.

21 SOLICITOR FIELDER-COMMANDER: For identification
22 purposes, the state also wishes to introduce these photos
23 into---

24 THE COURT: All right. They may be marked for
25 identification purposes.

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 (WHEREUPON, three photographs were marked as State's
2 Exhibit Nos. 18 through 20 for identification purposes only
3 at this time.)

4 Q Ms. Porsha Miller, what is this a picture of?

5 A My daughter's room. Her room at the time.

6 Q Her room at the time.

7 Permission to introduce State's Exhibit No. 20?

8 THE COURT: Any objection to that being made an
9 exhibit?

10 MR. MITCHELL: No, Your Honor.

11 THE COURT: Ms. Moore.

12 MS. MOORE: No, Your Honor.

13 THE COURT: All right. It will be made an exhibit.
14 Made the same number for ID purposes.

15 (WHEREUPON, State's Exhibit No. 20 was received into
16 evidence at this time.)

17 Q Ms. Miller, when you look at that picture, what do you
18 notice in your daughter's bassinet?

19 A Money.

20 Q Did you put that money in your daughter's bassinet?

21 A I didn't.

22 Q Did your son put the money in the bassinet?

23 A He didn't.

24 Q I can't hear you.

25 A He didn't.

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 Q Had you seen that money prior Mr., to Debo coming into
2 your daughter's, going upstairs?

3 A No.

4 Q And the bassinet is this area right here?

5 A Yes.

6 Q How did you find out that stuff was in your daughter's
7 bassinet?

8 A The police took me upstairs to see it.

9 Q Do you recognize the items in this photo?

10 A Yes.

11 Q What are these items?

12 A Money, lighter.

13 Q Is, is this what you saw on that, in your daughter's
14 bassinet?

15 A Yes.

16 SOLICITOR FIELDER-COMMANDER: And that's, for, for the
17 record, as State's Exhibit No. 18. Permission to introduce
18 this as State's Exhibit No. 18.

19 THE COURT: Any objection to that being made a part of
20 the record---

21 MR. MITCHELL: No. No, Your Honor.

22 THE COURT: ---to be admitted?

23 MS. MOORE: No, Your Honor.

24 THE COURT: All right. It will be admitted using the
25 same number it was identified with.

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 (WHEREUPON, State's Exhibit No. 18 was received into
2 evidence at this time.)

3 THE COURT: You may proceed.

4 Q Can you also identify, can you also identify what's in
5 State's Exhibit No. 19?

6 A Yes.

7 Q what is that?

8 A Money, lighter.

9 SOLICITOR FIELDER-COMMANDER: And permission to
10 introduce into evidence State's Exhibit No. 19.

11 THE COURT: Any objection to its introduction,
12 Mr. Mitchell?

13 MR. MITCHELL: No. No, Your Honor.

14 THE COURT: Ms. Moore.

15 MS. MOORE: No, Your Honor.

16 THE COURT: All right. It will be admitted using the
17 same number it was identified with.

18 (WHEREUPON, State's Exhibit No. 19 was received into
19 evidence at this time.)

20 THE COURT: You may proceed.

21 Q Ms. Porsha Miller, are these items that you, that was
22 in your daughter's bassinet after Debo left from upstairs?

23 A Yes.

24 Q Did you place those items in your daughter's bassinet?

25 A I did not.

Porsha Miller - Direct examination
by Solicitor Fielder-Commander.

1 Q And what was your son doing at the time?

2 A He was asleep.

3 Q How did it make you feel finding that these items were
4 found in your daughter's bassinet and your son was in the
5 other room sleeping?

6 A Upset.

7 SOLICITOR FIELDER-COMMANDER: Beg the Court's
8 indulgence?

9 THE COURT: Yes, ma'am.

10 (Pause.)

11 Q Ms. Miller, I'm gonna show you a portion of what has
12 been marked as State's Exhibit No. 2, and I'm gonna ask you
13 to see if you recognize anyone that's in the vehicle, in the
14 video.

15 If you need to stand up, please do so.

16 Let me start cause I think I was talking when it
17 started.

18 Ms. Miller, can you identify anybody that was in the
19 video?

20 A No, ma'am.

21 Q Is there anything from what they're, what they are
22 wearing that can lead you to identify anyone?

23 A Just the shoes that Debo has on.

24 Q Any other item that might of been, that he might of had
25 on?

Porsha Miller - Direct examination
by Solicitor Fielder-Commander

1 A The jacket.

2 Q Is that what he was wearing when he came to your
3 apartment that night?

4 A Yes.

5 SOLICITOR FIELDER-COMMANDER: Beg the Court's
6 indulgence.

7 THE COURT: Yes, ma'am.

8 (Pause.)

9 Q And when you say Debo, who is Debo?

10 A Davoris Smiley.

11 Q Thank you.

12 Could you please point to him in the courtroom?

13 A (Witness points.)

14 Q What does he have on?

15 A A brown button down.

16 Q A brown button down shirt.

17 A (Witness nods affirmatively.)

18 Q Thank you.

19 Please answer any questions that the defense counsel
20 might have for you.

21 THE COURT: Mr. Mitchell, your witness.

22 MR. MITCHELL: Yes, Your Honor.

23 May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. MITCHELL:

2 Q On the night -- did you say that there was someone else
3 that came in the house with Mr. Smiley?

4 A No.

5 Q No one else came into, into your apartment with, with
6 him?

7 A No.

8 Q who's Mario Suber?

9 A A friend.

10 Q was he there that night?

11 A He was around, but he wasn't in the apartment.

12 Q He didn't come in to use the bathroom too?

13 A No.

14 Q was anybody else in your apartment that day other than
15 you and your two children?

16 A I don't recall from earlier.

17 Q Did you have any other friends visit?

18 A I did.

19 Q who were they?

20 A Oh, just a couple home girls.

21 Q A couple neighborhood friends that were women?

22 A Yes.

23 Q Is it possible that they left that money and the, and
24 the lighter in your child's bassinet?

25 A No.

Porsha Miller - Cross-examination
by Mr. Mitchell

1 Q All right. When the police came to your house were you
2 alarmed?

3 Were you---

4 A They---

5 Q Were you afraid?

6 A Yeah.

7 Q Did you call up to the upstairs and say Debo, come down
8 here?

9 A No.

10 Q So, he just came down on his own?

11 A No, he didn't come down on his own. The police asked
12 if there was anyone else in the apartment and I said yes.

13 Q And, and he, he heard all that and just came down?

14 A No, I said Debo and I guess that's when he came down.

15 Q So, he wasn't trying to hide upstairs or anything?

16 He didn't hide under a bed or anything?

17 A No.

18 Q Did the police have to go upstairs to extract him from
19 your apartment?

20 A No.

21 Q So, you could not -- you can not tell -- you told us
22 earlier that you can not tell which room you went in, is
23 that correct?

24 A Correct.

25 Q Is it possible that he just went into the bathroom and

1 then came right back down?

2 A It's possible.

3 Q Now, let ask you this, do you remember the clothes that
4 he was wearing or did the prosecution refresh your memory
5 before testifying today of what his clothes he was suppose
6 to be wearing?

7 A I just remember the boots.

8 Q So, you remember that he was wearing boots almost a
9 year ago?

10 A Yes.

11 Q And you say he was wearing a jacket?

12 A Yes.

13 Q what color jacket?

14 A Like green looking.

15 Q It was green.

16 A I say green looking. I didn't say it was green. I say
17 it looked green.

18 Q Okay. And was that a zipper jacket?

19 A I'm not sure.

20 Q Did it have a collar?

21 A It had a hood.

22 Q So, you don't know if it had a zipper though?

23 A No.

24 Q So -- and the police arrest Mr. Pulley, I mean -- I'm
25 sorry, Mr. Smiley at your house?

Porsha Miller - Cross-examination
by Mr. Mitchell

1 A Yes.

2 Q And they took him away in a handcuff?

3 A Yes.

4 Q But do you know if, if the police ever fingerprinted
5 the items in your house?

6 A No, I just -- no.

7 Q Did they fingerprint the bassinet or anything in your,
8 any other furniture in your house?

9 A No.

10 MS. MITCHELL: Okay. I have nothing else for this
11 witness, Your Honor.

12 THE COURT: Ms. Moore.

13 MS. MOORE: Thank you, Your Honor.

14 THE COURT: Yes, ma'am.

15 (WHEREUPON, a statement was marked as Defendant's
16 Exhibit No. 3 for identification purposes only at this
17 time.)

18 MS. MOORE: May I approach the witness, Your Honor?

19 THE COURT: You may.

20 MS. MOORE: Thank you.

21 CROSS-EXAMINATION

22 BY MS. MOORE:

23 Q Ms. Miller, I'm Scarlet Moore and I represent Jakeivan
24 Pulley.

25 You don't know Mr. Pulley, do you?

Porsha Miller - Cross-examination
by Ms. Moore

1 A No.

2 Q Okay. Ma'am, I'm gonna show you a statement -- well,
3 excuse me.

4 I'm gonna show you a document and if you can take a
5 look at that document and tell me if you recognize that.

6 A Yes.

7 Q Okay. And, and what have I just handed you?

8 A A statement.

9 Q Okay. And is it your statement?

10 A Yes.

11 MS. MOORE: Okay. And, Your Honor, I've shown her
12 what's been marked as Defendant's, Defendant's Exhibit No.
13 3.

14 Ma'am, I'm gonna read a few, a few lines in this
15 statement, and you tell me if I'm reading this correctly.

16 Okay. Okay. First of all, Detective Leann Riggott was
17 identified as writing this statement for you, is that
18 correct?

19 A Yes.

20 Q Okay. Myself and some friends were sitting outside my
21 apartment.

22 Am I reading that correctly?

23 A Yes.

24 Q Okay. Davoris and Mario Suber got out of the car and I
25 did not see who they were with.

Porsha Miller - Cross-examination
by Ms. Moore

1 Is that correct?

2 A Yes.

3 Q And you testified earlier that, that Mario Suber was
4 around the residence?

5 A Yes.

6 Q Correct?

7 Describe Mr. Suber for the jury.

8 what does he look like?

9 A About 5'6", 5'7", hair, dreads.

10 Q Is he African-American?

11 A Yes.

12 Q Okay. And then later on you do, in fact, testify that
13 Mario came into the apartment, is that correct, or excuse
14 me, you state that in your statement?

15 A Can you point it out for me?

16 Q Yes, I can. Read the whole thing. So, let me start,
17 let me start where I stopped.

18 So, we talked about Mario Suber. Davoris Smiley asked
19 to use my bathroom.

20 Correct?

21 Right there.

22 A Yes.

23 Q And he went inside and he then came back out.

24 Correct?

25 A Yes.

Porsha Miller - Cross-examination
by Ms. Moore

1 Q And he wanted something to drink, and then he went back
2 to the, to the bathroom.

3 Correct?

4 A Yes.

5 Q Mario was in the apartment and I saw the police go by
6 out my window.

7 Am I reading that correctly?

8 A Yes.

9 Q Okay. Now, Ms. Miller, isn't it true that when the,
10 the police searched your residence, and the daughter's room
11 in particular, \$750 of cash was found?

12 A I'm not sure how much, but it was around that.

13 Q It was around \$750?

14 A Yes.

15 MS. MOORE: Okay. No further questions of this
16 witness, Your Honor.

17 THE COURT: Redirect.

18 SOLICITOR FIELDER-COMMANDER: Yes, Your Honor.

19 THE COURT: Yes, ma'am.

20 REDIRECT EXAMINATION

21 BY SOLICITOR FIELDER-COMMANDER:

22 Q where was your daughter that day?

23 A At my aunt's house.

24 Q Did Mario Suber stay downstairs?

25 A Yes.

Porsha Miller - Redirect examination
by Solicitor Fielder-Commander

1 Q And you said Suber has dreadlocks?

2 A Yes.

3 Q Does Debo have dreadlocks?

4 A No.

5 Q Were those items in the bassinet -- from State's
6 Exhibit No. 18, were these items in -- excuse me.

7 Are these items in the bassinet before Debo came into
8 your apartment and went upstairs?

9 A No.

10 Q Was he the only person upstairs when the police got
11 there?

12 A Yes.

13 Q Was -- that was an adult. Excuse me.

14 Nothing further from the State.

15 THE COURT: Anything further, Mr. Mitchell?

16 MR. MITCHELL: Yes, Your Honor.

17 May it please the Court?

18 THE COURT: Yes, sir.

19 RE CROSS EXAMINATION

20 BY MR. MITCHELL:

21 Q Is it possible -- were you, were you inside your
22 apartment the whole time that Mr. Smiley was in your
23 apartment or were or did you go in and out the front door
24 and go outside?

25 A In and out the front door.

Porsha Miller - Recross examination
by Mr. Mitchell

1 Q Is it possible that Mario Suber went upstairs and you
2 wouldn't know it?

3 A No.

4 Q But he was in your apartment, correct?

5 A Yes.

6 MR. MITCHELL: All right. Nothing, nothing else.

7 THE COURT: Ms. Moore, any other -- Ms. Moore, any
8 other questions?

9 MS. MOORE: No, Your Honor.

10 THE COURT: All right, ma'am. You may step down.
11 Thank you very much.

12 I'll ask counsel to approach.

13 (WHEREUPON, a bench conference was held out of the
14 hearing of the jury at this time.)

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, at this time we're gonna break for the afternoon.
17 I'll ask you to be back in the jury room in the morning at
18 nine o'clock.

19 Same instruction I've given you every time you've left
20 the courthouse. That is that you should not try to gather
21 any information on your own from any source outside of the
22 courthouse. Don't discuss the case with anyone. Don't
23 allow anyone to discuss it with you. Should anyone try to
24 contact you about your service in this case, please report
25 it upon your return.

1 Nine o'clock, back in the jury room. I trust you'll
2 have a good evening.

3 Thank you very much.

4 Everyone remain seated while the jury retires.

5 (WHEREUPON, the following takes place outside the
6 presence of the jury.)

7 THE COURT: All right. Court's in recess until nine
8 o'clock.

9 Defendants remain in custody.

10 Thank you very much.

11 SOLICITOR MOWRY: Thank you, Your Honor.

12

13 (WHEREUPON, Court was in recess for the evening.)

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1 Thursday, March 1st, 2012

2
3 THE COURT: All right. State ready to proceed?

4 SOLICITOR MOWRY: well, Your Honor, the, the clerk has
5 informed me that we are missing a few photographs up here,
6 and I've been looking through my file to determine if we
7 have them, and I do not see them anywhere.

8 THE COURT: Are these photographs that were for
9 identification purposes?

10 SOLICITOR MOWRY: Apparently so, yes, sir, and I'm not
11 even absolutely sure what they are.

12 THE COURT: All right.

13 SOLICITOR MOWRY: I don't know if the court reporter
14 can help us out with that at all.

15 THE COURT: I'll take a moment. Check with her.

16 SOLICITOR MOWRY: Your Honor, if I could just go look
17 on my desk real quick---

18 THE COURT: Sure.

19 SOLICITOR MOWRY: ---and make sure I didn't somehow
20 take them back in there. I don't believe I did.

21 (Pause.)

22 SOLICITOR MOWRY: And I do have those. Now I recall.

23 THE COURT: Okay.

24 SOLICITOR MOWRY: Yes, that's my bad.

25 THE COURT: All right. Now, is the State ready to

1 proceed?

2 SOLICITOR MOWRY: Yes, sir.

3 THE COURT: Mr. Mitchell, is the defense ready?

4 MR. MITCHELL: Yes, Your Honor.

5 THE COURT: Ms. Moore.

6 MS. MOORE: Yes, Your Honor.

7 THE COURT: Bring the jury in.

8 (WHEREUPON, the following takes place within the
9 presence of the jury.)

10 THE COURT: The jury has returned to the courtroom.

11 If there was any juror whose had any difficulty in
12 following my instructions concerning your behavior outside
13 of the courtroom, please stand.

14 (No response.)

15 THE COURT: It appears that all jurors have been able
16 to comply with the Court's instructions.

17 We will continue with the presentation of evidence by
18 the State.

19 The State may call its next witness.

20 SOLICITOR FIELDER-COMMANDER: At this time the State
21 calls Robbie Haupfear.

22 THE COURT: Come forward, sir, to be sworn.

23 ROBBIE HAUPFEAR, being first duly
24 sworn, testified as follows:

25 THE COURT: Have a seat please, sir, and once you're

Robbie Hauptfear - Direct examination
by Solicitor Fielder-Commander

1 seated, I'm going to ask that you state your name please.

2 WITNESS: Robbie Hauptfear.

3 THE COURT: Ms. Commander, your witness.

4 SOLICITOR FIELDER-COMMANDER: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY SOLICITOR FIELDER-COMMANDER:

7 Q Where do you work?

8 A At Laurens County Sheriff's Office.

9 Q How long have you worked there?

10 A Sixteen years.

11 Q What are some of your duties for the Laurens County
12 Sheriff's Office?

13 A I'm the shift lieutenant on uniform patrol.

14 Q And what does a shift lieutenant do?

15 A I'm basically in charge of the shift. we dispatch
16 calls to the shift, back up officers, answer calls.
17 whatever basically we do it.

18 Q Were you on-duty on April 24th, 2011?

19 A Yes, ma'am.

20 Q At around nine o'clock did you get a call to go
21 somewhere?

22 A Yes, ma'am, we were asked by Laurens City Police
23 Department for assistance with an armed robbery that they
24 had that occurred in the city.

25 Q Can you walk us through what you did when you arrived

Robbie Hauptfear - Direct examination
by Solicitor Fielder-Commander

1 on the scene?

2 A Yes, ma'am, first off, one of the officers had stopped
3 the car on North Foster Street. The first thing I did, we
4 got out with him to make sure that he was, was okay with the
5 situation he had going on.

6 During the, the course of that I think we figured out
7 that two of the individuals in the car were possibly
8 involved in the robbery. There were two females in the car
9 also. I think a Ms. Ervin was one of them. I got a written
10 statement from her with her involvement.

11 After that, a third individual was identified. We were
12 told that he was possibly at Laurens Terrace Apartments.
13 So, I went with Laurens City and State Law Enforcement
14 Division there to attempt to help locate him.

15 Q What department did you go to at the Laurens Terrace?

16 A That was Apartment [REDACTED].

17 Q When you got there, who answered the door?

18 A That was a Ms. Miller.

19 Q Did you see anyone coming from up, downstairs?

20 A Yes, ma'am, after we were talking with Ms. Miller for a
21 few minutes a male subject came walking from the upstairs
22 area downstairs, and was identified as the individual that
23 Laurens City was looking for.

24 Q Is that -- can you identify that man that came from
25 downstairs?

Robbie Hauptfear - Direct examination
by Solicitor Fielder-Commander

1 A His name was there, was Smiley was who we were looking
2 for.

3 Q Smiley?

4 A Yes, ma'am.

5 Q Do you remember what he was wearing that night?

6 A I believe he had on a t-shirt and blue jeans that night
7 coming from the apartment.

8 Q You're not -- are you for sure or you're not for sure?

9 A Not -- I'm not a hundred percent sure.

10 Q Okay. Did you retrieve any consent to search Ms.
11 Miller's apartment?

12 A Yes, ma'am, after the individual came from downstairs
13 and he was detained I asked Ms. Miller for consent to
14 search, to go upstairs to make sure there's no other
15 individuals hiding, and there wasn't. He, Mr. Smiley,
16 didn't leave anything upstairs, which she did give us
17 consent.

18 After going upstairs we started down the hallway into a
19 bedroom that appeared to be a baby's room. When we went
20 into the baby's room, sitting in a bassinet area appeared to
21 be a, was a large amount of money, a cell phone, and some
22 other items.

23 SOLICITOR FIELDER-COMMANDER: May I approach the
24 witness?

25 THE COURT: You may.

Robbie Hauptfear - Direct examination
by Solicitor Fielder-Commander

1 Q This is State's Exhibit 20.

2 Do you recognize this photo?

3 A Yes, ma'am, that's the baby room that we went into.

4 Q This is State's Exhibit 18 and 19.

5 Do you recognize what's in those photos?

6 A Yes, ma'am, that's the items that were in the, the
7 bassinet.

8 Q So, this is the baby's room?

9 A Yes, ma'am.

10 Q And these are the items that was in the bassinet?

11 A Yes, ma'am.

12 SOLICITOR FIELDER-COMMANDER: Beg the Court's
13 indulgence.

14 THE COURT: Yes, ma'am.

15 (Pause.)

16 Q Mr. Hauptfear, do you recognize this?

17 A It appears to be the money that came out of the
18 bassinet.

19 Q Was money taken -- did the police seize the money that
20 was in the bassinet?

21 A Yes, ma'am.

22 Q Was it bagged?

23 A Yes, ma'am.

24 Q So, you said this is the money that came from the
25 bassinet?

Robbie Haupfear - Direct examination
by Solicitor Fielder-Commander

1 A I would -- I didn't bag it. Chief Morris of the
2 Laurens City Police Department bagged it.

3 SOLICITOR FIELDER-COMMANDER: At this time the State
4 would like to introduce this into evidence.

5 THE COURT: Any objection?

6 MR. MITCHELL: Yes, Your Honor. I have an objection.
7 The person who bagged it is not here to testify.

8 SOLICITOR MOWRY: Your Honor, we asked specifically
9 pretrial if, if chain of custody witnesses were going to be
10 required, and we were informed that they were not.

11 MR. MITCHELL: The only chain of custody witnesses that
12 we said that we were gonna not have a problem with were the
13 chain of custody witnesses---

14 THE COURT: Just a moment.

15 Ladies and gentlemen of the jury, this is one of the
16 occasions I'm gonna ask you to step back to the jury room.
17 At this time, please do not begin any discussions until such
18 time as I've had an opportunity to ask you to do so.

19 (WHEREUPON, the following takes place outside the
20 presence of the jury.)

21 THE COURT: Mr. Mowry, my understanding of the
22 discussions that the chain of custody witnesses we were
23 discussing in the chambers were those that had to do with
24 the DNA and/or fingerprint.

25 SOLICITOR MOWRY: I asked specifically about the police

1 chain of custody as well, Your Honor, and---

2 THE COURT: well, maybe I missed that.

3 Mr. Mitchell.

4 MR. MITCHELL: I was under -- we were discussing the
5 DNA that we had just received the day before. The results
6 of the fingerprints and the DNA on the shirt that was
7 ditched in the bushes, and neither one of them had a problem
8 with the chain of custody on that issue, and that's why we
9 said we didn't need the chain of custody for, for, from that
10 all the way to Columbia and back.

11 SOLICITOR MOWRY: Your Honor, I asked specifically---

12 THE COURT: Let me hear---

13 SOLICITOR MOWRY: I'm sorry.

14 THE COURT: Let me hear from Ms. Moore.

15 MS. MOORE: Thank you, Your Honor.

16 That, that was my understanding as far as on behalf of
17 my client. The only chain of custody issue that I agreed to
18 was, in fact, as reflected in Mr. Mitchell's statements. It
19 was in regard to those reports we received on Monday and
20 also my understanding was that those DNA and fingerprints
21 analysis would come in. We would stipulate to that, Your
22 Honor. That's the only recollection I have in regard to
23 chain of custody, Your Honor.

24 SOLICITOR MOWRY: And, Your Honor, I, I specifically
25 said that I did not want to stipulate to the reports. I

1 wanted to have the analyst here and I do have them here.

2 THE COURT: Yes, sir.

3 SOLICITOR MOWRY: My, my purpose was to eliminate
4 Captain Stankus, to eliminate Chief Morris, to eliminate
5 Secret Service Agent Jim Motley so that we could just cut to
6 the, cut to the core and get the information out, and it was
7 my understanding that we were eliminating those. I, I
8 talked specifically about the, the police officers and this,
9 and this very purpose.

10 THE COURT: Well, whatever was put on the record is
11 what we're going to go by.

12 SOLICITOR MOWRY: All right, sir.

13 THE COURT: And, so, I'm gonna take a break and allow
14 the court reporter to get back to that place on the record
15 where we discussed that pretrial on the record, and then
16 we'll follow that, whatever that agreement was.

17 So, Court's in recess briefly.

18 I'll remain on the bench until she locates that
19 information.

20 SOLICITOR MOWRY: Your Honor, could I step out of the
21 courtroom for just one moment?

22 THE COURT: Make it quick.

23 (Pause.)

24 SOLICITOR MOWRY: Your Honor, if it will shortcut
25 things, we can just simply have testimony from, from

1 Lieutenant Hauptfear about the amount of the money, that he
2 observed it being bagged up by Chief Morris, and move on
3 rather than fight this issue. I know that we are a little
4 strapped for time. And, so, to cut through that, we can, we
5 can go along those lines. That might be the easiest
6 resolution.

7 THE COURT: So, you're willing to go forward without
8 putting the actual cash into evidence?

9 SOLICITOR MOWRY: Yes, sir, as long as he can testify
10 as to the amount, and he was involved with the count before
11 it was bagged by Chief Morris rather than put the cash in.

12 THE COURT: If he was present either when it was
13 counted or counted it, he can testify to what he observed.

14 MR. MITCHELL: Your Honor, may I?

15 THE COURT: Yes, sir, Mr. Mitchell.

16 MR. MITCHELL: The, the other issue though is that the
17 chain of custody of other things that are about to come in,
18 I just did not waive that, blanket waive. I was, I was
19 specifically agreeing to the chain of custody for the items
20 that were gonna come in through the DNA evidence, and when
21 he listed the names of the officers, I, I assumed that was
22 the names of the officers involved in that chain of
23 evidence. Not all the chain of evidence of everything.

24 SOLICITOR MOWRY: Your Honor, I don't know how I could
25 of made it more clear. when I, when I went through and

1 specifically listed the people that were gonna be effected
2 on that.

3 THE COURT: Are these witnesses available?

4 SOLICITOR MOWRY: Some of them are in Columbia, Your
5 Honor, and one of the witnesses is in Greenville.

6 THE COURT: We may, we may come back Saturday. I don't
7 know when we're gonna do this trial, but we're gonna get it
8 finished.

9 SOLICITOR MOWRY: Yes, sir.

10 MR. MITCHELL: I just---

11 THE COURT: Ms. Moore, your position on the agreement.

12 MS. MOORE: Thank you. Thank you, Your Honor.

13 The, the only -- I, I know -- I just, I just read the
14 court reporter's transcript in regard to my comments on the
15 record, Your Honor, and it was specifically in regard to the
16 DNA and fingerprint, which fingerprint evidence, which I, I
17 brought up on Monday, Your Honor. That was the only thing I
18 spoke about.

19 THE COURT: So, are you insisting on chain of custody
20 witnesses to be present---

21 MS. MOORE: I would---

22 THE COURT: ---for this evidence?

23 I'm sure we were talking about, at this point in time,
24 the cash, the clothing items, things of that nature.

25 MS. MOORE: Well, Your Honor, I would -- I think I

1 would have to evaluate each of those pieces of evidence
2 individually.

3 THE COURT: well, now would be the time to tell me your
4 position. If you need a few minutes to formulate that
5 position, I'll be more than happy to do that.

6 Perhaps you ought to discuss this with your client as
7 well, Mr. Mitchell. I'll step off the bench, give you a
8 moment to talk about it.

9 My understanding of the agreement, and, Mr. Mowry, I'm
10 sure you may of had a different intent, the only items that
11 were specifically discussed in chambers were the items such
12 as the DNA evidence and the information concerning the
13 fingerprints. The other items were never discussed
14 specifically as a problem with their introduction.

15 Let me finish saying what I'm gonna say.

16 SOLICITOR MOWRY: Yes, sir.

17 THE COURT: And, so, it was my understanding that we
18 were, when we were talking about an agreement as to chain of
19 custody witnesses, that it would involve the DNA evidence
20 and perhaps the fingerprint evidence, something of that
21 nature. I was not aware that we were talking about other
22 things, but then, again, I didn't know the involvement of
23 the people involved in the case as far as who handled what
24 and who was involved in the chain of custody of these other
25 items.

1 I'm not going to put you in a position where you can't
2 put them in. If those witnesses do, are still alive and can
3 get to this courtroom, I'll make arrangements to see that
4 they get here.

5 SOLICITOR MOWRY: I believe I---

6 THE COURT: And if the defense insists on their
7 testifying, which you have every right to do, because I'm
8 going to rule that the only ones that have been waived so
9 far have to do with the DNA and the fingerprint evidence.
10 So, that's my position and I realize that, what the record
11 might say.

12 whether -- you know, and, and the Supreme Court is
13 ruled that chain of custody witnesses, every single one of
14 them is not required in order to establish a reliable chain
15 of custody for, for items. I don't know what involvement
16 anybody had with any of these things as far as who handled
17 it, when they handled it, where it's been stored.

18 So, I don't -- I haven't made a ruling on who's going
19 to be required to establish a chain of custody. But if
20 you're going to insist, and you have every right to insist
21 on a chain of custody for these items, then we'll have to
22 make arrangements for those people to be here because there
23 apparently was some confusion as to what the agreement was.
24 I didn't realize that at the time or I would of seen that it
25 would, had been done in a different fashion.

1 SOLICITOR MOWRY: And I will state, Your Honor, there
2 is been no demand made under Rule 6 at all.

3 THE COURT: For a chain of custody?

4 SOLICITOR MOWRY: Of no kind.

5 THE COURT: I understand.

6 Court's in recess.

7 MS. MOORE: Thank you, Your Honor.

8 (WHEREUPON, a short recess was taken at this time.)

9 THE COURT: My clerk informs me that perhaps you've
10 reached a resolution.

11 SOLICITOR MOWRY: Yes, sir, we had a discussion among
12 the three of us and I'll -- I ask them to correct me if I'm
13 mistaken.

14 Agent or Lieutenant Haupfear was present when the money
15 was counted. He watched it being bagged, and I don't
16 believe there's any further objection on that.

17 As far as the cell phones are concerned, cell phones
18 from all three defendants, Robinson, Pulley, and Smiley,
19 were seized by Detective Riggott. She turned them over to
20 Agent Motley, excuse me, of the secret service, who
21 immediately turned them over to Deputy Rainey from the
22 Sheriff's Office who actually performed the analysis on the
23 cell phones. We have Deputy Rainey on the way. He will be
24 here shortly to testify. I understand that there's no
25 objection to that either.

1 The clothing is the, is another issue. Detective
2 Riggott was present when the defendants were processed at
3 the law enforcement center. Obviously she was not present
4 in the room when, when they took off their clothing and were
5 given jumpsuits, but she collected it immediately after and
6 placed it into evidence.

7 So, quite frankly, the only other witness that we would
8 of had on the clothing would be Captain John Stankus. He is
9 the custodian of evidence. The evidence is been locked up
10 since then. I don't believe that there's any objection to
11 it.

12 THE COURT: All right. Mr. Mitchell, does that satisfy
13 the objections concerning chain of custody?

14 MR. MITCHELL: Yes, Your Honor.

15 THE COURT: The possible witnesses will appear and
16 testify as recited?

17 MR. MITCHELL: Yes, Your Honor. There were certain
18 people that I was planning on cross-examining, and as long
19 as those people are gonna be witnesses and he assured me---

20 THE COURT: Did he identify them?

21 MR. MITCHELL: He identified the people and I will be
22 able to properly cross-examine those people for
23 cross-examination.

24 THE COURT: All right. Very good.

25 Ms. Moore, does that satisfy the questions you had

1 concerning chain of custody?

2 MS. MOORE: It will.

3 THE COURT: All right. Thank you very much.

4 MR. MITCHELL: Thank you, judge.

5 THE COURT: All right. Let's bring the jury back.

6 SOLICITOR MOWRY: I will tell you quickly, Your Honor,
7 while doing that, it's fine, this won't take but 15
8 seconds---

9 THE COURT: Let's go ahead and get this on the record
10 without the jury present.

11 SOLICITOR MOWRY: In addition, we intend to call
12 Detective Riggott, Agent Crooks from SLED about latents,
13 Agent Meeh from SLED about the DNA, and Deputy Rainey about
14 the cell phone.

15 THE COURT: All right. Thank you very much.

16 Yes, sir, bring them in.

17 (WHEREUPON, the following takes place within the
18 presence of the jury.)

19 THE COURT: Ladies and gentlemen, I was not required to
20 make a ruling during our break. We've been able to resolve
21 some issues by agreement.

22 You may proceed.

23 CONTINUED DIRECT EXAMINATION

24 BY SOLICITOR FIELDER-COMMANDER:

25 Q Lieutenant Hauptfear, who discovered the items that are

1 seen in Exhibit 18?

2 A I did.

3 Q what did you do when you discovered these items?

4 A Once I found them I left them in place and stayed with
5 them until Chief Morris was able to photograph them and
6 collect them.

7 Q when you say collect them, what did he do?

8 A We counted the money and placed -- and it was bagged.

9 Q How much money did you count?

10 A I believe it was \$705.

11 Q Does this appear, does this appear to be the bag that
12 Chief Morris placed the money into?

13 A Yes, ma'am.

14 SOLICITOR FIELDER-COMMANDER: At this time the State
15 would like to introduce this into evidence.

16 THE COURT: Any objection, Mr. Mitchell?

17 MR. MITCHELL: No, Your Honor.

18 THE COURT: Ms. Moore.

19 MS. MOORE: No, Your Honor.

20 THE COURT: All right. Be marked and placed into
21 evidence.

22 (WHEREUPON, the money was marked as State's Exhibit No.
23 21 for identification purposes only at this time.)

24 THE COURT: All right, ma'am. You may proceed.

25 SOLICITOR FIELDER-COMMANDER: Beg the Court's

1 indulgence.

2 THE COURT: Yes, ma'am.

3 (Pause.)

4 Q Lieutenant Haupfear, who was found in proximity to that
5 money prior to your, you finding the money or discovering
6 the money?

7 A The only one that would of been in proximity would of
8 been Smiley.

9 Q Thank you.

10 (Pause.)

11 SOLICITOR FIELDER-COMMANDER: A few more questions?

12 THE COURT: Sure.

13 Q After Mr. Smiley came downstairs, was he placed under
14 arrest?

15 A Laurens City did take him into custody for questioning,
16 yes, ma'am.

17 Q Did you arrest him yourself?

18 A No, ma'am.

19 SOLICITOR FIELDER-COMMANDER: Okay. Nothing further at
20 this time.

21 THE COURT: Mr. Mitchell, your witness.

22 MR. MITCHELL: Thank you, Your Honor.

23 May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

Robbie Hauptfear - Cross-examination
by Mr. Mitchell

1 BY MR. MITCHELL:

2 Q In that picture that we just saw of the things that
3 were collected, was there, was there a lighter?

4 A I believe so, yes, sir.

5 Q Was that collected and brought and put into evidence?

6 A If -- everything that was in the bassinet I'm sure was
7 collected by Chief Morris.

8 Q All right. Do you know if the lighter was
9 fingerprinted?

10 A I've -- I'm not sure.

11 Q All right. If it were fingerprinted, would that make
12 it more clear as to whose lighter it was?

13 A I'm not sure.

14 Q All right. Was the money fingerprinted?

15 A Not sure.

16 Q All right. When you came to the house, did you call
17 for Mr. Smiley to come down or did you call out for him?

18 A No, sir.

19 Q Did he come down on his own volition?

20 A Yes, sir.

21 Q Did you have to go -- you didn't have to go look for
22 him then?

23 A No, sir, we were talking to Ms. Miller and he walked
24 from downstairs, from upstairs.

25 Q Just casually walked down the steps?

Robbie Haupfear - Cross-examination
by Mr. Mitchell

1 He wasn't trying to be evasive?

2 A No, sir.

3 Q Do you know who Mario Suber is?

4 A No, sir.

5 Q Was he at the scene of the apartment when you arrived?

6 A There was another male individual downstairs, yes, sir.

7 Q And he was in the apartment?

8 A Yes, sir.

9 Q All right. Did you ask him if the things were his?

10 A No, sir, I didn't.

11 Q Did you ask Ms. Miller if there was anybody in the
12 house that day that could of left those things?

13 A No, sir, I didn't.

14 MR. MITCHELL: All right. I have nothing else, Your
15 Honor.

16 THE COURT: Ms. Moore, your witness.

17 MS. MOORE: No questions, Your Honor.

18 THE COURT: Anything on redirect from this witness?

19 SOLICITOR FIELDER-COMMANDER: May it please the court,
20 Court's indulgence.

21 THE COURT: Yes, ma'am.

22 (Pause.)

23 SOLICITOR FIELDER-COMMANDER: Nothing further of this
24 witness.

25 THE COURT: Sir, you may step down. Thank you very

Robbie Hauptfear - Cross-examination
by Mr. Mitchell

1 much.

2 Do you wish to excuse the witness?

3 SOLICITOR MOWRY: Yes, sir, Your Honor, if that---

4 THE COURT: Any objection from the defense?

5 MR. MITCHELL: No, Your Honor.

6 THE COURT: Ma'am?

7 MS. MOORE: No, Your Honor.

8 THE COURT: All right. You're free to go. Thank you
9 very much.

10 State may call its next witness.

11 SOLICITOR MOWRY: Call Detective Leann Riggott.

12 LEANN RIGOTT, being first duly
13 sworn, testified as follows:

14 THE COURT: Have a seat, ma'am. Once you're seated,
15 state your name for me.

16 WITNESS: Leann Riggott.

17 THE COURT: Mr. Mowry, your witness.

18 SOLICITOR MOWRY: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 DIRECT EXAMINATION

21 BY SOLICITOR MOWRY:

22 Q Detective Riggott, by whom are you employed?

23 A Laurens City Police Department.

24 Q And how long have you been employed with the Laurens
25 City Police Department?

Leann Riggott - Direct examination
by Solicitor Mowry

- 1 A Twelve years.
- 2 Q What is your position with, with Laurens City?
- 3 A I'm a detective sergeant.
- 4 Q Okay. How long have you been a detective with Laurens
5 City?
- 6 A Three years.
- 7 Q And do you have any other prior law enforcement
8 experience?
- 9 A I worked in the Department of Corrections and
10 Greenville County Detention---
- 11 Q Okay.
- 12 A ---prior to Laurens City Police Department.
- 13 Q But the bulk of your -- excuse me.
14 The bulk of your law enforcement experience has been
15 with, with Laurens City, is that right?
- 16 A Yes, sir, it has.
- 17 Q Were you employed as an investigator back on April the
18 24th of last year?
- 19 A Yes, sir, I was.
- 20 Q And were you called out to investigate the report of
21 the robbery at the Guatemex Store?
- 22 A Yes, sir, I was.
- 23 Q And where is that located?
- 24 A It's on North Harper Street.
- 25 Q Okay.

Leann Riggott - Direct examination
by Solicitor Mowry

- 1 A I believe it's 1105 North Harper Street.
- 2 Q And is that in the city limits of Laurens?
- 3 A Yes, sir, it is.
- 4 Q And that is in Laurens County?
- 5 A Yes, sir.
- 6 Q I'm referring to State's Exhibit No. 6. This is an
7 aerial chart here.
- 8 Does that substantially depict the area around the
9 Guatemex?
- 10 A Yes, sir, it does.
- 11 Q I believe this pink dot here represents the Guatemex?
- 12 A Yes, sir.
- 13 Q And what does this green dot represent?
- 14 A [REDACTED] [REDACTED].
- 15 Q All right. We'll come to that in just a minute.
16 When you got to the Guatemex, what did you do?
- 17 A I spoke---
- 18 Q well, let me ask you this.
19 what time did you arrive?
- 20 A Approximately 10:00, 10:00AM.
- 21 Q All right. Had you been on call that night?
- 22 A Yes, sir, I was.
- 23 Q Okay. So, you were not at the police station at all?
- 24 A No, sir.
- 25 Q All right.

Leann Riggott - Direct examination
by Solicitor Mowry

1 A I was at my residence.

2 Q Okay. After you got the call about the robbery, what
3 did you do?

4 A I proceeded to the Guatemex Store. I arrived at the
5 Guatemex Store. I walked in and spoke with Officer John
6 Carter, who was at the store. Chief Morris was there. We
7 had somebody translate with the victims at the store to tell
8 me what happened about the store being robbed, and I --
9 Krissy Cofield, Captain Cofield with the police department,
10 she came, we spoke, we viewed the video, talked about the
11 individuals in the video, and proceeded -- and then I
12 processed the crime scene.

13 Q All right. Let me ask you -- let me hand you these
14 three items, and ask you if you can identify those.

15 A Yes, sir.

16 Q What are, what are those please, ma'am?

17 A This one is the front of the Guatemex Store on North
18 Harper Street.

19 Q Okay.

20 A This is the inside view where Chief Morris is viewing
21 the inside of the video inside the store, and this is
22 another view of the front door of the Guatemex Store.

23 SOLICITOR MOWRY: Okay. Your Honor, I would offer
24 these as State's Exhibits at this time.

25 MS. MOORE: No objection, Your Honor.

Leann Riggott - Direct examination
by Solicitor Mowry

1 MR. MITCHELL: No objection, Your Honor.

2 THE COURT: All right. Without objection then they
3 will be marked and made State's Exhibits and placed into the
4 record.

5 SOLICITOR MOWRY: Thank you, Your Honor.

6 (WHEREUPON, three photographs were marked as State's
7 Exhibit Nos. 22 through 24 and received into evidence at
8 this time.)

9 THE COURT: You may proceed.

10 SOLICITOR MOWRY: Thank you, Your Honor.

11 Q Let me hand you what's now been marked as State's
12 Exhibit No. 23.

13 Describe that for me please, ma'am.

14 A That's the front of the store, the Guatemex Store.

15 Q Okay. How big is the Guatemex Store?

16 A Probably about 20 feet by 40, 60 feet.

17 Q Did you, in fact, at one time go out there and make
18 measurements?

19 A Yes, sir, we did.

20 Q Based on a, to -- based on a chart, can you see up here
21 what the measurement is?

22 A I believe it's 30, 30. I can't see that far.

23 Q Okay. Let me move it up a little closer. I'm
24 referring to State's Exhibit No. 1.

25 A Yes, sir, 30 feet.

Leann Riggott - Direct examination
by Solicitor Mowry

- 1 Q Thirty feet.
- 2 So, it's about 30 feet wide?
- 3 A Yes, sir.
- 4 Q And while, while I got you here, how deep is the store?
- 5 A Fifty feet.
- 6 Q Fifty feet.
- 7 So, it's a fairly small building?
- 8 A Yes, sir, it is.
- 9 Q what did you do when you got there?
- 10 what was your first step?
- 11 A Interviewing the witnesses and the victims that were
- 12 there.
- 13 Q Okay. So, you spoke with Diana Melendez?
- 14 A Yeah, we had someone---
- 15 Q Mr. Hector---
- 16 A ---translate.
- 17 Q ---Melendez's daughter?
- 18 A Yes, sir.
- 19 Q And you also spoke with Anna Sebastian?
- 20 A Yes.
- 21 Q Through a translator?
- 22 A Yes.
- 23 Q Okay. what does State's Exhibit No. 24 represent?
- 24 A It's the inside view of the store if you're standing
- 25 near the front door.

Leann Riggott - Direct examination
by Solicitor Mowry

1 Q Okay. And is that the counter?

2 A This right here is the counter.

3 Q And this is Chief Morris behind, is that right?

4 A Yes.

5 Q Okay. And, finally, as -- on this little batch, No.

6 22, what does that represent please, ma'am?

7 A That's the -- if you're standing about midway back of
8 the store looking at the front door.

9 Q Okay. What is this area over here?

10 A It's a little table area.

11 Q Okay. Was there a computer or anything there?

12 How did you watch the video?

13 A In the picture here where Chief Morris sat, that's the
14 video monitor --

15 Q Okay.

16 A -- and there's a computer in the floor by that wall
17 that's right beside him.

18 Q Okay. So, you were watching the video at that point,
19 is that right?

20 A Yes, sir.

21 Q Okay. Did you watch the entire video that we have seen
22 from the State's Exhibit?

23 A Yes, sir, multiple times.

24 Q Okay. That would be State's Exhibit No. 2.

25 And did you watch it with Lieutenant Cofield?

Leann Riggott - Direct examination
by Solicitor Mowry

1 A At, at some point we did, yes, sir.

2 Q Okay. Did Lieutenant Cofield relate anything to you at
3 that point?

4 A She identified the---

5 MS. MOORE: Objection. Hearsay, Your Honor.

6 THE COURT: I'll sustain the objection if the witness
7 intends to quote what was said --

8 SOLICITOR MOWRY: Okay.

9 THE COURT: -- as hearsay.

10 SOLICITOR MOWRY: That's fine, Your Honor.

11 MS. MOORE: Thank you.

12 Q I will not ask you what was said.

13 Based on what you were told, what did you do?

14 A Can you clarify a little more what I did?

15 Q Did you, did you send out a report that, to be on the
16 lookout for anyone at that time?

17 A Lieutenant Cofield did.

18 Q Okay. When you observed the video, did you see the
19 individuals that were walking up and down the street that
20 we, we've seen several times?

21 A Yes, sir, I did.

22 Q What did you think when you saw those individuals?

23 A When I, when I saw them walking, two of them I didn't
24 recognize, but one, Davoris Smiley, came to my mind when I
25 saw him, that, that individual looked like Davoris Smiley.

Leann Riggott - Direct examination
by Solicitor Mowry

1 Q Okay. when you saw the part where the two individuals
2 come into the store, what did you have in mind?

3 A They were the same individuals that had been walking up
4 and down the street---

5 Q And---

6 A ---prior.

7 Q Did you think Davoris Smiley was one of them?

8 A Yes, sir, I did.

9 Q which one did you think he was?

10 A The smaller individual with the gray shorts on and
11 the---

12 Q Okay.

13 A ---hoodie.

14 Q How -- I'm not gonna ask you under what circumstances,
15 but how do you know him?

16 A I've known him for several years through interaction in
17 the community.

18 Q Okay. when you saw that, what did you do with regard
19 to Mr. Smiley?

20 A I discussed it with another individual. I'm trying to
21 recall. I believe it was Chief Morris. We discussed who I
22 believed the individual was in the video.

23 Q And then -- okay.

24 A And we just continued our investigation from there --

25 Q All right.

1 A -- trying to get confirmation.

2 Q Have you seen or did you know Lakasion Robinson at that
3 time?

4 A Not -- when I saw the video I didn't recognize him, but
5 I had met him at sometime before that incident.

6 Q Okay. And have you had considerable dealing with him
7 since then with regard to this case?

8 A Yes, sir, since then I have.

9 Q Are you able to recognize him on the video?

10 A Yes, sir, after meeting with him I immediately
11 recognized him as being the individual on the video.

12 Q Okay. On the video we have seen an individual that is
13 walking away wearing a pair of white shoes walking south on
14 Harper down towards town.

15 A Yes, sir.

16 Q Are you able to determine who that individual is?

17 A Yes, sir, after I saw Lakasion Robinson later on that
18 evening I immediately knew that was him in the video walking
19 away from the store.

20 Q Okay. Were you there when the -- were you there at one
21 of the, at, at the Guatemex Store when the dog tracking team
22 arrived?

23 A Yes, sir, I was.

24 Q Did you speak with Agent Steppe at all?

25 A I do not recall. I may have briefly.

Leann Riggott - Direct examination
by Solicitor Mowry

1 Q Okay. Did you watch him get started?

2 A Yes, sir, I did.

3 Q Based on what you observed from the video, did it
4 appear that they had started in the, in the correct
5 direction?

6 A Yes, sir, they did.

7 Q What did you see from the video?

8 A The -- in the -- you talking about from---

9 Q At, at the---

10 A ---the point they started?

11 Q Right.

12 After the robbery, when you observed the video, which
13 way did the suspects go?

14 A They left toward the laundromat going north away from
15 town.

16 Q Okay. So, gone out the front door and turned left---

17 A Yes, sir.

18 Q ---is that right?

19 Okay. Is that correct?

20 A Yes, sir.

21 Q What street were they going towards?

22 A I believe it's Camp Street.

23 Q Okay. Did you receive a report later on as to where
24 the dog team had ended up?

25 A Yes, sir.

Leann Riggott - Direct examination
by Solicitor Mowry

1 Q And where did you get the indication they had ended up?

2 A 104 watts Street.

3 Q Okay. So, started out here going this direction and
4 ended up here?

5 A Yes, sir.

6 Q Okay. By the time the dog team had gotten there, had
7 Robinson and Pulley been taken into custody?

8 A Yes, sir, they had.

9 Q what was done with them at that time?

10 A They were taken to the police department, and they had,
11 had to wait there till I was able to go to the police
12 department and proceed from there.

13 Q Okay. And did you, in fact, talk to Robinson later
14 that morning?

15 A Yes, sir, I did.

16 Q About what time did you talk with him?

17 A I believe it was after midnight.

18 Q Okay. And you took a statement from him at that time?

19 A Yes, sir, I did.

20 Q All right. Later on that morning did you receive any
21 information on Davoris Smiley?

22 A Yes, sir, I did.

23 Q How did that come about?

24 A Are you talking about -- once again, I'm a little
25 confused.

1 The first time when I talked to Robinson or later on?

2 Q No.

3 Later on did you receive any information about Smiley's
4 whereabouts?

5 A Oh, yes, sir, we did.

6 Q Okay. Now, I'm not gonna ask you -- well, how, how did
7 that come into your possession?

8 How did that information come to you?

9 A At the time Captain Cofield had gotten an anonymous tip
10 of his location.

11 Q And in response to that tip, what did y'all do?

12 A She forwarded the information to Chief Morris, and I
13 believe at that time they went to that location.

14 Q All right. And what was that location?

15 A [REDACTED] Laurens Terrace.

16 Q Do you know who was the resident there?

17 A No, sir, at the time I did not. I do now.

18 Q All right. Who, according to the information you have,
19 who was the resident?

20 A Porsha Miller.

21 Q Okay. Who testified yesterday?

22 A Yes, sir.

23 Q All right. What is the distance from one, from 104
24 Watts Street or the area around the Guatemex, let's say
25 that, to Laurens Terrace?

Leann Riggott - Direct examination
by Solicitor Mowry

1 A It's approximately four miles.

2 Q Okay. Geographically, as far as downtown Laurens is
3 concerned, how do the area around the Guatemex and the area
4 around Laurens Terrace jive?

5 Are they on opposite sides of town?

6 A Yes, sir, one's -- yes, one's on the north side and
7 one's on the south side.

8 Q Okay. What was done with Smiley?

9 A At 905 Laurens Terrace?

10 Q Uh-huh. (Affirmative).

11 A He was brought from there to the police department
12 where---

13 Q Okay.

14 A ---my location was.

15 Q All right. Did you have an opportunity to observe him
16 at that time?

17 A Yes, sir, I did.

18 Q Okay. And, in fact, referring to State's Exhibit No.
19 7, did you take that picture of him?

20 A Yes, sir, I did.

21 Q And what is he doing in that picture?

22 A He's signing his booking sheet with his left-hand.

23 Q with his left-hand.

24 with your observation of the video, which hand was the
25 gunman using in the store?

Leann Riggott - Direct examination
by Solicitor Mowry

1 A Left-hand.

2 Q Left-hand.

3 Detective Riggott, let me show you what's been marked
4 as State's Exhibit No. 9 for identification.

5 Do you recognize these?

6 A Yes, sir, I do.

7 Q what are these?

8 A Those were the shorts that Davoris Smiley was wearing
9 on that evening.

10 Q And is this the belt as well?

11 A Yes, sir, it is.

12 Q Okay. Did you collect that from him?

13 A Yes, sir.

14 Q All right. were you able to see an individual on the,
15 the video wearing similar clothing?

16 A Yes, sir, I did.

17 SOLICITOR MOWRY: All right. Your Honor, at this time
18 I would offer these shorts as evidence rather than just for
19 identification.

20 THE COURT: Any objection, Mr. Mitchell?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Ms. Moore.

23 MS. MOORE: No, Your Honor.

24 THE COURT: Without objection, they'll now be made
25 exhibits in the case.

1 (WHEREUPON, State's Exhibit No. 9 was received into
2 evidence at this time.)

3 SOLICITOR MOWRY: Thank you, Your Honor.

4 THE COURT: Yes, sir, you may proceed.

5 Q Let me show you these, this pair of footwear that has
6 been marked as State's Exhibit No. 17 for identification.

7 Do you recognize those?

8 A Yes, sir, I do.

9 Q What are those?

10 A They're Timberland boots.

11 Q All right. And on whose feet were they?

12 A Davoris Smiley.

13 Q Davoris Smiley's?

14 A Yes, sir.

15 Q Likewise did you collect these from him after he had
16 been placed under arrest?

17 A Yes, sir.

18 SOLICITOR MOWRY: All right. Your Honor, I would offer
19 these as a State's Exhibit.

20 THE COURT: Objections, Mr. Mitchell?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Ms. Moore.

23 MS. MOORE: No, Your Honor.

24 THE COURT: Without objection they'll be made exhibits
25 and part of the record.

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1 (WHEREUPON, State's Exhibit No. 17 was received into
2 evidence at this time.)

3 THE COURT: You may proceed.

4 SOLICITOR MOWRY: Thank you, Your Honor.

5 Q Detective Riggott, let me show you what's been marked
6 as State's Exhibit No. 3 for identification.

7 Do you recognize these?

8 A Yes, sir, I do.

9 Q What are those?

10 A A pair of blue jeans that Jakeivan Pulley was wearing
11 when he was brought to the police department.

12 Q And did you collect those after he had been processed
13 at the law enforcement center---

14 A Yes, sir.

15 Q ---or the detention center?

16 And -- oh, and let me just go ahead and do this.

17 State's Exhibit No. 8 for identification, do you
18 recognize those?

19 A Yes, sir, I do.

20 Q What are these?

21 A Those are the pants Lakasion Robinson had on when he
22 was brought to the police department.

23 SOLICITOR MOWRY: Okay. All right. State's Exhibit
24 No. 8 for identification, and State's Exhibit No. 3 for
25 identification, at this time, Your Honor, I would move those

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1 into evidence.

2 THE COURT: Objections, Mr. Mitchell?

3 MR. MITCHELL: No, Your Honor.

4 THE COURT: Ms. Moore.

5 MS. MOORE: No, Your Honor.

6 THE COURT: All right. They'll be marked as, they'll
7 be received as marked into evidence in the case.

8 (WHEREUPON, State's Exhibit Nos. 3 and 8 were received
9 into evidence at this time.)

10 THE COURT: You may proceed, sir.

11 SOLICITOR MOWRY: Thank you, Your Honor.

12 Q Detective Riggott, when you observed the video of the
13 robbery, did you look at the clothing that the individuals
14 were wearing?

15 A Yes, sir, I did.

16 Q How, in your opinion, did the, did the clothing from
17 the robbery compare to the items that we have talked about
18 here?

19 MS. MOORE: Objection, Your Honor. I believe that -- I
20 mean she would be testifying in regard to, to the video.
21 The video speaks for itself, Your Honor. It's the best
22 evidence. It's already been introduced into evidence, Your
23 Honor.

24 THE COURT: Mr. Mitchell, any comments?

25 MR. MITCHELL: No, Your Honor.

1 THE COURT: I'll allow her to testify concerning her
2 observation and what her belief is. I will not allow her to
3 testify to a certainty as to---

4 SOLICITOR MOWRY: Yes, sir.

5 THE COURT: ---anything that might be in the video.

6 SOLICITOR MOWRY: Yes, sir, I appreciate that, Your
7 Honor.

8 THE COURT: Your question is what her observation might
9 reveal and what her belief is. She can testify as to her
10 belief.

11 SOLICITOR MOWRY: Yes, sir.

12 MS. MOORE: Thank you, Your Honor.

13 Q what did you observe in the video?

14 A I observed the clothing to be the same clothing in the
15 video.

16 Q Okay.

17 A It appeared to be the same clothing.

18 Q Specifically, what, what did you observe?

19 A You mean the description of the clothing?

20 Q The, the various items of clothing you saw in the video
21 and, and the clothing you see here.

22 A You want me to describe them, describe what I saw?

23 Q Yes.

24 A Okay. The gray shorts were, were worn by the shorter
25 male in the video. Appeared to be the same shorts.

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1 Q Okay. Appeared to be the same shorts as State's
2 Exhibit No. 9?

3 A Yes, sir.

4 Q All right.

5 A And the belt and also the boots. The individual with
6 the gray shorts is also wearing boots that looked exactly
7 like those.

8 Q State's Exhibit No. 17?

9 A Yes, sir.

10 Q Okay. What else did you observe?

11 A The other individual, the taller male in the video, the
12 video was wearing pants that looked just like those.

13 Q Okay. And that's State's Exhibit No. 3, is that right?

14 A Yes, sir.

15 Q Okay. And let me show you these items, and ask you if
16 you can identify these.

17 Yes or no.

18 A Yes, sir.

19 SOLICITOR MOWRY: Okay. Your Honor, I would offer
20 these as State's Exhibits for identification at this time.

21 THE COURT: All right. They'll be marked for
22 identification purposes only.

23 SOLICITOR MOWRY: Your Honor, I'm gonna -- this, this
24 is a pair of shoes. I'm gonna, I'm gonna loop the laces
25 together so that they don't come apart if it please the

1 Court if I can. There we go.

2 (WHEREUPON, a pair of shoes was marked as State's
3 Exhibit No. 25 for identification purposes only at this
4 time.)

5 THE COURT: The -- what appears be a t-shirt has been
6 marked as?

7 SOLICITOR MOWRY: Yes, sir, it's a gray tank top, and
8 it is being marked as State's Exhibit No. 26 for
9 identification.

10 THE COURT: And the shoes?

11 SOLICITOR MOWRY: And a pair of black three-quarter
12 tennis shoes, Nike tennis shoes has been marked as State's
13 Exhibit No. 25.

14 THE COURT: Thank you.

15 (WHEREUPON, the shirt was marked as State's Exhibit No.
16 26 for identification purposes only at this time.)

17 THE COURT: You may proceed.

18 Q Handing you State's Exhibit 25 for identification and
19 26 for identification, do you recognize those?

20 A Yes, sir.

21 Q Can you tell us what those are?

22 A This is the shirt that Mr. Pulley had on when he was
23 brought to the police department.

24 Q All right. And the shoes?

25 A And the shoes.

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1 Q The shoes were his as well?

2 A Yes, sir.

3 Q All right. Did you observe anything about a pair of
4 black shoes in the video when you watched it?

5 A Yes, sir, I did.

6 Q what did you see?

7 A The individual wearing the jeans with the orange
8 pockets also had on the black tennis shoes and the gray tank
9 top.

10 Q Okay. Now, during -- was the gray tank top what was
11 visible during the robbery?

12 A No, sir, it was not.

13 Q Okay. Let me show you an item and ask you to identify
14 that.

15 A Yes, sir, I can.

16 SOLICITOR MOWRY: All right. Your Honor, I would offer
17 this as a State's Exhibit for identification.

18 THE COURT: All right. It can be marked for
19 identification purposes only.

20 (WHEREUPON, a sweater was marked as State's Exhibit No.
21 27 for identification purposes only at this time.)

22 Q Detective Riggott, I'm gonna hand you now what's been
23 marked as State's Exhibit No. 27 for identification.

24 what is that please, ma'am?

25 A It's a black thermal, long sleeve.

1 Q All right. And who took this into custody?

2 A I did.

3 Q What were the circumstances under which you found this
4 item?

5 A I had been out to the county jail and spoke with
6 Lakasion Robinson again to clarify some of the statements,
7 you know, statements that were made about the robbery, and
8 he gave me an additional information as to where I could
9 find the black thermal, and I went to that location on Watts
10 Street and found the black thermal in the bushes.

11 Q Okay. Let me ask you, hand you these photographs, and
12 ask you if you can identify those.

13 A Yes, sir, I can.

14 Q And what are those?

15 A These are photographs of the clothing I found in the
16 bushes and the location where I found them.

17 Q Okay. And where was that?

18 A Directly across the street from 109 Watts Street in
19 the, in some large bushes.

20 Q So, would of been -- let's see. I'm sorry.

21 Down about here, is that right?

22 A Yes, sir.

23 Q Okay. I'm going to put a sticker, a yellow one about
24 where you say you found them.

25 So, it was about down in here?

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1 A Yes, sir.

2 SOLICITOR MOWRY: Your Honor, if I could have these --
3 well, I would offer these into evidence at this time.

4 THE COURT: Let the defense counsel take a look at
5 them.

6 SOLICITOR MOWRY: Yes, sir.

7 THE COURT: Thank you.

8 Ms. Moore.

9 MS. MOORE: I have no objection, Your Honor.

10 THE COURT: Ms. Moore, and Mr. Mitchell, no objection?

11 MR. MITCHELL: No objection.

12 THE COURT: Then they'll be marked and received into
13 evidence.

14 (WHEREUPON, five photographs were marked as State's
15 Exhibit Nos. 28 through 32 and received into evidence at
16 this time.)

17 SOLICITOR MOWRY: Your Honor, while I'm over here, I
18 believe we've laid a sufficient foundation for State's
19 Exhibit No. 25 for identification and 26 for identification,
20 the black tennis shoes and the gray tank top, and I'd move
21 those into evidence at this time.

22 THE COURT: Objections, Ms. Moore?

23 MS. MOORE: No objection, Your Honor.

24 THE COURT: Mr. Mitchell.

25 MR. MITCHELL: No, Your Honor.

1 THE COURT: All right. They'll now be received into
2 evidence as marked.

3 Q Detective Riggott---

4 THE COURT: Just one second. Let her finish marking
5 those things.

6 (WHEREUPON, State's Exhibit Nos. 25 and 26 were
7 received into evidence at this time.)

8 THE COURT: You may proceed.

9 SOLICITOR MOWRY: Okay. Thank you.

10 Q Now, Detective Riggott, let me bring your attention --
11 well, we'll just take it one step at a time.

12 State's Exhibit No. 28, what does that show?

13 A That's looking up Watts Street toward North Harper.

14 Q Okay. So, back up towards 221?

15 A Yes, sir.

16 Q Back up towards ■■■, is that right?

17 A Yes, sir.

18 Q In that direction.

19 And what does that illustrate?

20 A The bushes on the left is where the, the shirts were
21 located.

22 Q Okay.

23 A Right across the street's ■■■.

24 Q All right. Let me show you State's Exhibit No. 29 now.
25 Unfortunately not the best print in the world, but, in

1 any event, what does that illustrate?

2 A That's the bush that the articles of clothing were in.

3 Q All right. And No. 30.

4 A That's the photograph of the inside of the bush where
5 the two shirts were.

6 Q And if I've been saying for identification, these are
7 actually State's Exhibits, State's Exhibits at this time,
8 28, 29, and 30, and then what does 32 illustrate?

9 A That's the photograph I'd taken of shirts out of the
10 bush and laid them on the street, and took a photograph of
11 what I pulled out of the bushes.

12 Q Okay. And 31?

13 A And that's another photograph. I just opened them up
14 some so I could take another photograph.

15 Q Okay. I see a white item in there as well.

16 A Yes, sir.

17 Q What was that?

18 A White t-shirt.

19 Q Okay. Let me hand you this item, and ask you if you
20 can identify that.

21 A That is the white t-shirt.

22 Q Okay. The white t-shirt you found with the black
23 hoodie?

24 A In the bushes, yes, sir.

25 SOLICITOR MOWRY: Your Honor, I would offer this as a

1 State's Exhibit at this time.

2 THE COURT: Any objection, Mr. Mitchell?

3 MR. MITCHELL: No, Your Honor.

4 THE COURT: Ms. Moore.

5 MS. MOORE: No, Your Honor.

6 THE COURT: It will be received into evidence and
7 please mark it.

8 (WHEREUPON, the shirt was marked as State's Exhibit No.
9 33 and received into evidence at this time.)

10 Q what did you do with the items that are displayed here
11 in State's Exhibit No. 31?

12 A I collected them, bagged them, put them into evidence,
13 and then they were sent to SLED.

14 Q Okay. And what was the purpose of sending them to
15 SLED?

16 A To see if we can get an identification from DNA off of
17 the clothing.

18 Q Okay. Let me also show you these items, and ask you
19 if, if you can identify those.

20 A Yes, sir, I can.

21 SOLICITOR MOWRY: All right. Your Honor, I would offer
22 these for identification purposes at this time.

23 THE COURT: They can be marked for identification
24 purposes.

25 (WHEREUPON, a pair of shoes was marked as State's

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1 Exhibit No. 34. A shirt was marked as State's Exhibit No.
2 35. Both of the State's Exhibits were for identification
3 purposes only at this time.)

4 Q I'm gonna hand you what are marked as, marked as
5 State's, State's Exhibits 34 and 35 for identification.

6 what are those please, ma'am?

7 A A pair of white Nike tennis shoes and a white t-shirt
8 that was taken from Lakasion Robinson at the time he was
9 processed.

10 Q Taken from Lakasion Robinson at the time he was
11 processed?

12 A Yes, sir.

13 Q I'm gonna hand you what have been marked as State's
14 Exhibit 4 and 15.

15 Do you see anything with regard to those photographs?

16 A Yes, sir, he was wearing the white Nike's and the white
17 t-shirt.

18 SOLICITOR MOWRY: Okay. And, Your Honor, at this time
19 I would offer 34 and 35 into evidence.

20 THE COURT: Any objection, Mr. Mitchell?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Ms. Moore.

23 MS. MOORE: No, Your Honor.

24 THE COURT: They'll be received into evidence as
25 marked.

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1 SOLICITOR MOWRY: Again, Your Honor, I'm gonna try to
2 tie these laces together, loop them together so the shoes
3 don't become separated.

4 (WHEREUPON, State's Exhibit Nos. 34 and 35 were
5 received into evidence at this time.)

6 SOLICITOR MOWRY: And, Your Honor, I would offer, I
7 thought I had done this already, I would offer the black
8 thermal shirt, State's Exhibit 27 for identification, into
9 evidence at this time.

10 THE COURT: Objections, Mr. Mitchell?

11 MR. MITCHELL: No, sir.

12 THE COURT: Ms. Moore.

13 MS. MOORE: No, Your Honor.

14 THE COURT: All right. It will be received into
15 evidence as it's marked.

16 (WHEREUPON, State's Exhibit No. 27 was received into
17 evidence at this time.)

18 Q Let me ask you this, Detective Riggott. There is a
19 very distinctive gun in the, the armed robbery video.

20 A Yes, sir.

21 Q Did y'all conduct a search for the gun?

22 A Yes, sir, we did.

23 Q Describe how y'all went about doing that.

24 A We searched the immediate area from around the store to
25 Watts Street. They did a brief search of the home at 104

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1 watts Street when the SLED dog team went in just to make
2 sure that there was no, no handgun where somebody could get
3 a hold of it. Also searched the area of, along the roadway
4 from the watts Street area to Laurens Terrace. Also did,
5 officers did a search of the vehicle during the car stop
6 with---

7 Q with Mr. Pulley and Mr. Robinson?

8 A Yes, sir.

9 Q Uh-huh. (Affirmative).

10 what else did you do?

11 A And they also -- I was not at 905 Laurens Terrace, but
12 they did search the residence for the handgun and I believe
13 the immediate area.

14 Q Okay. Was one ever found?

15 A No, sir, it was not.

16 Q Let me hand you these items and ask you if you could
17 identify those.

18 A Yes, sir, I can.

19 Q What are those please, ma'am?

20 A Cell phones that were taken off the subjects at the
21 time. They were brought to the police department.

22 Q Okay. And who took them off of them?

23 A I did.

24 Q And is that your signature on each of these bags?

25 A Yes, sir, it is.

1 SOLICITOR MOWRY: All right. Your Honor, I would offer
2 these as State's Exhibits at this time.

3 THE COURT: Objections?

4 MR. MITCHELL: No, Your Honor.

5 THE COURT: Ms. Moore.

6 MS. MOORE: No, Your Honor.

7 THE COURT: Without objections they'll be received into
8 evidence and marked.

9 (WHEREUPON, the photographs were marked as State's
10 Exhibit Nos. 36 through 38 and received into evidence at
11 this time.)

12 Q And handing you State's Exhibit No. 36, what is that
13 please?

14 A The cell phone that Lakasion Robinson had.

15 Q Okay. Number, excuse me, yes, 37, what is that?

16 A That's the cell phone that Jakeivan Pulley had.

17 Q All right. And I'm gonna hand you State's Exhibit No.
18 38.

19 what is that?

20 A That's the cell phone Davoris Smiley had.

21 Q Okay. Let me ask you about a Samsung Gravity cell
22 phone Model SGHT479.

23 Did you recover such a cell phone from any of the three
24 defendants?

25 A Yes, sir, Davoris Smiley.

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1 Q Davoris Smiley.

2 what was done with these cell phones?

3 A I took them to Secret Service because they, I had
4 discussed with them before about doing a phone analysis, and
5 I took them to Jim Motley for Secret Service, and he took
6 them and had the analysis done on the phones.

7 Q Prior to doing that, did you go through any legal
8 process?

9 A I obtained a search warrant for the phones.

10 Q Okay. How did you go about doing that, obtaining the
11 search warrant?

12 A Oh, I typed up the search warrant, took it to the
13 judge, had the judge sign the search warrant.

14 Q Okay. Explain to the jury exactly what a search
15 warrant is please, ma'am.

16 A Search warrant's a legal document that we get that we
17 have to show probable cause to a judge in order to do the
18 search on the phones. He established whether or not we did
19 have probable cause to do the search, and he then will sign.

20 A search warrant is a full page affidavit that it was --
21 well, it consists of four pages and it contains an affidavit
22 and the reason why that we want to do the search on the
23 phone or whatever item it is that you're searching.

24 Q Okay. And did you, in fact, obtain evidence from
25 Mr. Motley or anyone else about the cell phones?

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1 A Yes, sir.

2 Q Okay. who did you get it from?

3 A I got the report -- it was sent back from -- I believe
4 Mr. Motley sent me the report back, but Mr. Rainey did the
5 analysis on the phones.

6 Q Mike Rainey?

7 A Yes, sir.

8 Q with the Greenville County Sheriff's Office?

9 A Yes, sir.

10 Q All right. Detective, what time was the report of the
11 armed robbery received by the Laurens Police Department?

12 A A few minutes after 9:00PM.

13 Q Okay. what time was Mr. Smiley apprehended at [REDACTED]
14 Laurens Terrace?

15 A I believe it was a little after 1:00AM.

16 Q Okay. So, about four hours later, is that right?

17 A Yes, sir.

18 Q And, again, how far is Laurens Terrace from the scene?

19 A Approximately four miles.

20 Q And about the same distance from [REDACTED] then, is that --
21 [REDACTED] Watts Street?

22 A Yes, sir.

23 SOLICITOR MOWRY: Okay. Your Honor, if I could have
24 just a moment to make certain -- just beg the Court's
25 indulgence for a moment.

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1 THE COURT: Yes, sir.

2 (Pause.)

3 SOLICITOR MOWRY: Just wanted to make sure my
4 housekeeping is correct?

5 THE COURT: I understand.

6 (Pause.)

7 Q Detective Riggott, I'm going to play the videos.

8 Is this the appearance of the video as you observed it
9 that night?

10 A Yes, sir, it is.

11 (WHEREUPON, a portion of the video was played for the
12 jury at this time.)

13 Q This is State's Exhibits No. 2 I believe.

14 Detective Riggott, it appeared that the shortest of the
15 three individuals had something on his head.

16 what did that appear to be to you?

17 A A baseball cap.

18 Q what color was that cap?

19 A Yellow.

20 Q All right. Let me ask you if you can identify this
21 cap.

22 A Yes, sir.

23 SOLICITOR MOWRY: Okay. Your Honor, I would ask that
24 this be marked as a State's Exhibit for identification?

25 THE COURT: It can be marked for identification

1 purposes.

2 (WHEREUPON, the cap was marked as State's Exhibit No.
3 39 for identification purposes only at this time.)

4 Q Detective, handing you State's Exhibit, is that 39, for
5 identification, what is that please, ma'am?

6 A It's a Pittsburg baseball cap.

7 Q Pittsburg Pirates baseball cap?

8 A I believe it's the Pirates.

9 Q When did you -- how did you come into possession of
10 this?

11 A Davoris Smiley was wearing that at the time that he was
12 brought to the police department.

13 Q All right. Is that -- I'm gonna hand you State's
14 Exhibit No. 7.

15 Is that -- does that appear to be the same cap?

16 A Yes, sir, it does.

17 Q All right. Thank you.

18 Your Honor, at this time I would offer this cap into
19 evidence.

20 THE COURT: Objections, Mr. Mitchell?

21 MR. MITCHELL: No, Your Honor.

22 THE COURT: Ms. Moore.

23 MS. MOORE: No, Your Honor.

24 THE COURT: It will received into evidence now as
25 marked.

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by Solicitor Mowry

1 (WHEREUPON, State's Exhibit No. 39 was received into
2 evidence at this time.)

3 Q Detective Riggott, let me back this up just a little
4 bit, and ask you -- if I can make this thing go. There we
5 go.

6 (WHEREUPON, a portion of the video was played for the
7 jury at this time.)

8 Q The individuals walking down the street, were you --
9 are you able now to recognize any of those -- or I'll tell
10 you what. Let me ask you this.

11 Describe the individuals you see in that photo or in
12 that, in that video, that, that top center frame.

13 A The individual on the left is a taller black male
14 wearing a black in color shirt, blue jeans, and white tennis
15 shoes.

16 Q Okay.

17 A The one in the middle, he's wearing a gray tank top,
18 blue jeans, and black tennis shoes. The individual to the
19 right is wearing a yellow ball cap. He has a hoodie, dark
20 colored hoodie on, gray shorts and tan boots.

21 Q All right. Let me ask you, State's Exhibit No. 34 and
22 State's Exhibit No. 8, that you previously identified as the
23 jeans and shoes of Lakasion Robinson --

24 A Yes, sir.

25 Q -- which of those individuals appears to be wearing

1 those?

2 A The gentleman on the left.

3 Q All right. The black shoes, the, the gray tank top,
4 and the blue jeans that you described there, State's
5 Exhibits 3, 26, and 25, which individual appears to be
6 wearing those?

7 A The one in the middle.

8 Q And the shorts and the boots and the ball cap, who's
9 wearing those?

10 A The one to the far right.

11 Q Okay. The shortest one?

12 A Yes, sir.

13 Q All right.

14 A The shortest of the three.

15 Q All right. Detective Riggott, let me hand you what is
16 State's Exhibit No. 16 for identification.

17 I will state for the record, Your Honor, that on frame
18 six we see an individual walking into the store wearing a
19 pair of blue jeans with an orange and white design on both
20 hip pockets and with a gray tank top.

21 How does that compare to the picture there of Jakeivan
22 Pulley, pictures?

23 A Appears to be the exact same color.

24 Q All right. How about the frame, the appearance of the
25 individual in the video?

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1 A Same build, same skin tone, hair, height.

2 Q Okay. Thank you.

3 Detective Riggott, knowing what you know now, are you
4 able to identify anyone in that or that individual in the
5 video?

6 A Yes, sir, I am.

7 Q Who is that?

8 A That's Jakeivan Pulley.

9 (WHEREUPON, a portion of the video was played for the
10 jury at this time.)

11 Q Detective, let me stop the video there if I can, and
12 run it back just a little bit. As I said, electronics and I
13 are never gonna get along.

14 How is that individual clad in frame two?

15 A He has on -- the individual has on white tennis shoes,
16 blue jeans, white t-shirt, and a yellow ball cap.

17 Q And how does that compare to State's Exhibit, excuse
18 me, I believe 35, 34, and 8, the clothing of Lakasion
19 Robinson?

20 A It appears to be the same clothing, exact same
21 clothing.

22 Q What about on his head?

23 A He has a yellow ball cap with a black rim.

24 Q Okay. Does that appear to be similar to State's
25 Exhibit No. 39?

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1 A Yes, sir, it does.

2 Q who does that appear to be in -- I mean observing the
3 walk and the clothing and everything else, who does that
4 appear to be to you today?

5 A Lakasion Robinson.

6 Q Okay. Is the clothing that he is wearing, with the
7 exception of the ball cap, similar to that or identical to
8 that that is being worn in State's Exhibits 15 and 4, those
9 photographs?

10 A Yes, sir, it is.

11 Q Okay. Once this individual passes by, from your
12 observation of the video, is he seen again?

13 A No, sir, he is not.

14 Q which direction is he going in?

15 A He's going south toward town.

16 Q Okay. And would that be the general direction towards
17 104 watts Street?

18 A Yes, sir, it is.

19 (WHEREUPON, a portion of the video was played for the
20 jury at this time.)

21 SOLICITOR MOWRY: Okay. well -- sorry. Goofed that.
22 Sorry. I've gotten these out of order, Your Honor. I do
23 apologize.

24 Detective Riggott, from your observation of the video,
25 how does the clothing worn by those individuals compare to

1 State's Exhibits 3 and 25, the jeans and the shoes of
2 Jakeivan Pulley?

3 A As you can see, the gentleman that's ahead and to the
4 right, he has on blue jeans with the orange and white on the
5 pocket, has on the black tennis shoes, but now he has a
6 black long sleeve shirt.

7 Q And the individual that you identified as walking away
8 in the blue jeans, the white tennis shoes, the yellow ball
9 cap, and the white t-shirt, who did you say that was?

10 A That's Lakasion Robinson.

11 Q And did it appear that that was Lakasion Robinson
12 earlier in the, in the first frame, first video wearing the
13 black t-shirt---

14 A Yes, it was.

15 Q ---black, black shirt?

16 what about the other individual?

17 A He's wearing the gray shorts and Timberland boots and
18 the dark colored greenish color, I don't know what you call
19 that color, hoodie.

20 Q Okay. And how did that compare with State's Exhibit
21 17, the boots, and State's Exhibit 9, the shorts taken from
22 Davoris Smiley?

23 A Appears the same clothing.

24 Q And when you observed the video there, did you notice
25 any, any hat or anything on his head?

1 A No, sir, and he had the hood up on his head---

2 Q Okay.

3 A ---this time.

4 (WHEREUPON, a portion of the video was played for the
5 jury at this time.)

6 Q Detective Riggott, the two individuals going by, are
7 they clad in the same way that the gentleman in the previous
8 clip were?

9 A Yes, sir.

10 Q And how does that clothing, again, compare to that that
11 was found on Jakeivan Pulley and Davoris Smiley?

12 A It matches the same.

13 Q The direction that they have just gone, is that --
14 which, which direction is that?

15 Let me ask you this.

16 A They were going north up towards Camp Street.

17 Q All right. Referring to State's Exhibit No. 5, if you
18 can point out on that where they were heading?

19 A They were going this way and this is Camp Street --

20 Q Okay.

21 A -- and they come up to this area right here.

22 Q The individuals we see walking south now on Harper
23 Street --

24 A Yes, sir.

25 Q -- how are they -- how does the clothing compare to

Leann Riggott - Direct examination
by Solicitor Mowry

1 what you have seen earlier?

2 A Same clothing.

3 Q While we're waiting, Detective Riggott, let me show you
4 a couple of more items and ask you if you can identify
5 these.

6 Did these come from the defendant, Davoris Smiley, that
7 evening as well?

8 A Yes, sir, they did.

9 Q All right. Can you describe what those are?

10 A It's a white t-shirt and a white kind of head wrap.

11 SOLICITOR MOWRY: Okay. Your Honor, I would offer
12 these as State's Exhibit at this time.

13 THE COURT: Objections, Mr. Mitchell?

14 MR. MITCHELL: No, Your Honor.

15 THE COURT: Ms. Moore.

16 MS. MOORE: No, Your Honor.

17 THE COURT: Without objections, they'll be marked and
18 received into evidence.

19 (WHEREUPON, a shirt was marked as State's Exhibit No.
20 40. A head wrap was marked as State's Exhibit No. 41. Both
21 of the State's Exhibits were received into evidence at this
22 time.)

23 Q Detective Riggott, the time stamp on there is 21:04:53.

24 Where does it appear that the two individuals are now?

25 A They're standing just left of the sidewalk there at the

1 coin laundromat.

2 Q And which camera does that indicate that they are in?

3 A Camera two.

4 Q Camera two.

5 So, they're up at the, at the corner of Camp and---

6 A Yes, sir.

7 Q ---and Parker?

8 Detective, the individuals that you see walking towards
9 the door at this point, describe their clothing there.

10 A The male to the left, if you look in the top left
11 screen, he has on blue jeans with the orange and white on
12 the pockets, black long sleeve shirt, black tennis shoes.

13 Q Okay. And does State's Exhibit No. 3, the jeans of
14 Jakeivan Pulley, do they appear similar to the ones that you
15 see in the video?

16 A Yes, sir.

17 Q How about State's Exhibit No. 25, the black tennis
18 shoes?

19 A Yes, sir.

20 Q what about the other individual?

21 A The gray shorts, the tan Timberland boots, the same
22 greenish color hoodie.

23 Q And how do the shorts and the boots compare to State's
24 Exhibit No. 9, the shorts of Davoris Smiley, and No. 17, his
25 Timberland boots?

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1 A Appear to be the same.

2 (WHEREUPON, a portion of the video was played for the
3 jury at this time.)

4 Q Once again, detective, how does the clothing compare to
5 Mr. Pulley's clothing and Mr. Smiley's clothing?

6 A Appears to be the exact same clothing.

7 Q The builds of the respective men, the gunmen, for
8 example, how does that build compare to Mr. Smiley's?

9 A The same.

10 Q How about Mr. Pulley's?

11 A The same.

12 Q All right. And which direction did they go when they
13 left the store?

14 A They went left up North Harper Street towards Camp
15 Street---

16 Q All right.

17 A ---and the laundromat.

18 Q Referring to State's Exhibit No. 5, they went this way,
19 is that right?

20 A Yes, sir, they did.

21 Q Which way did the dog team go when they arrived?

22 A The same direction.

23 (WHEREUPON, a portion of the video was played for the
24 jury at this time.)

25 Q What does that hooded individual appear to have under

1 his hood?

2 A Some kind of a head wrap, white in color.

3 Q How does that compare, from what you can see, to
4 State's Exhibit No. 41?

5 A It's similar to that one.

6 (WHEREUPON, a portion of the video was played for the
7 jury at this time.)

8 Q Detective Riggott, during your investigation, did you
9 attempt to find any fingerprints?

10 A Yes, sir, I did.

11 Q How did you go about doing that please, ma'am?

12 A I dusted and lifted prints off the glass on where the
13 cashing register was. It was a glass display case.

14 Q Anywhere else?

15 A No, sir.

16 Q All right. What kind of training have you had in, in
17 fingerprints?

18 A Quite a bit. At the academy they teach you briefly
19 about fingerprinting. Then I went to a two week detective
20 course, and also a week long fingerprinting class put on by
21 the South Carolina Criminal Justice Academy.

22 Q Okay. When you select places to seek fingerprints,
23 what are you looking for?

24 A Well, you're looking for the surface, place where they
25 might likely have been left behind. You basically want a

1 smooth, nonporous surface like glass. Rough surface, not
2 likely to get a print off on.

3 Q Okay. Does it affect that other people may have, may
4 have touched it in that same area?

5 A Yes, sir, if someone touched that area since, it can
6 destroy any, any evidence that may of been left there.

7 Q Okay. So, you did the, did where?

8 A The glass counter top---

9 Q Okay.

10 A ---right in front of where the victim had been standing
11 where Pulley had been standing when he came in and purchased
12 the soda or whatever it was that he got.

13 Q Okay. State's Exhibit No. 1, this is the interior of
14 the Guatemex, can you just generally point to where you,
15 where you dusted?

16 Let me move this over here. Sorry.

17 A Right here in this general area. Right on the front
18 side in the top.

19 Q Okay. Anywhere else?

20 A No, sir.

21 Q Okay. Did you check the door knob or the, the door
22 that they, the robbers, went in and out of?

23 A Yes, sir, and also talked with the individuals there.
24 They had been in and out the door basically contaminated
25 the, the surface.

1 Q So, you did not believe that you could obtain anything?

2 A Not fingerprints.

3 Q Yes.

4 A I did process in other ways.

5 Q Okay. But as far as fingerprints are concerned, did
6 you seek these prints where you believed they would most
7 likely be found?

8 A Yes, sir, I did.

9 Q And that was on the counter?

10 A Yes, sir.

11 Q All right. Who did you submit or did you find any, any
12 potential fingerprints?

13 A We lifted some what appeared to be palm and fingertip
14 prints on the glass.

15 Q Okay. Were you able to tell the quality when you
16 lifted then?

17 A Yes, sir, you can pretty much tell when you're looking
18 at them if they're decent or not.

19 Q Okay. And what did you do with those lifts once you
20 had retrieved them?

21 A I marked them into evidence and submitted them to SLED.

22 Q State Law Enforcement Division?

23 A Yes, sir.

24 Q All right. Is there anyone local that does that kind
25 of thing or do, does all evidence go down to SLED?

Leann Riggott - Direct examination
by Solicitor Mowry

1 A We send all ours to SLED.

2 Q Okay. Detective Riggott, based on your investigation,
3 based on the evidence that you retrieved, based on all that
4 you did, and all the information that you received from
5 other officers, what did you do?

6 A You talking about after everything was put together---

7 Q Yes.

8 A ---and processed everything, the three individuals,
9 Jakeivan Pulley, Davoris Smiley, and Lakasion Robinson, were
10 charged with armed robbery and conspiracy, and Mr. Smiley
11 with possession of a weapon during a violent crime.

12 Q Okay. Why did you only charge Mr. Smiley with
13 possession of a weapon during a violent crime?

14 A He was the one handling the handgun.

15 Q Was Mr. Robinson, was there any evidence that he was at
16 the scene at the time the incident took place?

17 A No.

18 Q Were you aware of his plea to misprision of a felony a
19 few months after the fact?

20 A Yes, sir, I was.

21 Q Was the fact that he was not there at the scene part of
22 that, part of the reason---

23 A Yes, sir.

24 Q ---for that plea?

25 A Yes, sir.

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by Solicitor Mowry

1 Q Okay. I believe that's all I'd have. If you'd answer
2 any questions the defense attorneys may have.

3 A Okay.

4 THE COURT: Mr. Mitchell, your witness.

5 MR. MITCHELL: Yes, Your Honor.

6 May it please the Court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION

9 BY MR. MITCHELL:

10 Q At the beginning of your testimony you said that there
11 was a smaller individual on the camera video you watched
12 before, before anybody knew who anybody was and you thought
13 it was, just out of all the people in Laurens County, you
14 thought it was Mr. Smiley?

15 A Yes, sir, he came to mind.

16 Q All right. Just because you saw a smaller individual
17 in a black, a smaller black man in a video with a, with a
18 hood on and, and a bandanna up here, you thought it was Mr.
19 Smiley?

20 A Not -- the first time you see him in the video he's not
21 wearing a bandanna.

22 Q Okay. Can you see his face clearly?

23 A No, not really.

24 Q Okay. When you first saw this video, did you see it on
25 a big screen like this?

1 A well, I saw it on a computer monitor. Probably about a
2 15-inch screen.

3 Q And, so, his face was about this big, right?

4 A I'd say a little bigger than that.

5 Q And you could tell from that, in a, in a kind of grainy
6 looking video, that, that, that was Mr. Smiley?

7 A He came to mind because I'm familiar with him, his
8 walk, his appearance, his body height.

9 Q Aren't there many young black men in Laurens that kind
10 of walk the same way to have the same kind of jaunt?

11 A That I'm not sure of. I'm familiar with Mr. Smiley
12 also.

13 Q All right. You said that you, you have a picture in
14 here, and you took a picture of him signing his booking,
15 booking report, and that that shows that he's left-handed.

16 Do you have a picture of Lakasion Robinson signing his
17 booking report?

18 A No, I did not take one of him signing it.

19 Q why not?

20 A I---

21 Q Do you know what---

22 A I can't, I can't recall that day why I didn't.

23 Q Do, do you now what hand, what handed preference
24 Lakasion Robinson has?

25 A I did not know until yesterday when he stated he was

1 left-handed.

2 Q Okay. Let's talk about these shoes for a minute.

3 Can you read for me the size of these shoes?

4 A Seven and a, seven and a half.

5 Q And who do, do those shoes belong to?

6 A Lakasion Robinson.

7 Q And how tall is Lakasion Robinson?

8 A I'm not quite sure. I would say probably roughly 5'8".

9 Q would you say that out of the three men in this story,
10 the three men walking down the street, that he's the
11 tallest?

12 A I believe he -- they're -- he might be the tallest. I
13 have not looked at him and Mr. Pulley standing side-by-side.

14 Q All right. Can you find the size and tell the Court
15 what the sizes of these shoes are?

16 A Eight and a half.

17 Q Is that the size that you put down on the booking
18 report?

19 A The size on his booking report, on the -- you talking
20 about the evidence or booking report?

21 Q Right.

22 In the inventory for these items, is that the size that
23 you put down for those shoes?

24 A I believe so. That's what I read off the -- I'd have
25 to see it. I believe I'm, labeled each shoe and then what

Leann Riggott - Cross-examination
by Mr. Mitchell

1 size it was.

2 MR. MITCHELL: Your Honor, I'd like to put in Defense
3 Exhibit evidence status.

4 THE COURT: I believe you ought to have her identify
5 it---

6 MR. MITCHELL: All right.

7 THE COURT: ---and see if that's a document---

8 MR. MITCHELL: All right. Thank you.

9 THE COURT: ---that she's familiar with.

10 Q All right. Can you identify this document for us?

11 A It's a document where the phones were turned over to
12 Secret Service.

13 Q Okay. And what -- is your signature on that paper?

14 A Yes, sir, it is. This is where I turned over the
15 evidence to Secret Service.

16 Q All right. And can you read for me this section here
17 where it says what the clothing was in evidence?

18 Can you read for me the size of the boots that you,
19 that you signed that sheet and you said the size of the
20 boots?

21 A Okay. This isn't the actual evidence, chain of custody
22 form, but this says one bag of clothing from Davoris Smiley,
23 gray jean shorts, size 34, size ten and a half, ten boots,
24 yellow cap, belt, white t-shirt, black tank top.

25 Do you mind if I look at those boots again?

Leann Riggott - Cross-examination
by Mr. Mitchell

1 Q I'm sorry.

2 A It's eight and a half. I was just making sure I looked
3 at the right label.

4 Q All right. And could you, could you read that, that
5 list of clothes that were supposedly Davoris Smiley's one
6 more time?

7 A One bag of clothing from Davoris Smiley, gray jean
8 shorts, Size 34, size ten and a half tan boots, yellow cap,
9 belt, white t-shirt, black tank top.

10 Q All right. Where's the black tank top?

11 A It's in the bag over there on the table.

12 Q All right. But these are not the same boots that are
13 written down there, is that correct?

14 A They -- the same boots I took into evidence I may have
15 typed, type error or maybe looked at the wrong label in the
16 shoe. I'm not sure. I can't recall that date what I looked
17 at on those boots, but, yes, that's what I have on there.

18 MR. MITCHELL: All right. Can I enter this as
19 Defendant's Exhibit, Your Honor?

20 THE COURT: Show it.

21 SOLICITOR MOWRY: No objection, Your Honor.

22 THE COURT: Any objection, Ms. Moore?

23 MS. MOORE: No, Your Honor.

24 SOLICITOR MOWRY: No, sir.

25 THE COURT: It can be placed into evidence as a Defense

1 Exhibit.

2 Q All right. So, let's talk about---

3 THE COURT: Let her finish that process---

4 MR. MITCHELL: I'm sorry, Your Honor.

5 THE COURT: ---and then we'll start. I'll tell you
6 when to proceed.

7 (WHEREUPON, the evidence sheet was marked as
8 Defendant's Exhibit No. 4 and received into evidence at this
9 time.)

10 THE COURT: You may proceed at this time. Thank you.

11 MR. MITCHELL: Thank you, Your Honor.

12 Q All right. You said earlier in your testimony that
13 when you were watching the video you could tell that the,
14 the, the gunmen or the one holding the gun was wearing gray
15 shorts and had this belt on.

16 NOW---

17 A Yes, sir.

18 Q ---are you, are you sticking with that?

19 A Yes, sir.

20 Q You could see the belt in the video?

21 A Yes, you can.

22 Q I thought there was a long hoodie being worn by the---

23 A You can see, where he leans up, you can see the back,
24 the back of the, the back of the belt.

25 Q Let me ask you this.

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by Mr. Mitchell

1 You were here yesterday and listened to the testimony
2 of all the other witnesses, correct?

3 A Yes, sir, I was.

4 Q Do you believe what Lakasion said about switching the
5 clothes?

6 A Yes, sir, I do.

7 Q So, you believe that they switched clothes?

8 There were -- he was wearing a black shirt and then
9 he's not wearing a black shirt?

10 A Yes, sir.

11 Q And Mr. Smiley's wearing a hat and then he's not
12 wearing a hat?

13 A Yes, sir.

14 Q How do you know they didn't switch clothes again when
15 they went out the scene of the camera?

16 A Which scene?

17 Q Well, they go back and forth several times.

18 How do we know they're not switching clothes again?

19 A As you see in the video, there's only one time that
20 they actually go out of the camera view around to the
21 laundromat.

22 Q Well, there's, there's, in that one clip, there's --
23 they're walking south?

24 A Uh-huh. (Affirmative).

25 Q They're walking north. They're walking south. They're

1 walking north. There's at least that many times just in the
2 one clip.

3 A Yes, sir.

4 Q And they go out of the scene of the camera?

5 A If you watch closely you can see where they go and
6 where they're standing in the video clip.

7 Q All right. So, you, you admit that there's been some
8 switching of clothes going on?

9 A Yes, sir.

10 Q All right. Let's talk about where you, where you found
11 the, where you found the black thermal and the white
12 t-shirt.

13 It's right here, is that correct, where the yellow dot
14 is---

15 A Yes, sir.

16 Q ---on the State's Exhibit No. 6?

17 A Yes, sir.

18 Q All right. From your recollection of yesterday's
19 testimony, where -- did the dogs not come back here and go
20 around this backside where the yellow dot is?

21 A I didn't see exactly where he pointed to on the green
22 dot because it was facing this way. I was sitting over
23 there. I couldn't tell exactly where he pointed to in that
24 area.

25 Q But you recall him, him saying that the dogs went this

Leann Riggott - Cross-examination
by Mr. Mitchell

1 way---

2 A Yes, sir.

3 Q ---out of the store?

4 A And then he came down across.

5 Q And they came down, backed around this way?

6 A Yes, sir.

7 Q All right. And that they went to House 104---

8 A Yes, sir.

9 Q ---on watts Street?

10 How far, in your estimation, is it from this place to
11 that, that bush?

12 A Probably about a half a block to a block.

13 Q Okay. Now, now, this is a block from here to down
14 here.

15 This is only one lot between the two, right?

16 These are lot lines and these are small lots, correct?

17 A Let me think. There's -- it's about three houses down.
18 So, I don't know if three houses is a half a block.

19 Q All right. Now, you also -- do you recollect the dog
20 testimony that it, he, it brought him here and then the
21 scent died?

22 A Yes, sir.

23 Q All right. If Lakasion was telling the truth and he
24 ditched these clothes over here, why wouldn't the dogs have
25 been able to follow that?

Leann Riggott - Cross-examination
by Mr. Mitchell

1 SOLICITOR MOWRY: Your Honor, that was ripe questioning
2 for Agent Steppe, but I would submit that goes beyond the
3 experience and expertise of Detective Riggott.

4 THE COURT: well, it does call for an opinion as to why
5 dogs might of done something. So, I'll ask you to qualify
6 her if you want to use an opinion on that subject. So, I'll
7 sustain the objection at this time. She, she may have
8 knowledge or have some expertise in handling dogs. I don't
9 know.

10 MR. MITCHELL: Thank you, Your Honor.

11 Q All right. So---

12 A You want to know why I think he didn't pick up on the
13 scent?

14 THE COURT: Ma'am, I ruled that you can not answer that
15 question.

16 Q All right. Mr., Mr. Steppe said yesterday that there
17 was a possibility that, that the people came, got in a car
18 and maybe ditched the clothes down the road.

19 Is that -- is that a long distance between the two
20 places?

21 A Three houses. Three lots.

22 Q Okay. All right. Now, you said that, in the bushes,
23 you found, you found two items, correct?

24 A Yes, sir.

25 Q What were the two items that you found?

Leann Riggott - Cross-examination
by Mr. Mitchell

1 A They're on the table. It was a white---

2 Q Is this white---

3 A The -- it's -- you'd have to look at how it's marked
4 because they were together. It was a t-white and a white
5 thermal, and they were marked. I don't remember which
6 number.

7 Q But there were two items, correct?

8 A Yes, sir, there was.

9 Q And where were those two items sent?

10 A To SLED.

11 Q And what was done -- what kind of analysis was done on
12 them?

13 A They're sent to DNA testing.

14 Q And do you know what the results of the DNA testing
15 were?

16 SOLICITOR MOWRY: Your Honor, I would object at this
17 time. We've got the agent here. He can testify to that.

18 THE COURT: I'll allow you to ask her if she's aware of
19 what the results were. If you ask for her opinion or some
20 type of analysis of those results, then you're gonna have to
21 qualify her as an expert in that field.

22 MR. MITCHELL: All right.

23 THE COURT: But you can ask her if she's aware of what
24 those results were.

25 Q Were you aware of what the results were of the DNA on

1 the white t-shirt?

2 A Do you -- may I see the report?

3 I do not recall exactly on the white. I do on the
4 black.

5 Q Okay.

6 A I read it. It's been a week---

7 Q Okay.

8 A ---when I received the report. I don't want to say
9 incorrectly.

10 Q Okay. That's fine.

11 THE COURT: That would call for a hearsay conclusion on
12 her part. So, I'm not gonna allow her to testify about that
13 --

14 MR. MITCHELL: Okay.

15 THE COURT: -- if she's gonna say what the report said.

16 MR. MITCHELL: All right.

17 THE COURT: If she testifies as to her knowledge I'll
18 allow that.

19 Q All right. There was -- you also did the interview of
20 Lakasion Robinson, is that correct?

21 A Yes, sir, I did.

22 Q Did you do both interviews?

23 A Yes, sir, I did.

24 Q Once on April 25th and another one three days later
25 on April 28th?

1 A Yes, sir.

2 Q All right. In that statement that he made to you, did
3 he indicate that he had observed a cell phone, Mr. Smiley
4 using someone else's cell phone?

5 A May I see the statement?

6 Q Yes.

7 If you could, just for the Court, identify what that
8 paper is.

9 A This is an initial statement to Lakasion Robinson on
10 4/28/2011 at 10:00AM.

11 Q And who, who wrote that?

12 A I, I wrote it.

13 Q All right. Could you read the first five lines for us?

14 A It says on 4/24/2011 at around 2:30AM, Debo, Davoris
15 Smiley, was using my sister's cell phone and he and J Rock,
16 which is Jakeivan, were texting each other. I do not know
17 what they were texting about.

18 Q All right. Did you follow-up and subpoena, to get a
19 search warrant for that cell phone?

20 A Yes, it was one of these three here.

21 Q The one that was identified as his sister's cell phone?

22 A Oh, his sister's phone, no, I, I didn't get her phone.

23 Q Okay. Thank you.

24 A And I did, I did call her to come to the police
25 department about that and she never did show up.

1 MR. MITCHELL: All right. I would like to enter this
2 as Defendant's Exhibit.

3 THE COURT: Mr. Mowry.

4 SOLICITOR MOWRY: Your Honor, I would object to the
5 entirety of the statement. He's already gotten the
6 pertinent portion of her---

7 THE COURT: I'll sustain the objection.

8 MR. MITCHELL: That's fine. That's fine. That's fine,
9 Your Honor. Thank you.

10 All right. So, you did an investigation of the cell
11 phones, correct?

12 A Yes, sir, I did.

13 Q Did you find, from the evidence of the cell phones, any
14 evidence of a conspiracy?

15 Did you find any text hey, let's rob a store or any,
16 any kind of texting back and forth---

17 A No, sir.

18 Q ---from any of the defendants that they're gonna plan
19 theirs out?

20 A No, not on, not on these phones, no, sir, we did not.

21 Q Is that one thing that you were looking for?

22 A Yes, sir, it was.

23 Q Did you find any evidence of texts saying we really did
24 a great job, awesome, wasn't that cool, or any kind of
25 texting about after the incident?

Leann Riggott - Cross-examination
by Mr. Mitchell

1 A No, sir, there was not.

2 Q All right. Did you find any texts that says get out of
3 here, we're, the police are coming or anything that shows
4 alarm between any of the codefendants?

5 A No, sir.

6 Q Did you see any texts that said I'm heading over to 905
7 Terrace---

8 A No, sir.

9 Q ---Apartments?

10 So, any text of like where are you, what's, what's
11 going on now, are you okay or anything like that?

12 A No, sir.

13 Q Were there any texts between Mr. Smiley and Mr. Pulley
14 or Mr. Robinson the night of this incident?

15 A I'd have to go back and look at the report. There,
16 there was a lot of texting. We were looking for stuff
17 pertaining to the actual robbery, but they were, they was
18 conversation between, between them, but I can't recall
19 exactly what that conversation was. Yes, they were texting
20 each other.

21 Q All right. Now, the, the police went and apprehended
22 Mr. Smiley at Ms. Miller's house, and they found some items
23 there.

24 Were those items fingerprinted?

25 A No, sir, they were not.

1 Q why weren't they fingerprinted?

2 A I discussed -- myself and Chief Morris discussed it,
3 and we didn't see any need to send it down to SLED.

4 Q All right. But were you aware that there were other
5 people in the house, in that apartment?

6 A Yes, sir, after, after the fact when Chief Morris told
7 me they was there.

8 Q Were you aware of that Mario Suber was at the
9 apartment?

10 A When I interviewed Porsha Miller.

11 Q All right. Were you aware that Porsha had other
12 friends to the apartment throughout the day?

13 A I do not believe she told me that.

14 Q But you heard her testimony earlier in this trial that
15 she had other friends there throughout the day?

16 A I can't, I can't recall her saying that, no, I can't.
17 I can't answer that one.

18 Q Do you know who Black is?

19 A No, I do not.

20 Q Did you, did you hear anybody testify, in any of their
21 voluntary statements, refer to another person named Black?

22 A Yes, I did.

23 Q And did you follow-up and find out who he was?

24 A We tried and tried to find out who Black was. We never
25 could come up with a positive identification on Black.

Leann Riggott - Cross-examination
by Mr. Mitchell

1 Q Do you recall who was, if he was maybe a driver of one
2 of the, one of the alleged --?

3 A Yes, and it's in the statement that he was supposedly
4 the one that picked up Davoris Smiley from 104 Watts Street.

5 Q But you don't know who he is?

6 A No, sir, I do not.

7 Q All right. Now, in the, in the video you say that
8 there is, the gunman is wearing a black hoodie or a dark
9 green hoodie or a navy blue hoodie.

10 we don't know what color it is exactly, is that
11 correct?

12 A Yes, sir.

13 Q All right. Was the hoodie ever found?

14 A No, sir, it was not.

15 Q All right. Now, yesterday Ms. Miller, who is a State's
16 witness, she said that Mr. Smiley was wearing a green hoodie
17 when he was apprehended.

18 Do you remember her saying that?

19 A I recall something about a hoodie, but---

20 Q Was, was she -- did the police lose that piece of
21 evidence or---

22 A I was not at [REDACTED] Laurens Terrace. I can not say what
23 they saw and did not see at, at Laurens Terrace. I know,
24 when Davoris Smiley was arrested, he was not wearing a
25 hoodie and the hoodie was not retrieved at that location and

1 was never turned over to me.

2 Q All right. One last thing about all these clothes. We
3 had gone through the video and we kind of got everybody's
4 outfit. We found, according to what you said, that
5 Mr. Pulley was wearing this pile of clothes including this
6 gray shirt, that Mr. Smiley, according to you, was wearing
7 this pile of clothing, and that Mr. Robinson was wearing
8 this pile of clothing. So, there still is an extra shirt,
9 is that correct, the white t-shirt that you found in the
10 bushes?

11 Okay. When Mr. -- let me rephrase that, Your Honor.
12 When, when Mr. Robinson was found and apprehended, he
13 was wearing a white t-shirt, correct?

14 A Yes.

15 Q And these blue jeans and these white shoes?

16 A Yes.

17 MR. MITCHELL: Your Honor, I was referring to State's
18 Exhibit 8, State's Exhibit 4, and State's Exhibit 35.

19 THE COURT: Thank you.

20 A And yes, there was a white t-shirt in the bushes with
21 the black thermal.

22 Q And Mr. Robinson, he's the one that placed that in the
23 bushes, correct?

24 A He stated that here yesterday. Now, in the statement
25 he states Jakeivan Pulley put it. So, I was going off what

Leann Riggott - Cross-examination
by Mr. Mitchell

1 he told me in his statement.

2 Q Okay. So, we have an extra piece of clothing that we
3 don't know who it belongs to --

4 A Yes, sir.

5 Q -- and that was part of this whole investigation?

6 A Yes, sir.

7 Q Is it possible that Black was wearing that shirt or
8 Mario Suber or Mr. Dorrah?

9 It is possible it's any of those shirts?

10 A I, I can't say who it, who was wearing it.

11 MR. MITCHELL: Okay. May, may I beg the indulgence of
12 the Court?

13 THE COURT: Yes, sir.

14 (Pause.)

15 Q All right. Let's go back to the video. The very first
16 clip where you identify three men walking north, you said
17 that Mr. Smiley was wearing a yellow ball cap.

18 which direction was he wearing that hat?

19 was he wearing it with the bill forward or with the
20 bill backward?

21 A I can't recall.

22 Q All right.

23 A I, I didn't pay any attention to the direction it was
24 facing.

25 Q All right. If he was wearing the bill backward, would

Leann Riggott - Cross-examination
by Mr. Mitchell

1 you have been able to identify the logo on the hat if he was
2 wearing the bill with the bill back?

3 A I---

4 Q would you have been able to identify the logo on the
5 hat?

6 A Possibly. I'm not sure.

7 Q All right. So, were you able to identify the hat in
8 the video by its logo?

9 A No, I knew it was a yellow hat with a black bill.

10 MR. MITCHELL: Okay. I have nothing further, Your
11 Honor.

12 THE COURT: Ms. Moore, your witness.

13 MS. MOORE: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MS. MOORE:

16 Q Detective -- may I?

17 SOLICITOR MOWRY: Sure.

18 MS. MOORE: Beg the Court's indulgence.

19 THE COURT: Yes, ma'am.

20 MS. MOORE: Thank you, Your Honor.

21 (Pause.)

22 Q I'm sorry, detective. I'm gonna show you what's been
23 marked and entered as State's Exhibit 24, and I believe you
24 testified -- I mean obviously testified that's the inside of
25 the Guatemex Store?

Leann Riggott - Cross-examination
by Ms. Moore

- 1 A Yes, ma'am.
- 2 Q Okay. And I believe you also testified that this is
3 Chief Morris?
- 4 A Yes, ma'am.
- 5 Q Okay. And he's watching the video?
- 6 A Yes, ma'am.
- 7 Q Are you able to see the, the actual video screen that
8 he is watching the video on?
- 9 A Not in this picture you can't.
- 10 Q Okay. Is there another picture that was introduced
11 into evidence that actually shows the video screen?
- 12 A No.
- 13 Q There is none at all?
- 14 A Not that I believe. I didn't take a picture of the
15 video screen in the, in the store. Now, if it's in there I
16 wasn't the one who had taken the picture.
- 17 Q Okay. Cause I believe your testimony was that Chief,
18 that Chief Morris was looking to the video screen at that
19 point, is that correct?
- 20 A He is there.
- 21 Q Okay. I'm sorry. But, again, there's no picture on
22 it?
- 23 A No.
- 24 Q Okay.
- 25 A I just know that's where it was at.

1 Q Okay. And, so, obviously let me show you State's
2 Exhibit 22, and we see a laptop computer right there.

3 Is that the approximate size of the video screen that
4 is at the Guatemex?

5 A It was bigger than that one.

6 Q And how, how big is it?

7 A That's a small laptop. He had a, a freestanding
8 monitor screen.

9 Q Okay. I believe you testified earlier it was
10 15-inches?

11 A Approximately, I would say. I didn't measure the
12 screen.

13 Q Okay. But is it fair to say that your, your
14 recollection of 15-inches is accurate?

15 A Uh-huh. (Affirmative).

16 Q Okay.

17 A It was larger than a laptop screen.

18 MR. MOORE: Your Honor, I have no further questions of
19 this witness. Thank you.

20 THE COURT: Redirect, Mr. Mowry?

21 SOLICITOR MOWRY: Just a, just a few questions.

22 REDIRECT EXAMINATION

23 BY SOLICITOR MOWRY:

24 Q Mr. Mitchell asked you about Lakasion Robinson's
25 statement, which led to the discovery of the shirts in the

Leann Riggott - Redirect examination
by Solicitor Mowry

1 bushes.

2 A Yes, sir.

3 Q In the statement, who did he tell you had put the items
4 there?

5 A Jakeivan Pulley.

6 Q Okay. And how long after the incident did he tell you
7 that?

8 A Three or four days.

9 Q Okay. I believe, I believe you testified that it was
10 the 28th, is that right?

11 A The 28th and the initial statement was the 25th. So,
12 three days.

13 Q The wee hours of the 25th?

14 A Yes.

15 Q How long after the incident took place were Pulley and
16 Robinson detained leaving [REDACTED] watts Street by Officer
17 Durkin?

18 A Minutes -- I would say within ten, fifteen minutes.

19 Q A short period of time?

20 A Yeah.

21 Q Is that right?

22 A A short period of time.

23 Q Okay. In the video there are two individuals. One
24 wearing a hoodie. Another what you described as the black
25 thermal, State's Exhibit No. 27. Mr. Mitchell asked you

1 about an extra shirt.

2 Do you know if one of the other individuals might not
3 of been wearing two t-shirts beneath the outer clothing?

4 MS. MOORE: Objection.

5 A It's hard to tell---

6 MS. MOORE: Objection, Your Honor.

7 A ---if they had on multiple layers.

8 THE COURT: Just one second. I have an objection.

9 Ms. Moore.

10 MS. MOORE: Your Honor, I would, I would say, Your
11 Honor, that this calls for speculation pursuant to Rule 602
12 at this point.

13 THE COURT: I believe the question was whether he could
14 tell, she could tell whether or not an individual is wearing
15 two t-shirts, and I'll allow her to answer that question.
16 Now, as to whether or not they were or were not, that would
17 be speculation. And, so, I wouldn't allow her to testify
18 about that.

19 MS. MOORE: Thank you, Your Honor.

20 THE COURT: She can, she can testify as to whether she
21 could discern or tell from the video as to whether or not
22 she saw more than one. So, I'll allow that question---

23 MS. MOORE: Thank you, Your Honor.

24 THE COURT: ---to be asked.

25 Q Okay.

1 A You can't tell if they had on multiple layers of
2 shirts---

3 Q Okay.

4 A ---in two of the individuals.

5 Q And Mr. Mitchell asked about Mario Suber.

6 A Yes.

7 Q what kind of hair style does he have?

8 A He has long -- he has dreadlocks that are shaped like
9 dreadlocks, and it's about shoulder length.

10 Q Describe what dreadlocks are.

11 A It's some kind of hairstyle that's -- I wouldn't say
12 it's like ponytails. Kind of a twisty long weave type.

13 Q Okay.

14 A I'm not -- I don't---

15 Q Long---

16 A I can't describe it.

17 Q Many, many long pigtails?

18 A Yeah, many.

19 Q How long would, is his hair or was his hair?

20 You, you know him I gather.

21 A Yes, the last time I saw him it was about shoulder
22 length. I did not see him on that evening. But every time
23 I've seen him, numerous times over the last year, about
24 shoulder length.

25 Q Okay. Did you ever see anybody matching that

1 description on that video?

2 A No, sir, I did not.

3 THE COURT: Mr. Mitchell, you may recross.

4 MR. MITCHELL: Yes, Your Honor.

5 May it please the Court?

6 THE COURT: Yes, sir.

7 RE CROSS EXAMINATION

8 BY MR. MITCHELL:

9 Q We're talking about someone's hairstyle, is it possible
10 that somebody with dreadlocks can pull them back into a
11 ponytail with a band?

12 A I guess they can do anything they want to with it.

13 Q Is it possible that somebody wearing a hoodie could
14 cover up their hairstyle?

15 A Yeah, you pull a hoodie over your head and you're
16 covering your hair, yes, sir.

17 Q Well, then it's possible that Mario Suber was the one
18 in some of these pictures with the hoodie on, isn't it?

19 He can't be ruled out just because of his hairstyle,
20 can he?

21 A I really don't know how to answer that question.

22 Q All right. Well, can, can Mario Suber be 100 percent
23 ruled out because of his hairstyle when one of the suspects
24 is wearing a hoodie covering up his head?

25 A I, I'm gonna have to say yes to that because when you

1 first see the suspect, the hood is not pulled up over his
2 head and he does not have dreadlocks.

3 Q And where do we see the suspect without the hood on his
4 head?

5 A The first video.

6 Q But we had some switching of clothes and things going
7 on after that clip, didn't we?

8 A Of those three individuals.

9 Q We don't know who was at the coin laundry, do we?

10 A I, I do not know. I do not know who was at the coin
11 laundry.

12 Q There was a lot of switching of things going on between
13 the first clip with three people and the clips with two and
14 one and the two people coming back?

15 weren't there switching of things going on, hats?

16 A I saw a switching of a hat and a switching of a shirt.

17 Q There could of been switching of a hoodie?

18 A The, the individuals in the video were different
19 sizes---

20 Q And there could of been somebody---

21 A ---and the same individuals wearing the same hoodie.

22 Q All right. All right. Nothing---

23 A Same, same body type.

24 MR. MITCHELL: Nothing else, Your Honor.

25 THE COURT: Ms. Moore.

Leann Riggott - Recross examination
by Ms. Moore

1 MS. MOORE: Yes, Your Honor. Just briefly.

2 THE COURT: Yes, ma'am.

3 RECROSS EXAMINATION

4 BY MS. MOORE:

5 Q Ms. Riggott, you say you saw a switching of a hat and a
6 shirt?

7 A No, not physically saw. A -- saw -- I mean in the
8 video, the only thing that we saw that was switched or know
9 that was switched is a hat and a shirt.

10 Q But it appeared to be switched?

11 A It appeared to be switched, yes.

12 Q Okay. Thank you. No further questions.

13 THE COURT: Ma'am, you may step down.

14 All right. Ladies and gentlemen of the jury, we're
15 gonna take about a five to ten minute break. I'll ask that
16 you step back to the jury room. Do not begin any
17 discussions until I've asked you to do so.

18 You may retire.

19 Thank you very much.

20 (WHEREUPON, the following takes place outside the
21 presence of the jury.)

22 THE COURT: Court's in recess for about ten minutes.
23 Thank you very much.

24 SOLICITOR MOWRY: Thank you.

25 (WHEREUPON, a short recess was taken at this time.)

Jeff Crooks - Direct examination
by Solicitor Mowry

1 THE COURT: State ready to proceed?

2 SOLICITOR MOWRY: State's ready, Your Honor.

3 THE COURT: Defense ready?

4 MS. MOORE: Yes, Your Honor.

5 THE COURT: Mr. Mitchell.

6 MR. MITCHELL: Yes, Your Honor.

7 THE COURT: Bring the jury in.

8 (WHEREUPON, the following takes place within the
9 presence of the jury.)

10 THE COURT: State may call its next witness.

11 SOLICITOR MOWRY: Thank you.

12 We call Jeff Crooks.

13 THE COURT: Come forward, sir, to be sworn.

14 JEFF CROOKS, being first duly sworn,
15 testified as follows:

16 THE COURT: Have a seat please, sir. Once seated,
17 state your name.

18 WITNESS: My name is Lieutenant Jeffery Crooks.

19 THE COURT: Thank you.

20 WITNESS: C-R-O-O-K-S.

21 THE COURT: Thank you.

22 Mr. Mowry, your witness.

23 SOLICITOR MOWRY: Thank you very much, Your Honor.

24 THE COURT: Yes, sir.

25 DIRECT EXAMINATION

Jeff Crooks - Direct examination
by solicitor Mowry

1 BY SOLICITOR MOWRY:

2 Q Lieutenant Crooks, by whom are you employed?

3 A South Carolina State Law Enforcement Division commonly
4 referred to as SLED.

5 Q And what is your function with SLED?

6 A I'm a supervisor of the latent print crime scene
7 department.

8 Q All right. And in that capacity, what do you do?

9 A We are a part of the forensic laboratory. Our
10 responsibilities include crime scene investigation. We
11 assist local agencies when requested. We also process
12 physical evidence submitted to the lab for fingerprint
13 evidence. We also conduct impression evidence, analysis
14 such as latent fingerprints, shoes, and tires, and we also
15 do crime scene reconstruction through blood splatter
16 examination.

17 Q And in this capacity, the case involving the Guatemex
18 robbery back on the 24th of April of last year in the City
19 of Laurens, what did you do?

20 A We were not involved with the actual crime scene
21 investigation. However, the Laurens County Police
22 Department, or I'm sorry, Laurens City Police Department
23 submitted some evidence for us to, to look at.

24 Q All right. And specifically what was submitted to you?

25 A They were several latent, what we call latent lifts.

Jeff Crooks - Direct examination
by Solicitor Mowry

1 Basically it's a backer about the size of an index card,
2 which will contain an adhesive lift which is taken from the
3 crime scene and placed on that backer, and that lift
4 typically will contain some sort of fingerprint impression
5 that they want us to analyze.

6 Q And some of the jurors may be aware of it, but if, for
7 those who might not be, what, what are latent prints?

8 A On the surface of one's fingers, hands, and feet are a
9 raised line of skin call ridges. These ridges form during
10 pregnancy and remain permanent and unique until
11 decomposition after death.

12 There are three basic types of these ridges that we
13 group, group them into an ending ridge, which is a
14 continually flowing ridge that comes to an abrupt stop, a
15 bifurcating or forking ridge, which is a single ridge that
16 splits into two separate distinctive ridges, and a dot,
17 which is basically a ridge that forms a dot. It's these
18 three type of ridges and their arrangement or their
19 relationship to each other on a finger or a palm or the
20 bottom of your feet that we look at when we do a comparison.

21 Now, located on those ridges are tiny little holes
22 called pores. These little holes exude sweat throughout
23 your normal activity. It's this sweat that will collect
24 along the ridges as well as any oils that may come into
25 contact from your face through, during normal daily

Jeff Crooks - Direct examination
by Solicitor Mowry

1 activity, which, when, when that, when you touch a surface,
2 it's possible that these ridges may leave an outline or the
3 finger may leave an outline of these ridges on that surface
4 much like a stamp would, a rubber stamp would do with ink,
5 and when -- sometimes those are left behind and can be
6 recovered for analysis.

7 Q Okay. How are latent prints left behind?

8 A Well, latent means hidden. A latent print is basically
9 a, a outline of a finger when it's lifted on a surface when
10 that finger touches a surface. Typically you can not see it
11 without the use of enhancement devices. Most common ones
12 that people are familiar with would be fingerprint powder.

13 Basically what it does is it, it makes a fingerprint
14 visible whereas typically before, and not always, but
15 typically before you put that powder on there, it, you may
16 not see any fingerprint there.

17 A fingerprint is actually -- the latent print is
18 actually about 99 percent moisture. The rest is the
19 residue, the salts from your sweat, the oily residue from
20 your face that you, that's left behind, and the moisture
21 will evaporate leaving that one percent to, to less than one
22 percent of residue, which is why they're so hard to see
23 without taking any, any enhancement action.

24 Q Okay. Are, are -- would an individual leave latents on
25 everything that he touches?

Jeff Crooks - Direct examination
by Solicitor Mowry

1 A Not necessarily. It depends. There's a lot of factors
2 that will affect whether you leave a fingerprint. The
3 surface you're touching. Obviously a smoother, cleaner
4 surface would give you the, would give you the better chance
5 of, of leaving a fingerprint behind or locating a
6 fingerprint. Also the surface of one's skin. If your
7 skin's really dry, then we would get -- I would say the
8 chance of leaving a fingerprint could be reduced.

9 If people who use their hands a lot and who have really
10 calloused hands, their ridges aren't as, as clearly
11 distinct. If you've ever looked at a callous, you know, it
12 affects -- it's basically your skin just kind of changed in
13 some appearance. Now, obviously once that callous goes
14 away, the ridge will define themselves again. But it would
15 affect -- it will probably decrease the chance of leaving a
16 fingerprint behind.

17 Q So, the likelihood of leaving a fingerprint behind is
18 not exactly as it is shown in, in TV crime dramas, is that
19 right?

20 A That's correct. You can, you can touch an object and
21 not leave a fingerprint on it.

22 Q All right. Did you, in fact, receive several latent
23 lifts from the Laurens Police Department on this particular
24 matter at the Guatemex?

25 A Yes, sir, I did.

Jeff Crooks - Direct examination
by Solicitor Mowry

1 Q All right. Can you give us a, a rundown of what you
2 received?

3 A There were four latent lifts. Again, that's someone at
4 the scene dusted a surface, observed something they felt
5 like needed to be analyzed, they lifted it with adhesive
6 tape, placed that tape on what we call a backer, a,
7 basically like an index card as what it is probably best
8 compared to, and then submitted that to us.

9 we received four of those as well as three sets of what
10 we call major case prints, and that's basically the inked
11 known fingerprint standards to include the fingers and the
12 palm prints of individuals they want us to compare it to.

13 Q Okay. Let me hand you this packet that's marked
14 L11-04897.

15 what does that number indicate?

16 A This is the SLED laboratory number that is assigned to
17 the case anytime evidence is submitted to our forensic
18 laboratory. Even though the local agent may have their own
19 case number, we assign what we call a laboratory number that
20 allows us to track the case and track the evidence
21 throughout the examination.

22 Q Okay. Let me just show this to the defense attorneys.

23 Okay, sir. Can you kind of inventory what you got
24 there?

25 A Yes, sir, I received the evidence -- we have a, what we

Jeff Crooks - Direct examination
by Solicitor Mowry

1 call a latent coming log-in. So, it's a secured locker that
2 only limited people have access to in our department, and
3 this was the main envelope that everything was received in,
4 and inside that envelope there were three additional
5 envelopes, which was what the local agencies put their
6 evidence in prior to submission to the laboratory.

7 In the smaller envelope were the, the four latent lifts
8 on the backers that they wanted us to examine, and the
9 larger envelopes were the known fingerprint standards that
10 we received that they wanted us to compare the unknown or
11 the latent impressions with.

12 Q Okay. And what were the results of your examination?

13 A After examining the four latent lifts that were
14 submitted, I observed that several of the lifts actually had
15 multiple latent impressions on it. So, I further identified
16 or provided evidence item number for each impression and
17 conducted an examination of each impression.

18 Q When you say overlap, what did that, what did that
19 indicate to you?

20 A Well, they didn't overlap, but there were several
21 impressions that the surface of the, of the tape is, covers
22 a certain area, and within the certain area there were
23 multiple latent impressions. They didn't necessarily
24 overlap.

25 Q I see.

Jeff Crooks - Direct examination
by Solicitor Mowry

1 A But in order to conduct my examination I have to
2 provide a result for all of the ridge detail that I
3 observed.

4 Q Let me ask you this.

5 were you aware of the character of the location where
6 these lifts, lifts were made?

7 A I knew, from the description provided on the cards, the
8 actual latent lift, that it was, appeared to be a countertop
9 of a convenience store type setting.

10 Q Given that, did, were you at all surprised with the
11 character of the, of the latent lifts?

12 A No, sir, there were -- out of the, out of the latent
13 impressions that I looked at, there's only one that I felt
14 was of comparison quality.

15 Even though a latent print can be left behind, it
16 doesn't necessarily mean that latent print is of examination
17 quality. They're a lot of things we look at when we conduct
18 a comparison. We look at the ridge flow, the pattern type,
19 if it's a finger, there's a different pattern, the ridges
20 can form different patterns. There's also those three ridge
21 types of characteristics that I mentioned earlier, and a lot
22 of, a lot of what we base our, our determination on has to
23 do with those ridge characteristics.

24 Sometimes there will be a latent impression that
25 doesn't have the pattern flow and may not be clearly enough

1 just by, represented or there may not be enough ridge
2 characteristics present to allow us to conduct an
3 examination. And when we, when we decide that a print is
4 not of sufficient quality, we indicate that it is not of
5 value for comparison.

6 Q Okay.

7 A There was one impression out of that that I observed
8 out of these four lifts that were submitted that was of
9 comparison quality.

10 Q All right. And were you able to compare it to the
11 three defendants whose cards were submitted?

12 A The names on the cards that I was given was Jakeivan
13 Pulley, Lakasion Robinson, and Davoris Smiley. I did
14 conduct a comparison of the unknown impression to what was
15 given to me and was not able to identify the, the latent
16 impression to any of those three individuals.

17 Q Okay. When someone touches an item, is there anyway,
18 you know, once he's touched it, that it, that the
19 fingerprints can be distorted or smeared or smudged that
20 they wouldn't be usable?

21 A Well, the biggest enemy of a latent print is friction.
22 If somebody wiped the counter, if they cleaned it, it would
23 of wiped the latent impression off. Sometimes the surface
24 will be of a certain nature to where, when they apply the
25 powder, it creates what's call background noise. In other

Jeff Crooks - Direct examination
by Solicitor Mowry

1 words, the powder doesn't just, just make the impression
2 make every scratch, every smudge, every smear. You know,
3 you can touch a surface and leave, leave some of that sweat
4 and oily residue, but it will not leave an outline of the
5 ridges.

6 So, we call it a smudge. I mean we've all seen on your
7 car or windows or, you know, the surfaces and that's where
8 skin is coming in contact with the surface, and it
9 transferred residue, but it did not transfer to the, the
10 actual outline of the ridges and basically it's just a
11 smudge. Sometimes, on surfaces that have been handled a
12 lot, you will see a lot of that, a lot of that in the latent
13 besides actual ridge detail. You will see numerous
14 fingerprints on top of each other. Sometimes you'll see
15 little fragments of ridge detail that are not of sufficient
16 quality to conduct a comparison. That's not unusual for
17 items that are handled frequently.

18 Q Okay. Is money an item that is susceptible to
19 fingerprinting I guess is a good way to put it?

20 A Yes, sir, we break all items that we get into two
21 categories, porous and nonporous. Your porous items are
22 gonna be items such as paper, untreated wood. The actual
23 fingerprint is absorbed into the paper, and we have methods
24 available to us to make the prints that make it, that
25 visible.

Jeff Crooks - Direct examination
by Solicitor Mowry

1 Money we have processed, I've processed quite a bit of
2 money in my career. I have been able to get ridge detail
3 off of money, but more times than not what we see is the
4 money being handled so much that you do get a reaction, but
5 nothing, you know, typically, more times than not, there's
6 not gonna be ridge detail developed that is, that is of a
7 sufficient quality.

8 Q In summary, Mr. Crooks, Lieutenant Crooks, did you
9 obtain any kind of evidence that would indicate that there
10 were latent prints left by the defendant, Robinson, Pulley,
11 or Smiley?

12 A Not that I could say, you know, that the, the ridge
13 detail I observed was not of a, of a sufficient qualify for
14 examination. I can't tell you who, you know, it could of
15 been them or someone else. All I can tell you for sure is
16 the one that there was a latent I felt like was of a
17 sufficient quality for comparison, and I could tell you that
18 they did not make that impression.

19 SOLICITOR MOWRY: I believe that's all I have, Your
20 Honor.

21 THE COURT: Mr. Mitchell, your witness.

22 MR. MITCHELL: Yes, Your Honor.

23 May it please the Court?

24 THE COURT: Yes, sir.

25 CROSS-EXAMINATION

1 BY MR. MITCHELL:

2 Q what about cigarette lighters, would they be something
3 that you would get a good print off of normally?

4 A The only way I could tell you for sure if I could get
5 something is if I tried it. I have processed cigarette
6 lighters in the past. I can not tell you, based on my
7 experience, I can't recall if I've ever been successful,
8 but, yes, I mean that, that's definitely something you could
9 try to get fingerprints off of.

10 Q would it be probably better because it has a smooth
11 surface as opposed to porous?

12 A well, I wouldn't say better, you know. Again, it just
13 depends on the items, you know, the surface, if it's plastic
14 versus some other type of, of lighter, you know, if it's a
15 rough surface versus smooth, how much it's handled, what
16 happened when the evidence from the time it was collected
17 till the time we got it, you know. It -- all those factors
18 come into play, which is why, you know, I can't really say,
19 you know, what would be the percentage or, or likelihood,
20 but we would definitely try it if it was submitted.

21 MR. MITCHELL: All right. I have nothing else, Your
22 Honor?

23 THE COURT: Ms. Moore.

24 MS. MOORE: Yes. Thank you, Your Honor.

25 MS. MOORE: May I approach the witness, Your Honor?

Jeff Crooks - Cross-examination
by Ms. Moore

1 THE COURT: You may.

2 MS. MOORE: Thank you.

3 CROSS-EXAMINATION

4 BY MS. MOORE:

5 Q Lieutenant, I'm Scarlet Moore and I represent Jakeivan
6 Pulley in this matter.

7 I'm gonna show you a, a document that's been marked as
8 Defendant's Exhibit No. 5 for identification purposes.

9 Do you recognize that document?

10 A It looks like a, one of our laboratory forms.

11 Q Okay. And who was it submitted by?

12 A It says Captain John Stankus.

13 Q Are you familiar with Captain Stankus?

14 A I may recognize if I saw him. The name rings a bell.
15 I'm not sure. I can't place a face with the name I mean.

16 Q And would it be fair to say that he is involved with
17 Laurens City Police or Laurens Sheriff's Department in
18 regard to this report?

19 A well, his name and his signature is on it. So, I would
20 have to say that, yes, ma'am.

21 Q Okay. And, so, the -- it's a SLED laboratory forensic
22 services request, right?

23 A Yes, ma'am.

24 Q And in your line of work, who, who fills out this
25 information in these questions?

1 A Well, as far as providing the information, we have a,
2 we have a system, an online system where the submitting
3 agency can and typically does fill out that information. On
4 occasion, other agencies need assistance with that. So, we
5 have people in our lab that can assist them, if necessary.

6 Q Okay. But is this type of document, is that something
7 you've seen before and---

8 A Well, this is a -- this looks like a printout of pretty
9 much all of our case files. We're computerized now. So,
10 this one looks like it's a printout of that information that
11 was entered into the computer. Yeah, but I mean that, that
12 looks typical for what they submit when they log in evidence
13 as far as information provided.

14 Q Okay. And on the document, there are three subjects
15 listed.

16 SOLICITOR MOWRY: Your Honor, I believe this is just
17 been for identification at this point. He has stated that
18 he is not ever seen this particular document before, and she
19 is going into a great bit of detail as to the content of the
20 document. I'd submit we've gone beyond the point of
21 identification at this stage.

22 MS. MOORE: May we approach, Your Honor?

23 THE COURT: You may.

24 MS. MOORE: Thank you.

25 THE COURT: Counsel.

Paul Meeh - Direct examination
by Solicitor Mowry

1 (WHEREUPON, a bench conference was held out of the
2 hearing of the jury at this time.)

3 THE COURT: You may proceed.

4 MS. MOORE: Thank you, Your Honor.

5 (Pause.)

6 MS. MOORE: I have no further questions of this
7 witness, Your Honor.

8 THE COURT: Anything further from the State?

9 SOLICITOR MOWRY: Not from the State, Your Honor.

10 THE COURT: Redirect.

11 You may step down, sir.

12 WITNESS: Yes, sir.

13 THE COURT: You wish to excuse the witness?

14 SOLICITOR MOWRY: Yes, sir.

15 THE COURT: Any objections?

16 MR. MITCHELL: No, Your Honor.

17 THE COURT: Ma'am?

18 MS. MOORE: No, Your Honor.

19 THE COURT: You're free to go.

20 WITNESS: Thank you.

21 THE COURT: State may call your next witness.

22 SOLICITOR MOWRY: Call Paul Meeh.

23 THE COURT: Come forward, sir, and be sworn.

24 PAUL MEEH, being first duly sworn,
25 testified as follows:

Paul Meeh - Direct examination
by solicitor Mowry

1 THE COURT: Sir, have a seat, and once you're seated,
2 state your name.

3 WITNESS: My name is Paul Meeh, and my last name is
4 spelled M-E-E-H.

5 THE COURT: Thank you.

6 Your witness, counselor.

7 SOLICITOR MOWRY: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY SOLICITOR MOWRY:

10 Q Mr. Meeh, by whom are you employed?

11 A I'm also employed by SLED.

12 Q And what is your capacity with SLED?

13 A I'm a forensic scientist there. I am in the DNA
14 department.

15 Q All right. What is your training in DNA?

16 A I got my Bachelors in Biology in 2001 from the
17 university of South Carolina, my Master's in the molecular
18 biology in pediatric oncology, and that was from the Medical
19 School. That's in 2003. And then I was working on my Ph.D.
20 at the Medical School when I was hired away by SLED, and
21 that was in April of 2008. And then I went through another
22 year and a half of training at SLED in the STR
23 identification, which is the method we use now.

24 Q Okay. Have you got, gotten, gotten any specialized
25 training beyond that in this, in the area of DNA analysis?

1 A Well, I mean, at SLED, we have continuing education, of
2 course, and this specialization happens during the year and
3 I have training. We train under a scientist there, and you
4 have to go through each step and they have to check over
5 your work behind you, double or triple check, and make sure
6 you end up processing the cases under their supervision, of
7 course, and you have to be certified by them before you can
8 do things for being---

9 Q Okay. Have you been declared an expert in courts in
10 South Carolina or elsewhere?

11 A Yes, I have.

12 Q On how many occasions have you been declared an expert?

13 A It's a good question. Approximately ten I think.

14 Q Okay. And what areas have you been declared an expert?

15 A Usually in DNA analysis.

16 SOLICITOR MOWRY: Okay. Your Honor, I would offer this
17 witness as an expert in DNA analysis.

18 THE COURT: Any objection, Mr. Mitchell?

19 MR. MITCHELL: No, Your Honor.

20 THE COURT: Ms. Moore.

21 MS. MOORE: No, Your Honor.

22 THE COURT: All right. Without objection then he'll be
23 qualified as an expert within that field. I explained to
24 the jury what that designation means.

25 You may proceed.

1 SOLICITOR MOWRY: Thank you, Your Honor.

2 Q Mr. Meeh, I would refer you to your Lab Number 11-4897.

3 Did you receive items for DNA analysis from the
4 incident that occurred in the City of Laurens on the
5 24th of April of 2011?

6 A Yes, I did. I received several items.

7 Q All right. What did you receive from Laurens?

8 A Well, it would appear that I received three standards,
9 which were Buccal swabs. Those are swabs taken from the
10 inside of the cheek. They are from Lakasion Robinson,
11 Jakeivan Pulley, and Davoris Smiley.

12 Q And what, what is -- how do you go about obtaining one
13 of those?

14 A It's pretty simple. It's a cotton swab also like a
15 Q-tip that you use except a little bit longer, and there's a
16 top on the end. They just swab the inside of your cheek and
17 that's to collect cells from your cheek.

18 Q Okay.

19 A And I also received -- I'd like to finish the other
20 point.

21 Q Yes.

22 A I received items for comparison that were a swab from a
23 door handle, swab, two swabs from the cash register drawer,
24 a swab from a black long sleeve thermal shirt, and a swab
25 from a white shirt.

Paul Meeh - Direct examination
by Solicitor Mowry

1 Q Okay. what kind of examination did you conduct?

2 A I attempted to identify the persons that, to whom the
3 shirts belonged and the swabs from the cash register door
4 handle. So, what I do is I isolate DNA from any skin cells
5 or, or body fluids that are left on those items, and I try
6 to say to whom those belong.

7 Q Okay. Excuse me just one second.

8 Okay. Let me hand you items that have been already
9 marked as State's Exhibit No. 33, and State's Exhibit No.
10 27.

11 Do those appear to be the items that you received in
12 this particular case?

13 A They fit the description of the items. However, I'd
14 like to point out, in this case, the items were processed.
15 We have the evidence processing area. We don't do all the
16 processing ourselves on this item. So, we have people that
17 take in items such as this and create swabs for us. They,
18 they do all the steps necessary to give us the, the skin
19 cells to proceed to identify to whom they belong.

20 So, in this case I didn't actually touch these items or
21 process these items. A technician named Jan Bryson did
22 process the evidence.

23 Q But in any event, these are consistent with the items
24 you received?

25 A They are consistent, yes, in description.

1 Q And does this box, this cardboard box here, contain the
2 same lab number that I've referred to?

3 A Yes, sir, it does.

4 Q And is there tape on there that is marked with SLED?

5 A Yes, sir.

6 Q Thank you.

7 Describe how you went about conducting the
8 identification or the examination please, sir.

9 A Well, the first thing that we do on all the swabs that
10 I get, I have to quantify the DNA that's on them. So, you
11 get -- it's the, it's the first step in the process just to
12 make sure that there is DNA present that can be tested since
13 there's no point in going on beyond that unless -- and, so,
14 some of these items I didn't get DNA from. For example,
15 from the Item 6, which was a swab from cash register, there
16 was just nothing there.

17 So, once you've identified that there is DNA there, you
18 move on to identifying who, whose DNA it is and that's
19 another step, which is an amplification step. Then you
20 compare standards to that to what we generate there.

21 Q Okay. Agent Meeh, before we go any further, just to
22 make sure we're all reading off the same page, exactly what
23 is DNA?

24 A DNA is a molecule in the nucleus of the cells. You get
25 half of it from your dad and half from your mom. It's

1 individual to you. It's -- unless you're an identical twin.
2 Those are the only people that have the same DNA.

3 Q Okay. And how is DNA transmitted from a person's body
4 onto items?

5 A It's usually, usually the loss of skin cells. A known
6 percent of the dust that's in your house is made from shed
7 skin cells and it could be from body fluids. It could be
8 from saliva, semen, tears, sweat, and anything that can,
9 that has touched your body and moved away from is probably
10 how you're gonna get your DNA.

11 Q So, any living cell could have DNA in it, is that
12 right?

13 A Except for red blood cells, every cell in your body has
14 it.

15 Q Okay. Go ahead and describe the process that you went
16 through in this case.

17 A Well, the comparison process is gone through if -- it's
18 called Short Tandem Repeat Processing, and what that is is
19 we take the DNA, we look at certain areas. We don't test
20 every bit of DNA in your body. We just test small areas of
21 it, and it's just a simple count really. It's a count of
22 how many repetitions there are of a certain sequence of
23 letters, and it comes up like a locker combination.

24 If you have a locker that, you know, your locker
25 combination is 11, 22, 11, that's different than anyone

1 else's locker combination. And, so, each individual have
2 one of those, and it's a simple count of distance in your
3 genes.

4 Q Okay. And did you conduct such an analysis in this
5 case?

6 A I did.

7 Q And what result occurred?

8 A Well, I got different results for different items.

9 From the door handle, I got two swabs from the front
10 door handle. No. Excuse me. I got a single swab from the
11 front door handle which is Item 4. I didn't get sufficient
12 DNA there to compare it to anyone.

13 Items 5 and 6 were from the cash register drawer. I
14 didn't get any DNA from Item 6. Item 5 was also
15 insufficient for comparison.

16 Item 14.1 was from a swab from a black long sleeve
17 thermal shirt. I was able to compare, and it ended up being
18 a mixture of DNA, a mixture of two people. But there was a
19 major contributor, and what that means is that one of the
20 two contributors was much more than the other, and that
21 means I can identify every position of a single person from
22 there. Even though that there may be two that have
23 contributed, I can tell the major contributor on the item,
24 and the major contributor to that item matched the DNA
25 profile of Lakasion Robinson.

1 Q Okay. And this was the black shirt, is that right?

2 A Again, yeah, it was a shirt that fit that description I
3 guess.

4 Q Okay. Did you get anything from the white shirt?

5 A I did get a partial DNA profile from that. It was a
6 mixture of two individuals, and I could not identify any of
7 the participants in that mixture.

8 Q Okay. Did you receive or find anything from Jakeivan
9 Pulley or Davoris Smiley?

10 A No, I did not. I found nothing that linked them to any
11 items in the case.

12 Q Now, Mr. Meeh, there has been some testimony that the
13 black hoodie was worn by Lakasion Robinson and Jakeivan
14 Pulley.

15 Can you explain why it or if it is possible that an
16 item of clothing might have been worn by an individual and
17 no DNA was transmitted or found?

18 A If they wore it for a short time, if you were to share
19 a shirt in the case, if you wore it for a shorter time than
20 the other individual, you would easily expect you would
21 contribute less on that shirt. The other thing is it
22 depends on the activities you're doing.

23 If I were to borrow your shirt and take it and run a
24 few miles, I'm sure I would contribute a lot more than you
25 have today in a sitting position like this because the

1 friction rubs my skin cells off, and I would also sweat,
2 and that would make more of my skin cells go into the shirt.
3 So, there's a lot of factors that could contribute to that.

4 Q Okay. So, if someone had worn a shirt for a very short
5 period of time and traveled only a couple of blocks while
6 wearing that shirt, in your opinion, might it be possible
7 that he would not have contributed any DNA to the garment
8 himself?

9 A Yes, it's possible. Well, it's also possible that they
10 were overwhelmed by say, say someone else owns the shirt and
11 you just borrowed it. The other person may have been doing
12 very vigorous activities in that shirt, and maybe that DNA
13 will overcome any DNA he could of contributed to it.

14 Q Such as walking a couple of miles, would that, would
15 that have an effect on, on the original person's, the power
16 of the original person's DNA?

17 A Absolutely, yes.

18 Q Okay.

19 A Another factor that I didn't mention that I'd like to,
20 some people are just natural shedders. Some people just
21 give off more skin cells, more DNA than others. I don't
22 know why and I can't explain why, but it's definitely a
23 phenomenon that's there.

24 SOLICITOR MOWRY: Okay. Beg the Court's indulgence
25 just one moment.

1 THE COURT: Yes, sir.

2 (Pause.)

3 Q Thank you, Mr. Meeh. That's all I have. If you'd
4 answer any questions from the defense attorneys.

5 A Yes, sir.

6 THE COURT: Mr. Mitchell, your witness.

7 MR. MITCHELL: Yes, Your Honor.

8 May it please the Court?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. MITCHELL:

12 Q Let's talk about the white shirt.

13 You said -- is it -- did you say that there were a
14 combination of three possible people that were---

15 A No. No, sir. Let me reread. That is Item 15.1. It
16 is a mixture of at least two individuals. I've identified
17 two there and it could be three to be honest with you. It's
18 possible, but unlikely.

19 Q All right. I'm sorry. You've identified two
20 individuals and neither of those individuals were any of the
21 defendants that you were looking for?

22 A That's correct, sir.

23 Q So, do you do -- I mean in crime scene investigation,
24 does that usually indicate that there was another person at
25 the scene of the crime when you find a shirt like this?

Paul Meeh - Cross-examination
by Mr. Mitchell

1 A That's a difficult question because I don't do crime
2 scene investigation, but it also -- this result does
3 indicate that someone else wore that shirt, yes.

4 MR. MITCHELL: All right. Nothing further.

5 THE COURT: Ms. Moore, your witness.

6 MS. MOORE: Beg your indulgence, Your Honor.

7 THE COURT: Beg your pardon?

8 MS. MOORE: I beg your indulgence, Your Honor.

9 THE COURT: Yes, ma'am.

10 MS. MOORE: Thank you.

11 (WHEREUPON, a SLED report was marked as Defendant's
12 Exhibit No. 5 for identification purposes only at this
13 time.)

14 MS. MOORE: May I approach the witness?

15 THE COURT: You may.

16 MS. MOORE: Thank you.

17 THE COURT: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MS. MOORE:

20 Q Let me show you what's been marked as Defendant's
21 Exhibit No. 6.

22 Do you recognize -- do you recognize that document?

23 A Yes, ma'am, I believe it is my report.

24 Q Okay. And it is, in fact, your report?

25 A I believe that is a copy of my report, yes.

Paul Meeh - Cross-examination
by Ms. Moore

1 Q Okay. And just to be clear, even though you testified
2 that, under 14.1 and 15.1, that there was a possible minor
3 contributor, both Jakeivan Pulley and Mr. Smiley were
4 excluded as possible contributors, correct?

5 A That's true. They were excluded. They were both
6 excluded as possible contributors of the minor profiles that
7 I developed, yes, sir.

8 Q Thank you.

9 Your Honor, at this time I would move that Defendant's
10 Exhibit 6 be entered into evidence.

11 THE COURT: Any objection?

12 SOLICITOR MOWRY: No, sir.

13 THE COURT: Without objection, Mr. Mitchell?

14 MR. MITCHELL: Yes, sir.

15 THE COURT: Thank you. It is admitted into evidence.

16 (WHEREUPON, Defendant's Exhibit No. 5 was received into
17 evidence at this time.)

18 MS. MOORE: Thank you. I have no further questions.

19 THE COURT: Anything on redirect from this witness?

20 REDIRECT EXAMINATION

21 BY SOLICITOR MOWRY:

22 Q Just to make sure though, it is possible that a shirt
23 could of been worn by a person and he not leave any trace of
24 DNA minor or major, isn't that correct?

25 A Yes, sir.

Paul Meeh - Redirect examination
By Solicitor Mowry

1 Q All right. Thank you.

2 That's all I have.

3 THE COURT: Anything?

4 MR. MITCHELL: Nothing.

5 THE COURT: Ms. Moore, any other questions of the
6 witness?

7 MS. MOORE: No, Your Honor.

8 THE COURT: Sir, you may step down.

9 You wish to have the witness excused?

10 SOLICITOR MOWRY: Yes, sir---

11 THE COURT: Any objection?

12 SOLICITOR MOWRY: ---if he could be allowed to return
13 to---

14 MR. MITCHELL: No, Your Honor.

15 MS. MOORE: No, Your Honor.

16 THE COURT: All right, sir. You're free to go. Thank
17 you very much.

18 THE COURT: Ask the attorneys to approach briefly.

19 SOLICITOR MOWRY: Yes, sir.

20 (WHEREUPON, a bench conference was held out of the
21 hearing of the jury at this time.)

22 THE COURT: State may call its next witness.

23 SOLICITOR MOWRY: Call Mike Rainey.

24 I believe he's in my office.

25 THE COURT: Sir, come to my right to be sworn.

Mike Rainey - Direct examination
by Solicitor Mowry

1 MIKE RAINEY, being first duly sworn,
2 testified as follows:

3 THE COURT: Sir, have a seat in the witness stand, and
4 once you're seated. I'd ask that you state your name.

5 WITNESS: Investigator Michael Rainey.

6 THE COURT: Mr. Mowry, your witness.

7 SOLICITOR MOWRY: Thank you, Your Honor.

8 THE COURT: Yes, sir.

9 DIRECT EXAMINATION

10 BY SOLICITOR MOWRY:

11 Q Mr. Rainey, by whom are you employed?

12 A The Greenville County Sheriff's Office.

13 Q And what is your position with the Greenville County
14 Sheriff's Office?

15 A I'm currently assigned to the criminal computer
16 forensics unit.

17 Q Okay. Are you on a joint task force with the Secret
18 Service?

19 A Yes, sir, I'm assigned to the Secret Service electronic
20 crime task force and also to the South Carolina ICAC, which
21 is another task force I'm assigned.

22 Q What kind of training or experience or education have
23 you got in, in this area?

24 A I have been sent to Hoover, Alabama to the Secret
25 Service training facility at National Computer Forensics

Mike Rainey - Direct examination
by Solicitor Mowry

1 Institute. I've also been trained in many case forensics,
2 FTK forensics, which is a forensics tool kit, and
3 proprietary software training as well.

4 Q Okay. What is your primary function with the, with the
5 joint task, task force?

6 A To assist in electronic crimes, retrieval of evidence
7 from computers, cell phones, electric media, electronic
8 media.

9 Q Okay. What is your primary focus though in that area?

10 A I, I primarily do retrieval of evidence.

11 Q Okay. From any kind of electronic media?

12 A Yes, sir.

13 SOLICITOR MOWRY: Okay. Your Honor, I would offer this
14 witness as an expert in the area of electronics forensics
15 and retrieval of you, evidence from various electronic
16 devices.

17 THE COURT: Any objection to that designation?

18 MR. MITCHELL: No, Your Honor.

19 THE COURT: Ma'am?

20 MS. MOORE: No, Your Honor.

21 THE COURT: All right. He'll be so designated.

22 You may proceed.

23 Q Mr. Rainey, were you asked to conduct forensics on a
24 variety of cell phones from a case arising from Laurens
25 County?

Mike Rainey - Direct examination
by Solicitor Mowry

1 A Yes, sir, I was asked to assist with the Secret
2 Service.

3 Q Okay. who is the Secret Service agent that you deal
4 with in that particular area?

5 A In this case it was Special Agent James Motley with the
6 Secret Service.

7 Q All right. And what did he ask you to do?

8 A To assist in the recovery of data or data from three
9 cell phones.

10 Q Okay. Let me show you items that have been marked as
11 State's Exhibit 36, 37, and 38.

12 Are these the cell phones that you were submitted?

13 A Yes, sir, they appear to be.

14 Q Okay. I want to refer you particularly to a Samsung
15 Gravity cell phone.

16 A Yes, sir.

17 Q who does that apparently belong to according to the
18 listing that you have there?

19 A It's kind of hard to make out the name. Davoris
20 Smiley.

21 Q Davoris Smiley.

22 How do you go about doing telephone forensics?

23 A we have a device from Cellbright Technologies, which is
24 our Cellbright forensic recovery machine. You go through a
25 series of steps and enter the make, model, manufacturer of

Mike Rainey - Direct examination
by Solicitor Mowry

1 the phone. It, it tells us which cables you have to use to
2 hook that phone to our machine, and the machine runs the
3 forensics report.

4 Q Okay. How complicated is this examination?

5 A It's not. This examination is not very complicated.
6 It's a, it's a series of steps you walk through.

7 Q Okay. What kind of information can you retrieve from
8 the cell phone?

9 A Each cell phone is, is, is different depending on the
10 make, the model, and the manufacturer. Call logs, call
11 histories, text, pictures, videos, audio, ring tones. Just
12 depending on the phone.

13 Q Okay. When you examined that Samsung Gravity that is
14 listed as belonging to Davoris Smiley, did you receive a, a
15 or have a printed report come out of it?

16 A Yes, sir, the report is generated. We placed the
17 report onto a CD and turned, turned the CD over to the
18 investigators.

19 Q Okay. Were you able to, in this particular case,
20 retrieve any kind of photographs?

21 A Yes, sir.

22 Q From that cell phone?

23 A Yes, sir.

24 Q Let me hand you three items that have already been
25 marked for identification as State's Exhibit Nos. 10, 11,

Mike Rainey - Direct examination
by Solicitor Mowry

1 and 12.

2 Do you recognize those?

3 A Yes, sir.

4 Q Where did those come from?

5 A They were downloaded to the forensics report from that
6 cell phone.

7 Q Okay. Do you have a capability of determining when
8 those photographs were generated?

9 A Yes, sir, in the report it also puts the information,
10 which is metadata from the phone, and tells us the date, the
11 time, and the phone, manufacturing, where it was.

12 Q And referring once again to the ten, I believe it's 10,
13 11 and 12 --

14 A Yes, sir.

15 Q -- let me put them in proper order, would you tell me
16 when those particular photographs were created or generated?

17 A Let me refer to my notes here. They were taken with
18 the Samsung camera model GHT479, which is the Gravity. Date
19 and time stamped was 4/24/11 at 07:05:23.

20 Q Okay. Were all of them taken at the same time?

21 A Same date, different times, all within a couple minutes
22 of each other.

23 Q Okay. And these were found on Mr. Smiley's cell phone,
24 is that right?

25 A That is correct, sir.

Mike Rainey - Direct examination
by Solicitor Mowry

1 SOLICITOR MOWRY: Your Honor, at this time I would
2 offer these photographs as State's Exhibits.

3 THE COURT: Objections, Mr. Mitchell?

4 MR. MITCHELL: No, Your Honor.

5 THE COURT: Ma'am?

6 MS. MOORE: No, Your Honor.

7 THE COURT: All right. They'll be admitted into
8 evidence as marked.

9 (WHEREUPON, State's Exhibit Nos. 10 through 12 were
10 received into evidence at this time.)

11 THE COURT: Ladies and gentlemen, let me make sure you
12 are aware that in the case of at least one of those
13 photographs, based on a ruling by this Court a portion of
14 that photograph has been redacted or been blacked out.

15 What number is that?

16 SOLICITOR MOWRY: That one is No. 12, Your Honor.

17 THE COURT: No. 12. That's based on my ruling.

18 You may proceed.

19 SOLICITOR MOWRY: Thank you, Your Honor.

20 Q All right. Let me take these through, and, Mr. Rainey,
21 let me refer you to State's Exhibit No. 12.

22 When was that taken?

23 A 4/24 of 2011 at 05, or correction, 07:05.

24 Q April 4th, 2011, at what time?

25 April 24th, I'm sorry, 2011.

Mike Rainey - Direct examination
by Solicitor Mowry

1 A 7:05 and two seconds.

2 Q Okay. 07:05AM?

3 A Yes, 07:05.

4 Q Oh, okay. Let me show you this one, which is marked as
5 State's Exhibit No. 11.

6 when was that one created?

7 A 4/24 of 2011 at 07:02:42.

8 Q So, that would of been roughly seven o'clock in the
9 morning?

10 A Yes, sir.

11 Q And State's Exhibit No. 10 for identification.

12 A 4/24 of 2011 at 07:03.

13 Q Okay. Again, about seven o'clock in the morning?

14 A Yes, sir.

15 Q And also, Mr. Rainey, I wanted to hand you this
16 photograph and ask you if you can identify that.

17 A Yes, sir, I can.

18 Q All right. What is that please, sir?

19 A This photograph was also taken from the Gravity cell
20 phone as well.

21 SOLICITOR MOWRY: Your Honor, I'd offer this as State's
22 Exhibit at this time. I've shown it to counsel.

23 THE COURT: Any objection?

24 MR. MITCHELL: No, Your Honor.

25 THE COURT: Ms. Moore.

Mike Rainey - Direct examination
by Solicitor Mowry

1 MS. MOORE: No, Your Honor.

2 THE COURT: It will be admitted. Should be marked.

3 (WHEREUPON, a photograph was marked as State's Exhibit
4 No. 42 and received into evidence at this time.)

5 Q Does that appear to be the same individual that you saw
6 in the other photographs?

7 A Yes, sir.

8 Q Let me hand you what's now been marked as State's
9 Exhibit No. 39, this Pittsburg Pirates baseball cap, gold,
10 with black letter P and a black bill.

11 Does that appear to be the cap that is being worn in
12 that picture?

13 A Yes, sir, it appears.

14 Q And what time was that picture taken?

15 A That one was taken at 04:18:45.

16 Q 04:18:45 on what date?

17 A On 4/24 of 2011.

18 Q So, roughly four o'clock in the morning, a little after
19 four o'clock in the morning?

20 A Yes, sir.

21 Q And let me show you what's been marked as State's
22 Exhibit No. 41.

23 Do you see that in that picture?

24 A Yes, sir.

25 Q Okay. Where is that being worn?

Mike Rainey - Direct examination
by Solicitor Mowry

1 A It actually appears in several of the photos.

2 Q Okay. And where is, where is -- about where on the
3 person is it being worn?

4 A It's on his head.

5 Q Okay. Thank you, sir. That's all I have.

6 THE COURT: Mr. Mitchell, your witness.

7 MR. MITCHELL: Yes, Your Honor.

8 May it please the Court?

9 THE COURT: Yes, sir.

10 CROSS-EXAMINATION

11 BY MR. MITCHELL:

12 Q Was the crime committed on the cell phone from what you
13 were able to observe?

14 A I'm sorry?

15 Q Was there a crime committed on the cell phone by what
16 you were able to observe?

17 A No, sir.

18 Q All right. When you did a search, you also searched
19 for texts, correct?

20 A Yes, sir.

21 Q Did you find any texts that would lend, lend you to
22 believe, as an, as an investigator, that there was a
23 conspiracy going on to commit a crime?

24 A I do not know, sir. I did not read the text messages.

25 Q So, you pulled the texts, but you didn't read them?

Mike Rainey - Cross-examination
by Mr. Mitchell

1 A No, sir, I did not read, read the text messages. I
2 passed them to the investigator that handled the case. My,
3 my designation was to retrieve the evidence and the data
4 that was on the phone.

5 Q All right. When -- you said you're in a joint task
6 force, is that correct?

7 A That is correct, sir.

8 Q What is that joint task force looking to?

9 What kind of crimes is that joint task force looking to
10 solve or, or deal with?

11 A I -- one of the joint tasks forces for electronic
12 crimes task force. The other is the internet crimes against
13 children task force, but we assist other agencies with
14 retrieval of information and data that they do not have the
15 ability to retrieve on their own.

16 MR. MITCHELL: All right. I have nothing else, Your
17 Honor.

18 THE COURT: Ms. Moore, your witness.

19 MS. MOORE: No questions.

20 THE COURT: Any further questions by the State?

21 SOLICITOR MOWRY: No, sir. Ask that the witness be
22 excused, Your Honor.

23 THE COURT: Any objection?

24 MR. MITCHELL: No, Your Honor.

25 MS. MOORE: No, Your Honor.

1 THE COURT: Sir, you may step down and you're excused
2 at this time. You're free to go.

3 WITNESS: Yes, sir.

4 THE COURT: Thank you.

5 All right. Mr. Mowry, the State may call its next
6 witness.

7 SOLICITOR MOWRY: Your Honor, at this time we have
8 completed our -- I just wanted to confirm with the court
9 reporter if I may that all of the evidence that we, that had
10 for identification is now admitted into evidence.

11 THE COURT: You can check with her before you rest.

12 (Pause.)

13 SOLICITOR MOWRY: Your Honor, we have no further
14 witnesses, witnesses and at this time the State rests.

15 THE COURT: All right. Ladies and gentlemen of the
16 jury, that completes the presentation of evidence by the
17 State in this matter. There's some matters I have to take
18 up with the attorneys at this time, and I see we're past
19 12:30. So, we're gonna stop and allow you to go to lunch
20 and we'll take care of those matters.

21 I will ask that you be back in the jury room at, let's
22 say, about 15 minutes until two o'clock. That's just a
23 little over an hour right now, and we should be in a
24 position to resume the trial at that time.

25 Same instructions I've given you each time you've left

1 the courthouse. Don't attempt to gather any information.
2 Don't listen to, watch, or read media reports. Don't
3 discuss the case with anyone, and don't allow anyone to
4 discuss it with you. Report any violations or problems in
5 that regard to me upon your return.

6 All right. Be back in the jury room at 1:45, quarter
7 till 2:00.

8 Thank you very much.

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

11 THE COURT: All right. Any motions from the defense at
12 this time, Mr. Mitchell?

13 MR. MITCHELL: Yes, sir, Your Honor.

14 I believe I need to, to preserve the evidence of, renew
15 all my objections and to move for a directed verdict.

16 THE COURT: All right. I'll be happy to hear from you
17 on that.

18 MR. MITCHELL: I believe that the, there is enough
19 evidence here or there's enough conflicting evidence from
20 the testimony of the witnesses that the State provided that
21 contradict that, their own testimony. Therefore, for
22 example, their key witness, Lakasion Robinson, he, he said
23 that he, that Mr. Pulley hid the shirt. Then he said he hid
24 the shirt. He said he was at the house waiting for them,
25 and that then he met them and they caught up to him.

1 There's just so many inconsistencies in the testimony
2 of the witnesses, some of the witnesses that contradict each
3 other. I just would ask the Court to move for a directed
4 verdict of not guilty.

5 THE COURT: All right. The Court finds, in the case of
6 your defendant, that there is sufficient evidence in the
7 record to justify the case going forward to the jury. I'll
8 deny the motion at this time.

9 MR. MITCHELL: Thank you, Your Honor.

10 THE COURT: And my rulings concerning the evidentiary
11 matters remain the same.

12 THE COURT: Ms. Moore.

13 MS. MOORE: Thank you.

14 I'd also, on behalf of my client, renew all objections,
15 Your Honor, and also at this time move for a directed
16 verdict.

17 Your Honor, in State versus Buckman, the Trial Court
18 should grant a directed verdict motion when a jury would be
19 speculating as to the accused's guilt or where the evidence
20 is sufficient only to raise a mere suspicion of guilt.

21 Your Honor, I submit to this Court that there is simply
22 no direct or substantial circumstance, circumstantial
23 evidence reasonably tending to prove the guilt of my client,
24 Your Honor, and I think what is significant in this case is
25 that when my client was initially apprehended, Your Honor,

1 there was, there was never an eye witness identification
2 from the actual victims in this matter, Your Honor, which
3 would certainly be prerequisite for, for a charge, Your
4 Honor.

5 My client was identified by a police officer who then
6 sent out an all points bulletin that he was, in fact, placed
7 in investigative detention, and then subsequently arrested,
8 Your Honor. And, so, I do think that would, would be
9 significant for the Court's consideration.

10 So, Your Honor, I do accept that, you know, in regard
11 to the credibility of the witnesses, I do accept that that's
12 an issue for the jury, Your Honor. But that is -- there's
13 one part of this case where we do not have actual
14 identification at the time of the crime of my client by any
15 victim in this case, Your Honor. And, so, I think that is,
16 that's vital.

17 So, at this time I would move for a directed verdict.

18 THE COURT: Mr. Mowry, you want to comment on that?

19 SOLICITOR MOWRY: Well, Your Honor, in all candor, I
20 could of stopped after the first witness, Ms. Sebastian, and
21 we would of gotten past directed verdict because she, in
22 Court, identified both these defendants as her robbers. So,
23 I would say that there is ample evidence to, to get beyond
24 directed verdict.

25 THE COURT: Well, I will find that there is sufficient

1 evidence to justify the case going forward to the jury, and
2 I know that you also will continue your objections to the
3 evidence, and my rulings will remain the same on those
4 issues.

5 MS. MOORE: Thank you, Your Honor. Thank you, judge.

6 THE COURT: All right. At this time I do want to
7 inquire of both defendants concerning their rights to
8 testify in this matter.

9 Madam Clerk, I'll ask that you swear both defendants at
10 this time.

11 Gentlemen, if you'll stand and raise your right-hand.

12 (WHEREUPON, both defendants were placed under oath at
13 this time.)

14 THE COURT: All right. You may be seated.

15 Mr. Smiley, and, Mr. Pulley, at this time I'm going to
16 explain to you certain of your rights under the
17 Constitution. When I finish my explanation, I will give you
18 an opportunity to ask any questions you'd like to ask. I
19 want to be sure that you understand what I'm explaining to
20 you at this time.

21 we have reached the stage of these proceedings where
22 you are allowed to present your defense to the charges. As
23 part of that defense you have the right to testify in this
24 case, but you also have the right to claim the protections
25 which are given to you or afforded to you under the Fifth

1 Amendment to the United States Constitution. That amendment
2 reads, in part, that no person shall be compelled, in any
3 criminal case, to be a witness against himself.

4 Now, this means that you can not be required to testify
5 in this case. You have the right to testify on your own
6 behalf, but I will tell you no one can make you testify.
7 The right to remain silent is a personal right. It belongs
8 to you personally. No one can give up or waive that right
9 except yourselves.

10 I will advise you that if you decide to testify that
11 you will be subject to the same rules that govern the
12 testimony of any other witness who may testify in this case.
13 That means that you would be examined by your attorneys, and
14 you would be cross-examined by the State's attorneys.

15 I will tell you that should you have any convictions on
16 your record that involve dishonesty or false statements or
17 for crimes that were punishable by imprisonment for more
18 than one year and have occurred within the last ten years,
19 the Court can determine that the probative value of
20 admitting that evidence would outweigh its prejudicial
21 effect, and if the Court makes that determination, the
22 solicitor would be able to introduce that portion of your
23 record to attack your credibility.

24 Now, I will tell you that should you decide to testify,
25 the decision on your part must be done freely and

1 voluntarily and intelligently by you with knowledge of the
2 protections given to you by the Fifth Amendment, and the
3 consequences that might result from your decision to
4 testify. I will tell you, and I will make this as clear as
5 I can, that should you decide not to testify, that I will
6 instruct the jurors in this case that they can not give the
7 fact that you did not testify any consideration whatsoever
8 in reaching a verdict in your case. In fact, I would
9 instruct them that they could not even discuss that issue
10 during their deliberations. It's intended that there be
11 absolutely no prejudice to you because you did not testify
12 in this matter if you make that decision.

13 Now, the decision is left entirely up to you as to
14 whether or not to testify. You have the right to discuss
15 that decision with your attorneys, your family, your
16 friends, or anyone else that you feel that you ought to
17 discuss that decision with, but the final decision's
18 entirely up to you.

19 Now, Mr. Smiley, do you understand what I've explained
20 to you?

21 DEFENDANT: Yes, sir.

22 THE COURT: Mr. Pulley, do you understand what I've
23 explained to you?

24 DEFENDANT: Yes, sir.

25 THE COURT: Now, do you need any additional

1 explanation, Mr. Smiley?

2 DEFENDANT: No, sir.

3 THE COURT: Mr. Pulley.

4 DEFENDANT: No, sir.

5 THE COURT: Now, Mr., Mr. Smiley, have you had an
6 opportunity to discuss this question with your lawyer?

7 DEFENDANT: No, sir.

8 THE COURT: Mr. Pulley, have you had an opportunity to
9 discuss this decision with your lawyer?

10 DEFENDANT: Yes, sir.

11 THE COURT: All right. What I'm going to do is I'm
12 going to ask you if you wish to have additional discussions,
13 to do that during our lunch break. I will return, and upon
14 our return to the courthouse, and to resumption of your
15 trial, I will be inquiring of you as to what your decision
16 is as to whether you wish to testify or not testify.

17 Do you understand what we're going to do, Mr. Smiley?

18 DEFENDANT: Yes, sir.

19 THE COURT: Mr. Pulley, do you understand that?

20 DEFENDANT: Yes, sir.

21 THE COURT: All right. Is there anything else that we
22 need to take up before we break for lunch?

23 SOLICITOR MOWRY: Nothing from the State, Your Honor.

24 THE COURT: Mr. Mitchell.

25 MR. MITCHELL: Nothing.

1 THE COURT: And Ms. Moore.

2 MS. MOORE: No, Your Honor.

3 THE COURT: All right. Then Court will be in recess
4 until a quarter till 2:00, and at that time we'll resume.
5 Defendants remain in custody.

6 Thank you very much.

7 (WHEREUPON, Court was in recess for the lunch break.)

8 THE COURT: All right. Court come to order please.

9 when we broke earlier I had spoken with Mr. Smiley and
10 Mr. Pulley concerning their right to testify.

11 Mr. Smiley, have you had an opportunity to consult with
12 your lawyer about that issue?

13 MR. MITCHELL: Yes, sir.

14 THE COURT: Are you ready to make a decision concerning
15 your right to testify?

16 DEFENDANT: Yes, sir.

17 THE COURT: Do you wish to testify in the case?

18 DEFENDANT: No, sir.

19 THE COURT: Thank you.

20 Mr. Pulley, have you had an opportunity to fully
21 discuss your, your decision as to whether or not to testify
22 with your---

23 DEFENDANT: Yes, sir.

24 THE COURT: ---lawyer or anyone else?

25 DEFENDANT: Yes, sir.

1 THE COURT: And have you made a decision as to whether
2 you wish to testify?

3 DEFENDANT: Yes, sir.

4 THE COURT: Are you going to testify in the case?

5 DEFENDANT: No, sir.

6 THE COURT: Thank you very much.

7 All right. Anything further before we proceed?

8 Mr. Mitchell, are you going to have witnesses?

9 MR. MITCHELL: Yes, Your Honor. I'm going to call one
10 witness.

11 THE COURT: Okay. All right. Well, let's get the jury
12 back.

13 SOLICITOR MOWRY: Your Honor, I think the one witness
14 that he is going to get, let me check and see about her
15 location.

16 (WHEREUPON, the following takes place within the
17 presence of the jury.)

18 THE COURT: Ladies and gentlemen, when we broke earlier
19 the State had completed the presentation of its evidence in
20 this case, and at this time the defense has the right to
21 call witnesses if they choose to do so.

22 Mr. Mitchell, are you ready to proceed?

23 MR. MITCHELL: Your Honor, my witness was, went back to
24 high school for a few minutes for, for some time since we
25 weren't gonna get to her this morning, and she hasn't been

1 brought back yet.

2 THE COURT: All right. Are you ready to proceed, Ms.
3 Moore?

4 MS. MOORE: I am.

5 THE COURT: Do you wish to call witnesses?

6 MS. MOORE: I do, Your Honor. I'll, I'll -- I have one
7 witness.

8 THE COURT: All right. Are you ready to call that
9 witness?

10 MS. MOORE: I am.

11 THE COURT: All right. And that is?

12 MS. MOORE: That is -- Court's indulgence, Your Honor.

13 SOLICITOR MOWRY: And the other witness is also here,
14 Your Honor.

15 THE COURT: Oh, okay.

16 MS. MOORE: Beg the, beg the Court's indulgence.

17 THE COURT: Do you want to go ahead with that witness?

18 MS. MOORE: Yeah.

19 MR. MITCHELL: That's fine, Your Honor. I do.

20 THE COURT: Well, let's let Mr. Mitchell go. I've gone
21 in that order so far.

22 MS. MOORE: Yes, sir, thank you.

23 THE COURT: Apparently the witness is here.
24 Who is that?

25 MR. MITCHELL: I would like to call Diana Melendez

Diana Melendez - Direct examination
by Mr. Mitchell

1 please.

2 THE COURT: All right. Come forward please up to the
3 witness stand please, ma'am.

4 DIANA MELENDEZ, being first duly
5 sworn, testified as follows:

6 THE COURT: Have a seat please, ma'am, and, ma'am, if
7 you would please state your name for me.

8 WITNESS: Diana Melendez.

9 THE COURT: All right. Your witness, counselor.

10 DIRECT EXAMINATION

11 BY MR. MITCHELL:

12 Q Hello, Diana. My name is Chad Mitchell and I represent
13 Mr. Smiley. I just have a very few questions, a couple
14 questions for you.

15 could you tell us where you were born?

16 A I'm from Los Angeles, California.

17 Q All right. And how are you related to Anna Sebastian
18 who was testifying earlier?

19 A I don't know.

20 Q Oh, you don't know how you're related to her?

21 A Hu huh. (Negative).

22 Q Is she a family member though?

23 A Yes.

24 Q Okay. And you -- we saw lots of video, and you were,
25 you were one of the people in the store when, when it was

Diana Melendez - Direct examination
by Mr. Mitchell

1 robbed, correctly?

2 A Yes.

3 Q Is that correct?

4 All right. Now, do you remember making a statement to
5 the police about what happened that night?

6 A I don't remember.

7 Q All right. Do you remember telling the police like
8 which one had the gun, if there was a tall person or short
9 person?

10 Do you remember saying anything about that?

11 A No.

12 MR. MITCHELL: Your Honor, I ask permission to
13 approach the witness with her statement.

14 THE COURT: You may.

15 Q All right. What I've done is one of the police
16 officers wrote down what you said that night, and here's
17 what they wrote down, and it says this is the statement for
18 Diana Melendez.

19 Could you read for me the highlighted portion, that,
20 just those two sentences right there?

21 A Yes, sir, one was tall or the other was short. The
22 tall guy had the gun, the gun.

23 Q All right. Does that say the tall guy had the gun?

24 A Yes.

25 Q All right. So, on -- thank you very much.

Diana Melendez - Direct examination
by Mr. Mitchell

1 On that night, it was your testimony; out of the two
2 people that came into the store, the tall guy had the gun?

3 A (Witness nods affirmatively.)

4 Q Is that correct?

5 A Yes.

6 MR. MITCHELL: All right. I have nothing further for
7 this witness, Your Honor.

8 THE COURT: Ms. Moore, you wish to ask any questions of
9 the witness?

10 MS. MOORE: No, Your Honor.

11 THE COURT: All right. You may cross-examine.

12 SOLICITOR FIELDER-COMMANDER: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY SOLICITOR FIELDER-COMMANDER:

15 Q Diana, how old are you?

16 A Seventeen.

17 Q what grade are you in?

18 A Tenth.

19 Q what type of classes are you in?

20 A special ed.

21 Q How did you feel on the night after you were robbed?

22 A I was scared.

23 Q Can you tell the court -- can you tell us what
24 happened?

25 A The tall guy came inside the store.

Diana Melendez - Cross-examination
by Solicitor Fielder-Commander

1 Q Before you start, do you know -- have you seen any of
2 these two men before that came inside the store that you can
3 remember?

4 A No.

5 Q And do you know, when it comes to height, do you know
6 what height means?

7 A No.

8 Q Okay. what we'll do is this.
9 Beg the court's indulgence.

10 (Pause).

11 Q This is already been introduced into evidence as
12 State's Exhibit No. 1. This is the front door of your dad's
13 store.

14 A (Witness nods affirmatively.)

15 Q Do you know what this area is?

16 A The table.

17 Q What do you do at this table?

18 A Standing over there.

19 Q Who stands over there?

20 A Me and my aunt.

21 Q Okay. Now, could you -- do two people come in the
22 door?

23 A Yes.

24 Q Two people come in the door, and there's -- is there a
25 man -- there is a man that stands right there in front of

Diana Melendez - Cross-examination
by Solicitor Fielder-Commander

1 your counter?

2 A Yes.

3 Q And is there another man that stands behind the
4 counter, is that correct?

5 A Yes.

6 Q The man -- of these two men who were by the counter,
7 which man had the gun, the one right here, on the other side
8 of the counter or the one behind the counter?

9 A The other side.

10 Q When you say the other side, which side do you mean?

11 A On your left.

12 Q This side?

13 A Yes.

14 Q Okay. And did either gentlemen say anything in the
15 store?

16 A Uh-huh. (Affirmative).

17 Q What did they say in the store?

18 A The one said where's your money, bitch, and I told him
19 the truth, that I don't have no money.

20 Q And which -- of these two men that, one on the left,
21 one on the right, which one made -- you don't have to repeat
22 what he said, but which one made that statement?

23 A On the left.

24 Q The left?

25 A Yes.

Diana Melendez - Cross-examination
by Solicitor Fielder-Commander

1 Q And there wasn't -- did your auntie tell you to press
2 an alarm?

3 A Yes.

4 Q When she said press an alarm, did anything, was
5 anything else said?

6 A No.

7 Q Where is your -- do you know how to use the alarm?

8 A No.

9 Q Did the guy on the right-hand side say anything?

10 A I, I don't know.

11 Q Don't know.

12 Okay. That's fair.

13 When they were getting ready to leave the store, did
14 they say anything?

15 A Only I heard the part of let's go, let's go, D I think.

16 Q Say it again please.

17 A Let's go, D.

18 Q Let's go, D.

19 And did the one that was on my right or on my left say
20 that?

21 A On the left.

22 Q This left?

23 A (Witness nods affirmatively.)

24 Q Okay. And you are -- you -- how old are you now?

25 A Seventeen.

Diana Melendez - Cross-examination
by Solicitor Fielder-Commander

1 Q Seventeen.

2 Sometime -- are you nervous today?

3 A Yes.

4 Q Okay. But the only thing that you heard before they
5 left the store was -- the last thing you heard from anyone
6 that left the store was come on, D?

7 A Yes.

8 Q Yes?

9 A (Witness nods affirmatively.)

10 SOLICITOR FIELDER-COMMANDER: Okay. Beg the Court's
11 indulgence.

12 THE COURT: Yes, ma'am.

13 (Pause.)

14 Q Diana, did you -- you made a statement to the police?

15 A Yes.

16 Q Was it shortly after the robbery?

17 A (Witness nods affirmatively.)

18 Q You have to speak into the microphone.

19 A Yes, it was shortly.

20 Q Was it right before -- it was right before you actually
21 had a gun in your face, isn't it?

22 A Yes.

23 Q Did you watch the video of that night?

24 A Yeah.

25 Q Have you seen the video since that night?

Diana Melendez - Cross-examination
by Solicitor Fielder-Commander

1 A No.

2 Q You have not.

3 The last couple of days, were you in school?

4 From Monday and Tuesday and Wednesday, were you in
5 school?

6 A Yeah.

7 Q Have you been in this courtroom before today?

8 A No.

9 SOLICITOR FIELDER-COMMANDER: Nothing further for this
10 witness at this time.

11 THE COURT: Anything further, Mr. Mitchell?

12 MR. MITCHELL: No, Your Honor.

13 THE COURT: Ms. Moore, you wish to ask any additional
14 questions?

15 MS. MOORE: No, Your Honor.

16 THE COURT: All right, ma'am. You may step down from
17 the witness stand.

18 SOLICITOR MOWRY: And, Your Honor, we have no objection
19 to her being excused.

20 THE COURT: Any objection to her being excused?

21 MR. MITCHELL: No, Your Honor.

22 MS. MOORE: No, Your Honor.

23 THE COURT: All right. You're free to go. Thank you
24 very much.

25 Mr. Mitchell, you may call your next witness.

1 MR. MITCHELL: Your Honor, that was my last witness.

2 THE COURT: All right. Ms. Moore, you wish to call
3 witnesses for Mr. Pulley?

4 MS. MOORE: I do, Your Honor. I have one witness.

5 THE COURT: All right. You may call the witness.

6 MS. MOORE: Captain John Stankus.

7 THE COURT: Come forward, sir, to my right and be
8 sworn.

9 JOHN STANKUS, being first duly sworn,
10 testified as follows:

11 THE COURT: Once you're seated, sir, I'll ask that you
12 state your name for me.

13 WITNESS: My name is John Stankus.

14 THE COURT: Ms. Moore, your witness.

15 MS. MOORE: Thank you, Your Honor.

16 May I approach the witness, Your Honor?

17 THE COURT: Yes, ma'am, you may.

18 DIRECT EXAMINATION

19 BY MS. MOORE:

20 Q I'm Scarlet Moore and I represent Jakeivan Pulley in
21 this matter.

22 Captain, I'd like to show you a document that's been
23 identified as Defendant's Exhibit No. 5. If you can take a
24 look at that, that document.

25 A (witness complies.)

John Stankus - Direct examination
by Ms. Moore

- 1 Q Do you, do you recognize that document?
- 2 A It's a document that was returned by SLED.
- 3 Q Okay. And is this your, your signature---
- 4 A Yes, ma'am.
- 5 Q ---at the bottom and it says submitted by?
- 6 A Yes, ma'am.
- 7 Q So, the information that is on this document, did you
8 submit this information to SLED?
- 9 A If my name's on it I submitted it.
- 10 Q Okay. Now, can you tell the, the jury what, what is
11 this?
- 12 what is this?
- 13 A This is a request for forensic services from SLED, the
14 lab, and it has three subjects and two victims---
- 15 Q Okay.
- 16 A ---listed on it.
- 17 Q okay. And can you tell the, the jury who is listed as
18 subject number one?
- 19 A Jakeivan Artavious Pulley.
- 20 Q Okay. And who's listed -- I beg your indulgence.
21 who's listed as suspect number two?
- 22 A Lakasion Travon Robinson.
- 23 Q Okay. And who's listed as suspect number three?
- 24 A Davoris Tanyata Smiley.
- 25 Q Okay. Now, you see that there's, there's, that there's

John Stankus - Direct examination
by Ms. Moore

1 a comment section.

2 A Yes, ma'am.

3 Q Okay. Take a look at that. Thank you.

4 And, so, it's, it's case comments about the armed
5 robbery, correct?

6 A Yes, ma'am.

7 Q Okay. And, so, the, the information -- this was -- so,
8 the comments, case comments in regard to the armed robbery
9 as information that would of been transmitted to SLED to
10 assist in their analysis work, is that correct?

11 A Yes, ma'am.

12 Q Okay. Now, I'm gonna read this, read this and you tell
13 me if I'm reading this correctly.

14 Okay. Submission comments, subjects one and two
15 switched shirts during the robbery. So, DNA of both should
16 be on both shirts.

17 Did I read that correctly?

18 A Yes, sir.

19 Q So, again, you testified that subjects one and two
20 would be Jakeivan Pulley and Lakasion Robinson, correct?

21 A I would -- they're not numbered, but I would assume the
22 numerical order would be the order that appears---

23 Q Okay.

24 A ---on that sheet.

25 Q Okay. And I'll follow up with that in just a second.

John Stankus - Direct examination
by Ms. Moore

1 A Okay.

2 Q Second saying subject two and three touched the cash
3 register drawer. Subject one touched the front door, and
4 the countertop.

5 Did I read that correctly?

6 A Yes, ma'am.

7 Q Okay. So, subject two is Lakasion Robinson, is that
8 correct?

9 A Correct.

10 Q And subject three is Davoris Smiley?

11 A Correct.

12 Q Okay. And would it be reasonable to assume that, that
13 the, the number of the subjects that were listed on this
14 request would, would mirror what was in the incident report
15 in regard to the subjects' numbers?

16 A I didn't write the incident report. So, I don't know.

17 Q Okay.

18 A I just don't know.

19 Q Would it surprise you to know that the incident reports
20 identify these, these alleged subjects in that very order,
21 one, two, and three?

22 MR. MITCHELL: Objection, Your Honor. She's leading
23 the witness.

24 THE COURT: I would ask you not to lead the witness.
25 It's your witness.

John Stankus - Direct examination
by Ms. Moore

1 MS. MOORE: Okay. Thank you, Your Honor.

2 At this time, Your Honor, I would move that State's,
3 excuse me, Defendant's Exhibit No. 5 be entered into
4 evidence.

5 THE COURT: Objections, State?

6 SOLICITOR FIELDER-COMMANDER: No objections, Your
7 Honor.

8 THE COURT: Any objection?

9 MR. MITCHELL: No, Your Honor.

10 THE COURT: It will be marked and received as a Defense
11 Exhibit---

12 MS. MOORE: Thank you.

13 THE COURT: ---and marked.

14 (WHEREUPON, the SLED report was marked as Defendant's
15 Exhibit No. 6 and received into evidence at this time.)

16 MS. MOORE: I have no further questions of this
17 witness, Your Honor.

18 THE COURT: Mr. Mitchell, any questions?

19 MR. MITCHELL: I have no questions, Your Honor.

20 THE COURT: State have any questions?

21 SOLICITOR FIELDER-COMMANDER: Beg the Court's
22 indulgence.

23 (Pause.)

24 CROSS-EXAMINATION

25 BY SOLICITOR FIELDER-COMMANDER:

John Stankus - Cross-examination
by Solicitor Fielder-Commander

1 Q Captain Stankus, you didn't write the incident reports?

2 A No, ma'am.

3 Q And the only thing you had to do was take care of
4 the---

5 A All I did was submit the evidence to SLED.

6 Q So, you didn't know exactly what -- you don't know what
7 order the, the---

8 A No. No, ma'am.

9 Q ---participants were in?

10 A No, ma'am, I just carried the package to SLED.

11 Q And the comments section in here, just so the SLED can
12 know to kind of have some guidelines, is that correct?

13 A That's right. That would, more or less, give them some
14 direction as to what they needed to do.

15 Q What's in place.

16 Nothing further at this time.

17 THE COURT: Any other questions, Ms. Moore?

18 REDIRECT EXAMINATION

19 BY MS. MOORE:

20 Q Your Honor -- Captain, don't you think, in a criminal
21 prosecution, that the order that you list these subjects is
22 absolutely vital to SLED's evaluation?

23 A You're asking my opinion---

24 SOLICITOR FIELDER-COMMANDER: Your Honor, again,
25 objection, Your Honor. Leading the witness once again.

John Stankus - Redirect examination
by Ms. Moore

1 THE COURT: well, she's not leading. She asked a
2 question, and I'll allow her to ask it.

3 MS. MOORE: Thank you.

4 A My, my -- it would just be the opinion. I didn't write
5 the report. I just submitted the evidence.

6 Q With your name on it?

7 A Yes, ma'am, I submitted that evidence.

8 MS. MOORE: Thank you, Your Honor. No further
9 questions.

10 THE COURT: Anything further?

11 MR. MITCHELL: Nothing, Your Honor.

12 THE COURT: Anything further from the State?

13 SOLICITOR FIELDER-COMMANDER: Nothing, Your Honor.

14 THE COURT: Sir, you may step down. I assume the
15 witness can be excused.

16 Any objection?

17 MS. MOORE: None, Your Honor.

18 SOLICITOR FIELDER-COMMANDER: No objection.

19 THE COURT: Sir, you're free to go. Thank you very
20 much.

21 WITNESS: Thank you, sir.

22 THE COURT: Ms. Moore, any additional witnesses?

23 MS. MOORE: No, Your Honor.

24 THE COURT: All right. State wish to call any
25 witnesses in rebuttable?

1 SOLICITOR MOWRY: None in rebuttal, Your Honor.

2 THE COURT: All right. Ladies and gentlemen of the
3 jury, that completes the presentation of evidence in this
4 matter. I will need to take up some matters with the
5 attorneys at this point in time. So, we'll take a short
6 break. I'll ask you to step back to the jury room, and, as
7 always, I'm gonna ask you not to begin any discussion about
8 this matter until I've asked you to do so.

9 You may retire to the jury room.

10 (WHEREUPON, the following takes place outside the
11 presence of the jury.)

12 THE COURT: All right. Motions at this time,
13 Mr. Mitchell?

14 MR. MITCHELL: No, Your Honor.

15 THE COURT: Ms. Moore.

16 MS. MOORE: Your Honor, I would renew my motion for
17 directed verdict on the basis of the defense case, Your
18 Honor, and I would just incorporate my previous arguments
19 and the fact that, that the defense has presented a witness
20 which basically states that the, that SLED was given
21 information, that law enforcement thought it was a different
22 person who actually entered the store than, than what has
23 been presented in the State's case in chief, Your Honor.

24 THE COURT: Yes, sir, Mr. Mowry.

25 SOLICITOR MOWRY: Your Honor, he was the evidence

1 technician. He, he conveyed the evidence down there, and he
2 did not have any firsthand information about the, the case
3 itself. I would submit that that is a question for the
4 jury, and that alone, surely in a light taken, best suited
5 to the State, that we are well past a directed verdict.

6 THE COURT: I'll deny the motion. I think there's
7 sufficient evidence to send it to the jury.

8 I assume you wish to renew your previous motions, Mr.
9 Mitchell?

10 MR. MITCHELL: Yes, sir, Your Honor.

11 I would just like to renew the previous motion---

12 THE COURT: All right.

13 MR. MITCHELL: ---to my, my objections.

14 THE COURT: The Court would make the same rulings as
15 before.

16 Are there any specific request for charge in this case
17 from the State?

18 SOLICITOR MOWRY: I think, I think Your Honor would
19 have it. Nothing, nothing specific.

20 THE COURT: Any specific request for charge,
21 Mr. Mitchell?

22 SOLICITOR MOWRY: I take that back, Your Honor. If you
23 were gonna charge hand of one is the hand of all.

24 THE COURT: That's included in the charge I've
25 prepared.

1 SOLICITOR MOWRY: Great. Thank you.

2 MR. MITCHELL: Your Honor, I think that there is a
3 possibility that, under the conspiracy charge, that one, my
4 defendant or other defendants could be charged with
5 conspiracy, but that because there is no weapon, and
6 because, that was, that was found, and that there's a
7 possibility that this could be a strong armed charge for the
8 one who is not the one holding the gun.

9 THE COURT: Mr. Mowry.

10 SOLICITOR MOWRY: Your Honor, I would submit that the
11 statute says, talks about a real or simulated, and it, and
12 it goes to the victim as to what the victim believed. If
13 the victim reasonably believed that it was a deadly weapon,
14 even if it was a finger in the pocket, it would still be an
15 armed robbery. So, I would, I would submit that certainly
16 the jury can---

17 THE COURT: Well, from, from the video, it appears
18 there is a representation of something that appears to be a
19 weapon.

20 SOLICITOR MOWRY: Yes, sir.

21 THE COURT: I think that would be sufficient for a jury
22 to make a decision on that point, and given the state of the
23 law in this state, that the hand of one is the hand of all,
24 it would be my position that, even though both individuals
25 were not armed, both potentially or possibly, a jury could

1 determine, participated in an armed robbery since the hand
2 of one is the hand of all.

3 MR. MITCHELL: Right. But the -- I don't believe that
4 the State has been able to prove that one knew that the
5 other one even had a gun. They could of been going in
6 there, and the one might of thought the other one didn't
7 have a gun, and he was not participating in an armed
8 robbery, and there's no, there's no evidence that the one
9 knew that the other had the gun in his hand and he was gonna
10 pull it out.

11 And, so, that's why I feel that there's a possibility
12 that one of the conspirators, if, if my client is convicted
13 as a co-conspirator, may not be---

14 THE COURT: Conspiracy has nothing to do with whether
15 or not it was an armed robbery or not an armed robbery.
16 Conspiracy is the conspiracy to commit a crime of any kind,
17 strong armed robbery and armed robbery. So, the, the
18 conspiracy is not, not alleged or charged specifically, but
19 the conspiracy has to be to commit either an armed robbery
20 or a strong armed robbery.

21 MR. MITCHELL: Yes, Your Honor.

22 THE COURT: So, I mean I don't think he's charged with
23 a specific conspiracy, a conspiracy to commit any specific
24 crime in this case.

25 MR. MITCHELL: Thank you, Your Honor.