

VOLUME ONE OF TWO

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Florence County

Michael G. Nettles, Circuit Court Judge

RECEIVED

JUL 25 2014

S.C. Supreme Court

LEWIS D. WILLIAMS,

PETITIONER,

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2014-000652

APPENDIX

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STATE OF SOUTH CAROLINA,)
COUNTY OF FLORENCE) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
STATE,)

v.)

LEWIS DAVID WILLIAMS,)

DEFENDANT.)

TRANSCRIPT OF RECORD
08-GS-21-1800
June 15, 2009
Florence, South Carolina

BEFORE:

THE HONORABLE RALPH KING ANDERSON, JR.;
AND JURY

APPEARANCES:

PATRICIA S. PARR, ESQ.
Assistant Solicitor

C. STEVENS MCLAURIN, ESQ.
Attorney for the Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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1 THE COURT: Solicitor, call the case.

2 MS. PARR: Your Honor, at this time the State
3 will call the case against Lewis Davis Williams.
4 It's indictment Number 2008-GS-21-1800. He has been
5 indicted on, actually, a three count indictment.
6 Your Honor, you want me to —

7 THE COURT: Yes, what's in the indictment?

8 MS. PARR: Burglary first, armed robbery, and
9 possession of a weapon during the commission of a
10 crime of violence.

11 THE COURT: Lewis Davis Williams in the
12 courtroom?

13 MR. MCLAURIN: Yes, sir, Your Honor, sitting
14 here with me.

15 THE COURT: Are you ready to proceed, counsel?

16 MR. MCLAURIN: We are, Your Honor.

17 THE COURT: All right, let me talk to the jury
18 and then we'll proceed.

19 Mr. Bailiff. Get the back door.

20 Jurors, it is absolutely urgent and essential
21 that you respond to these queries. In the past
22 there have been some instances where jurors did not
23 respond truthfully to the questions and obviously
24 the case had to be reversed because of the failure
25 of the juror to respond. So please, folk, please,

1 this is serious business. Let me explain the
2 process to you. The constitution mandates a public
3 selection process in the general sessions court, the
4 criminal court. In the civil court it's different.
5 In the civil court, if some of you have served on
6 the court of common pleas jury, you know that the
7 clerk prepares a list, 20 names on the list, and
8 each side gets to strike four names from the list
9 leaving twelve. And you would not know if your name
10 was on that list unless someone told you after court
11 was over for the week. Here it's different. Here
12 it's a public selection process that is in place.
13 So once I finish the qualification process we will
14 have the clerk call out the names one by one.

15 Are those jurors, Ms. Bailiff?

16 THE BAILIFF: Are y'all jurors?

17 UNIDENTIFIED PERSON: No, sir.

18 THE COURT: All right, don't open the door
19 again, Mr. Bailiff, please.

20 THE BAILIFF: All right, sir.

21 THE COURT: Now as your name is called you
22 come forward and stand -- Ms. Bailiff, would you
23 stand there by where the table is to show them where
24 to stand.

25 You come forward and stand in front of the

1 solicitor's table right there. That's good. You
2 will stand there. And first, we ask the State, do
3 they desire to present you or do they desire to
4 excuse you. If they excuse you please return to
5 your seat. If the State desires to present you,
6 they've approved you, we then go to Defense.
7 Defense has the right to excuse you or to accept
8 you. If the Defense accepts you you've been
9 accepted by all parties and you will then have a
10 seat in the jury box. That is the process that is
11 mandated by the constitution, and I do not want you
12 to be upset by that. Don't be embarrassed by that.
13 The lawyers may or may not have reasons for excusing
14 you. In most instances they do, but that's the
15 choice they make and certainly do not be upset by
16 that and fret about that particular matter. For
17 example, you may have a situation you might not have
18 enough hair to suit them, you understand, that kind
19 of thing. That's what we're talking about, just a
20 personal choice.

21 All right, now Mr. Bailiff – I'm sorry, deputy,
22 I don't want anybody else coming in the door.
23 Please, no one comes through the door please.

24 THE DEPUTY: Okay, sir.

25 THE COURT: The pending charges: Burglary

1 first degree, armed robbery, and possession of a
2 weapon during the commission of a crime of violence.

3 Mr. Williams, please stand and face the jury
4 panel.

5 Is there any member of the jury who is related by
6 blood or connected by marriage to the defendant
7 Lewis David Williams, if so please stand.

8 (There was no response.)

9 THE COURT: Is there any member of the jury
10 panel who has any connection with the defendant
11 Lewis David Williams of any nature whatsoever, if so
12 please stand.

13 (There was no response.)

14 THE COURT: Thank you, sir. Please be seated.

15 Witnesses for the State. I will introduce them
16 to you. If they're in the courtroom please stand
17 and remain standing, otherwise, they will be
18 identified by name. Brian Barley, B-A-R-L-E-Y,
19 Florence Police Department; Investigator T.
20 Carroway, Florence, Police Department; Kendra
21 Carpenter, Florence Police Department; Sergeant M.
22 Brant, Florence Police Department; Investigator M.
23 Robinson, Florence Police Department; Corporal
24 Walters, Florence Police Department; Brian Hart,
25 Florence Police Department; Ben Weatherford,

1 **Darlington Sheriff's Office; Barry Poston, Jr.,**
2 **lives in Florence; Corey Byrd, Florence; Jessica**
3 **Waters, Florence; Matthew Rogers, Florence; Sherelle**
4 **Brooks, Florence; Ricardo Richardson, Florence. Is**
5 **there any member of the jury who is related by**
6 **blood — yes, I'm sorry.**

7 **MS. PARR: Your Honor, Ricardo Richardson is**
8 **actually in Darlington.**

9 **THE COURT: Darlington? Thanks. You've got**
10 **Florence here, but it's Darlington.**

11 **MS. PARR: It is Darlington.**

12 **THE COURT: Okay. Ricardo Richardson,**
13 **Darlington, South Carolina. Is there any member of**
14 **the jury panel who is related by blood or connected**
15 **by marriage to any of these witnesses, if so please**
16 **stand.**

17 **Yes, your name and number please.**

18 **PROSPECTIVE JUROR: Helen Burch, 14.**

19 **THE COURT: Yes, Ms. Burch. What is the**
20 **connection please?**

21 **PROSPECTIVE JUROR: Prince Brown, Jr.**

22 **THE COURT: Yes. What is your relation?**

23 **PROSPECTIVE JUROR: I'm married to his first**
24 **cousin.**

25 **THE COURT: To his first cousin? Okay. In**

1 that regard the line of consanguinity requires
2 excusal. Just have a seat please. She will be
3 excused for cause.

4 MR. JEPERTINGER: That was not a witness.

5 MR. MCLAURIN: It's another juror I think that
6 she was speaking of.

7 THE COURT: All right, Ms. Burch, let's go
8 over that again. Please, Ms. Burch, please stand.
9 Please speak up for me out loud. What is the
10 connection please?

11 PROSPECTIVE JUROR: I'm married to his cousin.

12 THE COURT: To whose cousin?

13 PROSPECTIVE JUROR: Prince Brown.

14 MR. JEPERTINGER: He's juror number 13, Your
15 Honor.

16 THE COURT: All right, that's fine. Please be
17 seated.

18 Is there any member of the jury panel who has any
19 direct or indirect connection with any of these
20 witnesses who have been named for you, if so, please
21 stand.

22 (There was no response.)

23 THE COURT: Other than the defendant.
24 Yes, your name please.

25 PROSPECTIVE JUROR: Kimberly Shaw.

1 **THE COURT:** Let me get your number. Number
2 120, Counsel.

3 Yes, Ms. Shaw.

4 **PROSPECTIVE JUROR:** Detective Michael Brant.

5 **THE COURT:** What is the connection please?

6 **PROSPECTIVE JUROR:** His sister and I are good
7 friends.

8 **THE COURT:** With regard to that relationship
9 with his sister can you tell the Court under oath
10 that you can and will give everyone a fair and
11 impartial trial?

12 **PROSPECTIVE JUROR:** Yes, sir, I can.

13 **THE COURT:** You will do that?

14 **PROSPECTIVE JUROR:** Yes, sir, I will.

15 **THE COURT:** Thank you. Thank you for
16 responding.

17 Anyone else in that category please respond.
18 Anyone else?

19 (There was no response.)

20 **THE COURT:** Anyone else?

21 (There was no response.)

22 **THE COURT:** Any additional persons in regard
23 to Defense, Counsel?

24 **MR. MCLAURIN:** Not at this time, Your Honor.

25 **THE COURT:** Thank you. The pending charges

1 are contained in this paper that we call an
2 indictment. It is not evidence. It does not prove
3 anything in the case. It is simply the charging
4 paper. The indictment alleges or avers that the
5 defendant did in fact commit the offense of armed
6 robbery in Florence County on June 5, 2008. Is
7 there any member of the jury panel who has ever
8 heard this case discussed in any form or fashion, if
9 so please stand.

10 (There was no response.)

11 THE COURT: Additional charges relate to
12 burglary in the first degree in regard to the
13 dwelling house of Matthew Rogers. Is there any
14 member of the jury panel who has ever heard this
15 charge discussed in any form or fashion, if so
16 please stand?

17 (There was no response.)

18 THE COURT: The remaining charge is a
19 possession of a weapon during the commission of a
20 violent crime. Is there any member of the jury
21 panel who has ever heard this charge discussed in
22 any form or fashion, if so please stand.

23 (There was no response.)

24 THE COURT: Is there any member of the jury
25 panel who is conscious of or aware of any bias or

1 prejudice for or against the State or the defendant
2 in this case, if so please stand?

3 (There was no response.)

4 THE COURT: Is there any member of the jury
5 panel who knows of any reason whatsoever as to why
6 you should not serve on this jury, if so please
7 stand.

8 Your name and number please.

9 PROSPECTIVE JUROR: Steve Dvorsak.

10 THE COURT: I'm sorry, the last name.

11 PROSPECTIVE JUROR: Steve Dvorsak. My number
12 is 37.

13 THE COURT: Yes, sir.

14 PROSPECTIVE JUROR: I don't agree with the way
15 the court system is run these days with the people
16 being knowing each other and the money that is
17 transferred in each case involving the criminal and
18 the justice system.

19 THE COURT: All right. Thank you. He will be
20 excused but stay with the Court. Have a seat. Just
21 stay with the Court.

22 Your name and number.

23 PROSPECTIVE JUROR: John Baudendistal. Your
24 Honor, I can't remember the number.

25 THE COURT: Hold it. I'll give you your

1 number in a minute 'cause I need to ask you a
2 question.

3 MR. JEPERTINGER: 151, Your Honor.

4 THE COURT: 151 is the number, and I was going
5 to follow up with the question to you personally but
6 you tell first.

7 PROSPECTIVE JUROR: Your Honor, I was a
8 probation agent, worked for this court for about 11
9 years.

10 THE COURT: I know that.

11 PROSPECTIVE JUROR: So I wanted to make sure
12 you knew about that.

13 THE COURT: I do, and also I need to this
14 question to you. Do you still have a commission
15 with the power of arrest?

16 PROSPECTIVE JUROR: No, sir, it expired about
17 a year ago.

18 THE COURT: And in regard to McLeod Health
19 employment do you work with the security?

20 PROSPECTIVE JUROR: No, sir, physical therapy.

21 THE COURT: Thank you. Counsel, that's for
22 information purposes in regard to his past
23 employment, and certainly we wanted to query
24 concerning the holding of a commission with the
25 power of arrest at this time. Thank you for

1 responding.

2 PROSPECTIVE JUROR: Yes, sir. Your Honor.

3 THE COURT: Yes.

4 PROSPECTIVE JUROR: Robert Dove. I don't know
5 the number.

6 THE COURT: Hold it one second. Your number
7 is 35, yes.

8 PROSPECTIVE JUROR: I have a doctor
9 appointment Friday at the VA hospital and it's on a
10 very important ultrasound test.

11 THE COURT: I'm going to finish this case
12 before Friday.

13 PROSPECTIVE JUROR: Okay.

14 THE COURT: Thank you. Thank you for telling
15 me. Thank you.

16 Jurors, listen please, is there any member of the
17 jury panel or any member of your immediate family
18 who has in the past been victimized in regard to a
19 crime of any nature whatsoever, i.e., have been the
20 victim of some kind of crime. If so, please stand.
21 All right, I'll start with the back, yes.

22 PROSPECTIVE JUROR: Yes, sir, Charles Palmer.

23 THE COURT: Hold it one second.

24 THE DEPUTY CLERK OF COURT: 170.

25 THE COURT: What's the number? I'm sorry.

1 DEPUTY CLERK OF COURT: 170.

2 THE COURT: 170 is the number, Counsel.

3 Yes, Mr. Palmer.

4 PROSPECTIVE JUROR: I was mugged at gunpoint.

5 THE COURT: In regard to that occurrence are

6 you able to say now to the Court that you can and

7 will give a fair and impartial trial?

8 PROSPECTIVE JUROR: Couldn't, no, sir.

9 THE COURT: Thank you, please be seated.

10 He will be excused in this case for cause.

11 You're excused from this case.

12 Your name and number please.

13 PROSPECTIVE JUROR: Audrey Johnson. I'm

14 sorry, I can't remember my number right now.

15 THE COURT: Hold it one second. 163 is the

16 number, Counsel. Ms. Johnson, what is the

17 situation?

18 PROSPECTIVE JUROR: My parents' home was

19 robbed three times when I was a child and one time

20 about four years ago.

21 THE COURT: Can you tell the Court that you

22 can and will give in this case a fair and impartial

23 trial?

24 PROSPECTIVE JUROR: Yes, sir.

25 THE COURT: You will do that?

1 PROSPECTIVE JUROR: Yes, sir.

2 THE COURT: Thank you, please be seated.

3 Your name and number please.

4 PROSPECTIVE JUROR: My name is Robin Daniels.

5 Not sure of the number.

6 THE COURT: Hold it one second. 156 is the
7 number, Ms. Court Reporter.

8 Ms. Daniel's, what's the situation please?

9 PROSPECTIVE JUROR: My home was burglarized
10 last month. Someone broke into my home last month.

11 THE COURT: Do you feel comfortable in saying
12 to the Court under oath that you can and will give a
13 fair and impartial trial?

14 PROSPECTIVE JUROR: Yes.

15 THE COURT: You'd do that?

16 PROSPECTIVE JUROR: Yes.

17 THE COURT: Thank you. Please be seated.

18 Anyone else please?

19 (There was no response.)

20 THE COURT: Yes, sir.

21 MR. MCLAURIN: Judge, if you could expand that
22 question to ask about businesses they may own or be
23 a part of.

24 THE COURT: Is there any member of the jury
25 panel, any member of your immediate family who has

1 had a business subjected to a crime, if so, please
2 stand.

3 Your name and number please.

4 PROSPECTIVE JUROR: Steven Filyaw. I'm not
5 sure of the number.

6 THE COURT: Hold it one second.

7 THE DEPUTY CLERK OF COURT: 158.

8 THE COURT: 158 is the number. Yes.

9 PROSPECTIVE JUROR: Two years ago we had an
10 employee come back, shot my dad in the back. It was
11 never proven that it was, you know, he come back for
12 the robbery but on that I don't think I could give
13 him a fair trial.

14 THE COURT: You cannot give a fair trial?

15 PROSPECTIVE JUROR: No, sir.

16 THE COURT: Thank you, please be seated.

17 He'll be excused in this case. Ms. Clerk, he's
18 excused for cause.

19 Your name and number.

20 PROSPECTIVE JUROR: 13.

21 THE COURT: Yes.

22 PROSPECTIVE JUROR: I -- just a week ago my
23 niece was held at gunpoint and hostage.

24 THE COURT: In regard to that occurrence --

25 PROSPECTIVE JUROR: Suspect hadn't been

1 apprehended yet.

2 THE COURT: In regard to that occurrence can
3 you say that you can and will give a fair and
4 impartial trial in this case?

5 MR. MCLAURIN: To be honest I couldn't really
6 say.

7 THE COURT: Thank you, have a seat.

8 He's excused for cause.

9 Thank you. Please be seated.

10 Your name and number please, ma'am.

11 MR. MCLAURIN: Number 105. My name is Mona
12 Pressley. My home was invaded September of last
13 year.

14 THE DEPUTY CLERK OF COURT: 106.

15 THE COURT: 106 is the number. 106,
16 Ms. Presley.

17 PROSPECTIVE JUROR: Yes.

18 THE COURT: In regard to that event and
19 occurrence are you able to say as a matter of
20 conscience under oath that you can and will give a
21 fair and impartial trial?

22 PROSPECTIVE JUROR: Yes, I can, Your Honor.

23 THE COURT: You will do that?

24 PROSPECTIVE JUROR: Yes, I will.

25 THE COURT: Thank you, please be seated.

1 **She's qualified.**

2 **Your name and number please, sir.**

3 **PROSPECTIVE JUROR:** Eddie Poston. Number 10.

4 **THE COURT:** Yes, Mr. Bostic.

5 **PROSPECTIVE JUROR:** My wife job had got broke

6 into a number of times over the years. I just want

7 to report that to you.

8 **THE COURT:** Do you feel comfortable in stating

9 under oath that you can and will give a fair and

10 impartial trial?

11 **PROSPECTIVE JUROR:** Yes, sir.

12 **THE COURT:** You would do that?

13 **PROSPECTIVE JUROR:** Yes, sir.

14 **THE COURT:** Thank you, please be seated. He's

15 qualified.

16 **Anyone else? Yes, your name and number.**

17 **PROSPECTIVE JUROR:** Mona Butler Gibbs,

18 number 47 I think. My niece was murdered five years

19 ago. They still haven't found who killed her.

20 **THE COURT:** Ms. Gibbs, in regard to that event

21 are you able to say to the Court under oath that you

22 can and will give a fair and impartial trial?

23 **PROSPECTIVE JUROR:** Yes, sir.

24 **THE COURT:** You will do that?

25 **PROSPECTIVE JUROR:** Yes, sir.

1 THE COURT: Ma'am?

2 PROSPECTIVE JUROR: Yes, sir.

3 THE COURT: Thank you. Anyone else?

4 (There was no response.)

5 THE COURT: Anyone else?

6 (There was no response.)

7 THE COURT: All right. The next question

8 relates to relationship to the lawyers. Identify

9 yourself in regard to the solicitor's office please.

10 MS. PARR: My name is Patricia Singleton Parr.

11 MR. JEPERTINGER: John Jepertinger.

12 THE COURT: Those two individuals are employed

13 by the Solicitor's office in the Twelfth Judicial

14 Circuit. The word solicitor identifies the

15 prosecutor. He is an elected public official. His

16 name is Ed Clements, and of course, these folks are

17 deputies and the Solicitor's Office is charged with

18 a duty and responsibility of prosecuting persons

19 charged with a violation of the law. Counsel of the

20 Defense, identify yourself and your law firm please.

21 MR. MCLAURIN: Yes, Your Honor. Steve

22 McLaurin, here on behalf of McGowan, Rogers Law

23 firm. I practice with Kendall Hiller, E. Porter

24 Stewart, Tommy Rogers.

25 THE COURT: Is there any member of the juror

1 panel or any member of your immediate family who is
2 now being represented by any of these lawyers in any
3 legal matter or who has in the past been represented
4 by any of these lawyers in any legal matter, if so,
5 please stand.

6 Your name and number please in the back.

7 PROSPECTIVE JUROR: Number 142, Debra Welch.

8 My son is being represented by Porter Stewart in a
9 claim trying to get land straight between us, the
10 father and his uncle.

11 THE COURT: Ms. Welch, in regard to that
12 relationship with Mr. Porter Stewart are you able to
13 say as a matter of conscience under oath that you
14 can and will give everyone in this case a fair and
15 impartial trial?

16 PROSPECTIVE JUROR: Yes, sir.

17 THE COURT: You will do that?

18 PROSPECTIVE JUROR: Yes, sir.

19 THE COURT: Thank you. Anyone else? That's
20 what I needed.

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

22 PROSPECTIVE JUROR: Pamela Jordan.

23 THE COURT: Hold it one second.

24 DEPUTY CLERK OF COURT: 76.

25 THE COURT: Seventy-six is the number,

1 Counsel. You are employed by Robert Lee, attorney,
2 correct?

3 PROSPECTIVE JUROR: Right. I've never been
4 represented by him. We have a lot of cases with the
5 Solicitor's Office.

6 THE COURT: Ms. Jordan, as a matter of
7 conscience as an employee with this lawyer can you
8 say that you can and will give everyone in this case
9 a fair and impartial trial?

10 PROSPECTIVE JUROR: Yes, sir.

11 THE COURT: You will do that?

12 PROSPECTIVE JUROR: Yes, sir.

13 THE COURT: Thank you. Anyone else?

14 (There was no response.)

15 THE COURT: Anyone else?

16 (There was no response.)

17 THE COURT: Your final query relating to a
18 nexus to organizations. This query is as follows:
19 Is there any member of the jury panel or any member
20 of your immediate family who is a member or a
21 contributor to any of these organizations such as
22 MADD, Mothers against Drunk Driving; SADD, Students
23 Against Drunk Driving; or other acronyms relating to
24 organizations related to situations concerning crime
25 and criminal activities. If you're in that category

1 or any member of your family is in that category
2 please stand.

3 Yes, your name and number.

4 PROSPECTIVE JUROR: Gail Graham. I'm sorry, I
5 don't know the number.

6 THE COURT: Hold it one second, Ms. Graham.
7 Her number is 53. Ms. Graham, what is your
8 organization?

9 PROSPECTIVE JUROR: MADD.

10 THE COURT: You, correct?

11 PROSPECTIVE JUROR: I am the only member, yes,
12 sir.

13 THE COURT: As a former member are you able to
14 say as a matter of conscience under oath that you
15 can and will give everyone in this case a fair and
16 impartial trial?

17 PROSPECTIVE JUROR: Yes, sir.

18 THE COURT: You can do that?

19 PROSPECTIVE JUROR: Yes, sir.

20 THE COURT: Thank you. Thank you for
21 responding. That's what I needed. Anyone else in
22 that category please, please respond if you're in
23 that category. Please.

24 All right, counsel, that completes my query in
25 regard to qualifications. Are there any further

1 requests emanating from the State?

2 MS. PARR: I have no further questions, Your
3 Honor. May we approach?

4 THE COURT: Yes.

5 (WHEREUPON, counsel approached the Bench for an
6 off-the-record discussion.)

7 THE COURT: Is there any member of the jury
8 panel who by virtue of any religious belief that
9 impedes your ability to judge someone in a criminal
10 trial, if you have a religious belief or hold a
11 conviction against judging someone in a criminal
12 trial please stand.

13 (There was no response.)

14 THE COURT: The next question is an expansion
15 of a interrogatory. It is as follows. I ask you
16 about your connection in regard to reference with
17 these lawyers. Is there any member of the jury
18 panel or any member of your immediate family to your
19 knowledge that has any kind of relationship with the
20 Solicitor's Office or with the attorney's office, if
21 so please stand.

22 Your name and number please.

23 PROSPECTIVE JUROR: Kevin Smith, again, 175 I
24 believe.

25 THE COURT: Hold it one second.

1 MR. JEPERTINGER: One of the carry-overs.

2 DEPUTY CLERK OF COURT: 175, Kevin Smith.

3 THE COURT: Yes, Mr. Smith.

4 PROSPECTIVE JUROR: I'm a good friend of Ed
5 Clements.

6 THE COURT: That's what I needed. In regard
7 to being a friend are you able to say to the Court
8 under oath that as a matter of conscience you can
9 and will give a fair and impartial trial?

10 PROSPECTIVE JUROR: Essentially, yes, sir.

11 THE COURT: Thank you.

12 Your name and number please.

13 PROSPECTIVE JUROR: 29, Clyde Cusack.

14 THE COURT: Yes, Mr. Cusack.

15 PROSPECTIVE JUROR: Just walked in the door.
16 I know the lawyer over here. I don't know whether
17 he's the defense attorney or not but he just walked
18 in and ---

19 THE COURT: Are you talking about this lawyer
20 over here?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: Mr. Scott Floyd?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: He's not with this case at all.

25 PROSPECTIVE JUROR: Okay.

1 THE COURT: He's just observing because he's
2 got cases.

3 PROSPECTIVE JUROR: All right. Thank you.

4 THE COURT: Thank you.

5 Your name and number please.

6 PROSPECTIVE JUROR: 58, Jackson Gray.

7 THE COURT: Yes.

8 PROSPECTIVE JUROR: Mr. Jepertinger, I go to
9 church with him.

10 THE COURT: That's a rather large church.

11 I've been there before myself visiting and some

12 people you know in there and some you don't.

13 Because of its membership size I think it's well

14 over several -- well, it's three or 4,000 I think at

15 this time. In regard to just knowing

16 Mr. Jepertinger is he a close friend?

17 PROSPECTIVE JUROR: No, sir.

18 THE COURT: Are you comfortable saying you can

19 and will give everyone a fair and impartial trial in

20 the case?

21 PROSPECTIVE JUROR: Yes, sir.

22 THE COURT: You will do that?

23 PROSPECTIVE JUROR: Yes, sir.

24 THE COURT: Thank you. Anyone else?

25 Any further query requested by the State?

1 MS. PARR: None, Your Honor.

2 THE COURT: By the Defense?

3 MR. MCLAURIN: None from Defense, Your Honor.

4 THE COURT: All right. Jurors, remember the
5 procedure. As we call your name, counsel -- give me
6 your attention. Counsel, the peremptory challenges
7 five, ten, five and ten in the statute. Are we
8 ready for the State?

9 MS. PARR: State's ready, Your Honor.

10 THE COURT: The Defense?

11 MR. MCLAURIN: Yes, sir.

12 THE COURT: Proceed.

13 THE DEPUTY CLERK OF COURT: 36, Mary Dubose
14 (black female). What say the State?

15 MS. PARR: Please present Ms. Dubose.

16 DEPUTY CLERK OF COURT: What say Defendant?

17 MR. MCLAURIN: Swear Ms. Dubose.

18 DEPUTY CLERK OF COURT: Please have a seat in
19 the jury box, ma'am.

20 130, Patrick Stone (white male). What say the
21 State?

22 MS. PARR: Beg the Court's indulgence a
23 moment.

24 THE COURT: Sure.

25 MS. PARR: Please present Mr. Stone.

1 THE DEPUTY CLERK OF COURT: What say
2 Defendant?

3 MR. MCLAURIN: Swear Mr. Stone.

4 DEPUTY CLERK OF COURT: Please have a seat in
5 the jury box, sir.

6 156, Robin Daniels (black female). What say the
7 State?

8 MS. PARR: Please present Ms. Daniels.

9 THE DEPUTY CLERK OF COURT: What say
10 Defendant?

11 MR. MCLAURIN: We'll excuse Ms. Daniels for
12 this trial.

13 DEPUTY CLERK OF COURT: You've been excused
14 for this trial only.

15 135, Karen Torgersen (white female). What say
16 the State?

17 MS. PARR: Please present Ms. Torgersen.

18 DEPUTY CLERK OF COURT: What say Defendant?

19 MR. MCLAURIN: Swear Ms. Torgersen.

20 THE DEPUTY CLERK OF COURT: Please have a seat
21 in the jury box, ma'am.

22 152, Justin Bazen (white male). What say the
23 State?

24 MS. PARR: Please present the juror.

25 DEPUTY CLERK OF COURT: What say Defendant?

1 MR. MCLAURIN: Please swear Mr. Bazen also.

2 DEPUTY CLERK OF COURT: Please have a seat in
3 the jury box.

4 10, Andy Bostick (black male). What say the
5 State?

6 MS. PARR: Please present Mr. Bostick.

7 DEPUTY CLERK OF COURT: What say Defendant?

8 MR. MCLAURIN: Swear Mr. Bostick.

9 THE DEPUTY CLERK OF COURT: Please have a seat
10 in the jury box.

11 73, Michael Jones (black male). What say the
12 State?

13 MS. PARR: Please excuse Mr. Jones from this
14 trial only, ma'am.

15 DEPUTY CLERK OF COURT: You've been excused
16 for this trial only, sir. You may return to your
17 seat.

18 171, Naomi Parker (black female). What say the
19 State?

20 MS. PARR: Please present Ms. Parker.

21 THE DEPUTY CLERK OF COURT: What say
22 defendant?

23 MR. MCLAURIN: We'll swear Ms. Parker.

24 DEPUTY CLERK OF COURT: Please have a seat in
25 the jury box.

1 35, Robert Dove (white male). What say the
2 State?

3 MS. PARR: Please present Mr. Dove.

4 DEPUTY CLERK OF COURT: What say the
5 Defendant?

6 MR. MCLAURIN: We'll excuse Mr. Dove for this
7 trial.

8 THE DEPUTY CLERK OF COURT: You've been
9 excused from this trial only. You may return to
10 your seat.

11 14, Helen Burch (black female). What say the
12 State?

13 MS. PARR: Please excuse Ms. Burch from this
14 trial only.

15 DEPUTY CLERK OF COURT: You've been excused
16 for this trial only. You may return to your seat.

17 21, David Cobb (white male). What say the State?

18 MS. PARR: Please present Mr. Cobb.

19 DEPUTY CLERK OF COURT: What say Defendant?

20 MR. MCLAURIN: Please excuse Mr. Cobb for this
21 trial.

22 DEPUTY CLERK OF COURT: You've been excused
23 for this trial only.

24 48, William Gibbs (white male). What say the
25 State?

1 MS. PARR: Please present Mr. Gibbs.
2 DEPUTY CLERK OF COURT: What say Defendant?
3 MR. MCLAURIN: Swear Mr. Gibbs.
4 THE DEPUTY CLERK OF COURT: Please have a seat
5 in the jury box.
6 20, Clyde Cusack (black male). What say the
7 State?
8 MS. PARR: Please present Mr. Cusack.
9 THE DEPUTY CLERK OF COURT: What say
10 Defendant?
11 MR. MCLAURIN: Present Mr. Cusack.
12 THE DEPUTY CLERK OF COURT: Please have a seat
13 in the jury box.
14 176, Gloria Wilder (black female). What say the
15 State?
16 MS. PARR: Excuse Ms. Wilder for this trial
17 only.
18 DEPUTY CLERK OF COURT: You've been excused
19 for this trial, ma'am. You may return to your seat.
20 53, Gail Graham (white female). What say the
21 State?
22 MS. PARR: Please present Ms. Graham.
23 DEPUTY CLERK OF COURT: What say Defendant?
24 MR. MCLAURIN: We'll excuse Ms. Graham.
25 THE DEPUTY CLERK OF COURT: You've been

1 excused for this trial only.

2 12, Ashlin Brown.

3 (There was no response.)

4 MR. JEPERTINGER: Did we get information on
5 Ms. Brown earlier?

6 THE COURT: I've got -- we've got a note he
7 was unable to locate.

8 THE DEPUTY CLERK OF COURT: 94, Jody Medford
9 (white male). What say the State?

10 MS. PARR: Please present Mr. Medford.

11 MR. MCLAURIN: We'll excuse Mr. Medford from
12 this trial.

13 DEPUTY CLERK OF COURT: You've been excused
14 from this trial only.

15 92, Rhonda McLaughlin (white female). What say
16 the State?

17 MS. PARR: Please present Ms. McLaughlin.

18 THE DEPUTY CLERK OF COURT: What say
19 Defendant?

20 MR. MCLAURIN: We'll excuse the juror for this
21 trial.

22 DEPUTY CLERK OF COURT: You've been excused
23 for this trial only.

24 82, Billy Lynch (white male). What say the
25 State?

1 MS. PARR: Please present Mr. Lynch.

2 THE DEPUTY CLERK OF COURT: What say
3 Defendant?

4 MR. MCLAURIN: We'll excuse the juror for this
5 trial.

6 THE DEPUTY CLERK OF COURT: You're excused for
7 this trial only.

8 106, Martha Pressley (black female). What say
9 the State?

10 MS. PARR: Please present Ms. Pressley.

11 DEPUTY CLERK OF COURT: What say Defendant?

12 MR. MCLAURIN: Swear the juror.

13 DEPUTY CLERK OF COURT: Please have a seat in
14 the jury box.

15 46, Mary George (black female). What say the
16 State?

17 MS. PARR: Please present Ms. George.

18 DEPUTY CLERK OF COURT: What say Defendant?

19 MR. MCLAURIN: Swear Ms. George.

20 DEPUTY CLERK OF COURT: Please have a seat in
21 the jury box, ma'am.

22 101, Chad Oddo (white male). What say the State?

23 MS. PARR: Please present Mr. Oddo.

24 DEPUTY CLERK OF COURT: What say Defendant?

25 MR. MCLAURIN: Swear Mr. Oddo.

1 DEPUTY CLERK OF COURT: Please have a seat in
2 the jury box.

3 98, Malik Mooney (black male). What say the
4 State?

5 MS. PARR: Please present Mr. Mooney.

6 DEPUTY CLERK OF COURT: What say Defendant?

7 MR. MCLAURIN: Swear the juror.

8 DEPUTY CLERK OF COURT: Please have a seat in
9 the jury box.

10 THE COURT: Mary Dubose, come around and take
11 seat number one and be the forelady please.

12 Ms. Dubose, Mary Dubose. Ms. Dubose, use that seat
13 at all times. As foreperson of this jury sit there
14 at all times.

15 We now go to alternate selection process. I'm
16 going to have two alternates. The peremptory
17 challenges are one and two as relates to each
18 alternate so we draw now alternate one. One and
19 two. One and two.

20 DEPUTY CLERK OF COURT: 7, Allison Benson
21 (white female). What say the State?

22 MS. PARR: Please present Ms. Benson.

23 DEPUTY CLERK OF COURT: What say Defendant?

24 MR. MCLAURIN: We'll excuse Ms. Benson for
25 this trial.

1 DEPUTY CLERK OF COURT: You've been excused
2 for this trial only.

3 19, Patricia Carson, (black female). What say
4 the State?

5 MS. PARR: Please excuse Ms. Carson from this
6 trial only.

7 DEPUTY CLERK OF COURT: You've been excused
8 from this trial only.

9 154, Tiffany Cade (black female). Does the State
10 wish to challenge the juror for cause?

11 MS. PARR: No.

12 THE COURT: What say Defendant?

13 MR. MCLAURIN: Swear the juror.

14 DEPUTY CLERK OF COURT: Please have a seat in
15 the jury box.

16 THE COURT: Ms. Cade, you're the alternate
17 number one. Use that chair at all times. That's
18 your personal chair.

19 We go to alternate two, one and two, one and two.

20 THE DEPUTY CLERK OF COURT: 9, Wanda David
21 (black female). What say the State?

22 MS. PARR: Please present this juror.

23 THE DEPUTY CLERK OF COURT: What say
24 Defendant?

25 MR. MCLAURIN: We'll excuse Ms. David from

1 this trial.

2 THE DEPUTY CLERK OF COURT: You've been
3 excused from this trial only.

4 111, Vanessa Robertson (black female). What say
5 the State?

6 MS. PARR: Please present Ms. Robertson.

7 THE DEPUTY CLERK OF COURT: What say
8 Defendant?

9 MR. MCLAURIN: Swear Ms. Robertson.

10 DEPUTY CLERK OF COURT: Please have a seat in
11 the jury box.

12 THE COURT: Ms. Robertson, that's your chair
13 at all times. Please sit there while we try the
14 case.

15 I need a yes or no please; that's all. Yes or
16 no. Batson versus Kentucky?

17 MS. PARR: No.

18 MR. MCLAURIN: No from Defense.

19 THE COURT: All right. Let the record show a
20 response from each entity in regard to Batson versus
21 Kentucky.

22 Jurors, give me your attention. We will not
23 start the trial of this case until tomorrow morning.
24 There are other matters I'm going to take care of
25 including drawing of another juror but your case

1 will not start until tomorrow morning at 9:30. Now
2 please, please give me your attention. Under no
3 circumstances can you talk to anyone about this
4 case. The only thing you know about it is the
5 pending charge that is pending against this
6 defendant, the three pending charges. Do not talk
7 to anyone about this case. Do not talk to one --
8 talk to anyone about anything in regard to this
9 system at all. No conversations. None. We had a
10 situation where one individual went to talk to her
11 preacher. Don't talk to anyone, no person. That
12 includes everybody. And the next rule
13 unfortunately, really unfortunate for us in the
14 system, we've had people try to interfere with the
15 system and try to talk to jurors. If any person, if
16 any person attempts to talk to you about this case
17 between now and tomorrow morning you must report
18 that matter directly to the Court. If an incident
19 like that occurs and you do not report it to the
20 Court that would be a violation of the law on your
21 part.

22 Please, now folks, it's urgent that we try the
23 case under the court rules and that there be a
24 pristine jury to decide the case; and you occupy
25 that position at this point. I will explain to you

1 tomorrow morning in detail how the case will be
2 tried, what your role is in the case, and I will do
3 that tomorrow morning at 9:30. Now when you leave
4 keep moving. I don't want you to stay in this
5 building. Keep moving, leave the premises please.
6 People walking around facility, they might make an
7 innocent remark in your presence so please keep
8 moving. When you come back tomorrow morning we'll
9 have you some hot coffee ready and waiting. Please
10 be here by 9:30, in here by 9:30. If you're not
11 here that holds up everybody so please, please be
12 courteous to everyone and show up 9:30 in the
13 morning.

14 I want them taken all the way down to the parking
15 lot please, catching the elevator to and the parking
16 lot. Please come right through here and I'll see
17 you in the morning 9:30.

18 (WHEREUPON, the jury was removed from the
19 courtroom at 12:16 p.m., and the following proceedings
20 commenced in open court.)

21 THE COURT: All right, Counsel, as I
22 understand it there are pretrial motions in this
23 case; is that correct?

24 MS. PARR: That's correct, Your Honor.

25 MR. MCLAURIN: That's correct, Your Honor.

1 THE COURT: And what is the general nature of
2 the motions so I'll just be aware of what we have
3 pending. What is the ---

4 MR. MCLAURIN: Your Honor, Ms. Parr and I have
5 got together and been able to resolve most of the
6 motions that I have filed. She has just handed me a
7 transcript of a previously recorded statement of one
8 of the co-defendants who testified against my
9 client. I of course hadn't had a chance to review
10 it yet. I've also been handed a CD of some
11 statements from potential witnesses in this case I
12 have not had a chance to review yet so I'd like to
13 take a look at those. Other than that ---

14 THE COURT: In regard to that let me stop you
15 for just a second. Counsel, in regard to these
16 co-defendants, have all of these co-defendants been
17 sentenced?

18 MS. PARR: No, Your Honor.

19 THE COURT: In regard to a co-defendant who
20 has not been sentenced I would want to make sure the
21 lawyer representing that individual knows about the
22 fact that that witness will be called to trial and I
23 want that lawyer to talk to the witness before that
24 co-defendant takes the stand.

25 MS. PARR: Yes, Your Honor, and the attorneys

1 are well aware of that.

2 THE COURT: Any?

3 MS. PARR: Yes, Your Honor.

4 MR. MCLAURIN: They've got signed proffers in
5 the file being notified of that.

6 THE COURT: All right, very good. That
7 protects everyone.

8 MR. MCLAURIN: Yes, sir. The only thing I had
9 requested by way of a Brady motion, one potential
10 statement it's my understanding a witness Ricardo
11 Richardson my understanding gave a written
12 statement. I've asked Ms. Parr to try to locate
13 that and she said she's gonna work on that, but I
14 just wanted to point that out to the Court's
15 attention.

16 THE COURT: Please work on that even though
17 it's not in the possession of the Solicitor's
18 Office. If law enforcement has it we need for them
19 to produce it. Or does that cover the Brady motions
20 and the --

21 MR. MCLAURIN: Well, sort of kind of a hybrid
22 situation is that I would just like something --
23 supposedly these co-defendants do not have any
24 records. I've been told that by the solicitor and
25 have all belief that is true but would like some

1 type of confirmation. Both of them are juveniles.

2 Would like some kind of confirmation of that fact
3 that they don't have any kind of record.

4 THE COURT: Have you run the rap sheet?

5 MS. PARR: Your Honor, we run rap sheet and
6 there's nothing on the rap sheet as opposed --
7 except these charges. But these -- he's talking
8 about their juvenile rap sheets. I contacted
9 Department of Juvenile Justice and requested first
10 in juvenile court there's a form five and form five
11 have been done and was advised, you know, not -- and
12 so that's why -- and that's the first step into --

13 THE COURT: Well, here's the way it works. I
14 know the juvenile department has some hesitancy and
15 reticence to give us records, but the juvenile is
16 not going to be allowed to take this stand unless I
17 know the record. It's just that simple. Because
18 under a state supreme court case the record of the
19 juvenile is producible if that juvenile is brought
20 up here to testify in the circuit court. Now I
21 understand as long as the juvenile is over here in
22 this protected zone that's fine; but the moment he
23 or she walks in the door that record is going to be
24 produced and I want it produced without doubt in
25 terms of the individual and before the witness

1 testifies.

2 MS. PARR: Your Honor, what I have to do is
3 the -- this is probably so that we can do outside of
4 the jury. They have advised me they do not have a
5 record; the Department of Juvenile Justice have. So
6 they would have to issue a statement or something
7 saying there is no record in the system.

8 THE COURT: What you say to that, counsel?

9 MR. MCLAURIN: That's fine. If I could just
10 have something indicating that there is no record.
11 I just feel like I need something further.

12 THE COURT: And you do. You certainly do,
13 Counsel, for your protection at a later time. All
14 right. So you need something. And I'm going to
15 query the juvenile before the juvenile takes the
16 stand and make sure the juvenile understands he or
17 she better tell me the truth. If there's a record I
18 need to know it.

19 MR. MCLAURIN: Yes, sir.

20 THE COURT: Does that take care of Brady and
21 Rule 5?

22 MR. MCLAURIN: Yes, sir. The other -- I don't
23 know if they've got some response. But the other
24 motion in limine that we'll just probably have to
25 argue, Judge, is there's been some indication in

1 witnesses statements they're going to say something,
2 or the co-defendants statements, that they're going
3 to say something about my client being in a gang, a
4 gang member. And I would have a motion in limine to
5 exclude any testimony that would reference that.

6 THE COURT: Well, let's do it in this fashion.
7 It is very difficult on a pretrial basis to either
8 grant or deny that motion because I don't know the
9 exact scenario that's being presented here. And if
10 there's some testimony that encapsulates gang
11 activity with these offenses I'm going to let it in.
12 Now if the gang activities over here on the
13 periphery and has nothing to do with these offenses
14 then I'll keep it out. That's kind of a general
15 ruling that I give, but I want to know exactly
16 what's occurring here and get a feel for the case
17 before I make a ruling.

18 MR. MCLAURIN: I think we know exactly how
19 it's going to come out.

20 THE COURT: Tell me.

21 MR. MCLAURIN: Basically these co-defendants
22 gave an initial statement which did not implicate my
23 client at all. That's a written statement. Now
24 they have come back and give a second statement
25 which does implicate my client, and the reason they

1 say they gave the second statement is because -- or
2 they didn't say that in the beginning is because my
3 client is a gang member and they were afraid of him.

4 THE COURT: What do you say to that,
5 Ms. Solicitor?

6 MS. PARR: Your Honor, that is the basic
7 nature of it. Actually what they did initially the
8 officers, he found three of them, had information on
9 three. They had heard -- they had been advised at
10 the time by victims that there had been four people
11 involved. And then after further investigation,
12 because three of those people were arrested like the
13 very next day after the incident happened,
14 co-defendant. And then about three or four weeks
15 later when they continued their investigation and to
16 who the possible fourth person was, then the two
17 co-defendants gave information on this defendant.
18 And they were said separately; and when asked why
19 they didn't provide that information initially, they
20 indicated they were afraid of the defendant. He is
21 a bit older than them. And they tied it to his --
22 indicated they knew he was part of a gang, and
23 that -- it goes to their impression of the situation
24 at the time and that's why they did.

25 THE COURT: What about that, Counsel?

1 MR. MCLAURIN: Judge, the case law is very
2 clear that if – as the Court indicated earlier this
3 is a situation where there is some gang retaliation.
4 Somebody had been muddled and somebody was trying to
5 retaliate and it was motivated by a gang situation,
6 motivated because of this defendant. Has nothing to
7 do – you can't bring in a gang discussion about a
8 reason a witness gave a statement one way or the
9 other. I think that's clearly not part of the
10 motive which is what they go to or what the case law
11 seems to discuss. I just don't think gang activity
12 can come in. Clearly the probative value is
13 outweighed by the prejudicial effect of that
14 testimony. If they want to say they're scared,
15 that's fine; but I mean, you can't say you're scared
16 because of gang activity. I just don't think that's
17 proper in a situation like this.

18 MS. PARR: Your Honor, may I be heard on that?

19 THE COURT: Certainly.

20 MS. PARR: Your Honor, we believe that that
21 goes to the state of mind of the witnesses at the
22 time, and if that's the feeling for their state of
23 mind at that time I think it is proper that they be
24 able to express that. That fully discusses why they
25 took the actions that they did. And to not allow

1 that, Your Honor, would not -- would prevent the
2 State from letting the witnesses explain why they
3 did what they did. Your Honor, we will not be
4 putting on any testimony from police officers that
5 indicate that the defendant was a member of the
6 gang. The fact that they believed that because he
7 was a member of the gang they were afraid of him has
8 no bearing as to whether or not he was actually a
9 gang member. Now if we were to put the police
10 officers up there who have been monitoring their
11 activity and they said, yeah, he was a member of
12 such and such gang I think that's a different
13 scenario but the State does not intend to do that.

14 THE COURT: What about the Rule 403 or State
15 versus Alexander analysis in regard to probative
16 versus prejudicial?

17 MS. PARR: Your Honor, in this particular case
18 I think to allow them to state that proves what they
19 did, you know, why they did what they did. Your
20 Honor, most evidence that comes in will be to the
21 detriment of a defendant.

22 THE COURT: One of the chief justices of the
23 state supreme court in a writing said all evidence
24 against a defendant is prejudicial.

25 MS. PARR: And Your Honor, the court can -- we

1 would ask the Court, if there is a concern of that
2 then the Court could give a limited instruction.

3 THE COURT: Sometimes those limited
4 instructions exacerbate the presentation.
5 Facially -- I'm not making any ruling now -- I'm
6 aware of where you're coming from. Facially it
7 looks like it's coming in, Counsel, because it
8 relates to a witness and a witness' statement and
9 why a witness made a statement or why a witness did
10 not make a statement. I probably am going to let
11 that in regard to just simply a reference, but no
12 kind of etiology to a gang membership.

13 MR. MCCLAURIN: Well, I have some of the cases
14 -- I didn't realize we were going to argue the
15 motions this morning to be honest with you. I have
16 some of the cases I would ask the Court if I could
17 submit that, or talk to the Court or submit those
18 cases. Like I said, most of the case law says that
19 if it's a motive for the actual crime that was
20 committed then that comes in. But, that's not the
21 case here. So we just think that it should not come
22 in and it's prejudicial.

23 THE COURT: Well, let me say this to you.
24 Some of those cases are not relevant and would not
25 constitute precedential authority because they deal

1 with the general idea notion of testimony coming in
2 concerning gang activity. Now this has to do with a
3 witness who makes a statement and as a consequence
4 of the first statement because of fear in regard to
5 a gang member the person tells something that was
6 not true and -- well, according to the witness --
7 and then tells it all at a later time in regard to
8 the matter and the question is why did you make the
9 first statement that's totally different from the
10 second statement. I think those cases that you're
11 referencing do not analyze and engage in an analysis
12 of a witness' testimony when juxtapose to some kind
13 of fear of gang membership but I'll take a look at
14 it.

15 MR. MCCLAURIN: Yes, sir.

16 THE COURT: All right. What's the next
17 matter?

18 MR. MCCLAURIN: That's all from the Defense.

19 THE COURT: All right, State?

20 MS. PARR: The State doesn't have any, Your
21 Honor.

22 THE COURT: Well, in regard to this particular
23 matter that's been referenced and referenced to the
24 testimony I'm going to just take that up. We don't
25 have to have any further argument of that today.

1 I'm going to consider that tomorrow, cogitate,
2 ruminate, even think about it.

3 MR. MCLAURIN: Yes, sir.

4 THE COURT: Okay, what else do you have? How
5 about exhibits?

6 MS. PARR: Your Honor, we can -- the State has
7 some photographs and I can -- I have given Defense
8 counsel all of the photographs on there, but the
9 State only intends to use seven of those photographs
10 and we also have one diagram.

11 THE COURT: All right. What about the
12 photographs, Counsel, any objection?

13 MR. MCLAURIN: Photographs of the apartment?

14 MS. PARR: Yeah, of the apartment.

15 MR. MCLAURIN: I don't have a problem with
16 that.

17 THE COURT: Put those in and mark them with
18 the court reporter as State's exhibits -- not I.D.
19 Counsel, straight exhibit presentation and numbering
20 so that we can make progress in the case tomorrow
21 morning.

22 MS. PARR: Okay, I can do that.

23 THE COURT: All right. Anything else,
24 Counsel? Any other exhibit difficulty?

25 MS. PARR: I don't have any.

1 MR. MCLAURIN: I would suspect we introduce
2 the statements of these individuals. We can deal
3 with that as we go along.

4 THE COURT: Yeah, let's do that. We did have
5 a conference in the back about the efficacy of an
6 order that I issued last week, and the order was a
7 transport order in regard to a defendant who is
8 incarcerated in the state facility known as Lee
9 Corrections. I issued that transport order
10 requiring him to come, be brought to the facility,
11 vicinity, tomorrow. Everybody understand I know,
12 the information I now have is the order I issued on
13 June 2nd will be complied with tomorrow in regard to
14 Shakeem Williams. Is that your understanding,
15 Ms. Solicitor?

16 MS. PARR: That's what was told to me. Your
17 Honor, I'm assuming they're taking him 'cause -- the
18 Solicitor's Office is not a party to him. I'm
19 assuming they're taking him to Effingham. I don't
20 know where. I guess...

21 THE COURT: The order does provide for
22 transportation to the Florence County Detention
23 Center. Where is Mr. McKenzie? Where is -- all
24 right, deputy.

25 THE DEPUTY: Yes, sir.

1 **THE COURT:** I want to make sure that this
2 individual known as Shakeem Williams, he's a
3 co-defendant in this case. He may be taken to
4 Effingham first. Bring him right – turn him around
5 and bring him to the courtroom tomorrow.

6 **MS. PARR:** Your Honor, if the State could be
7 heard on another matter in regards to that. Your
8 Honor, there are several that will be brought over
9 including this defendant. All of them, we would ask
10 all of them be kept separate.

11 **THE COURT:** Is that a problem, Deputy?

12 **THE DEPUTY:** How many will there be?

13 **MS. PARR:** There will be four.

14 **THE DEPUTY:** I'll call the jail and see how
15 many transport officers they'll have to be able to
16 do that.

17 **THE COURT:** Counsel, that may be a problem
18 trying to keep them separate and distinct. I mean,
19 I'm not sure we can accomplish that procedurally.
20 We'll do our best to keep them separate and apart.

21 **MS. PARR:** Your Honor, if I can just have
22 further conversation with the deputy.

23 **THE COURT:** Okay. Anything else now we take
24 up on the record before we take the day hiatus from
25 this trial?

1 MR. MCLAURIN: Not from the Defense, Your
2 Honor.

3 THE COURT: Is defendant in custody?

4 MS. PARR: Yes, Your Honor, he is.

5 THE COURT: Okay. Make sure he's here early
6 in plain clothes. Plain clothes, street clothes
7 early tomorrow. I don't want him in a jail uniform.
8 As you know the precedence is now mandated that he
9 appear in street clothes only. Anything else?

10 MS. PARR: The State is not aware of anything
11 else, Your Honor.

12 THE COURT: All right. Lawyers, let me advise
13 you in the morning 9:30 I'll be ready to roll. Be
14 here, be prepared to go.

15 MR. MCLAURIN: Yes, sir.

16 THE COURT: All right.

17 (Whereupon, court was adjourned and resumed on June
18 16, 2009.)
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25

1 **CERTIFICATE OF REPORTER**

2

3 **STATE OF SOUTH CAROLINA)**
4 **COUNTY OF FLORENCE)**

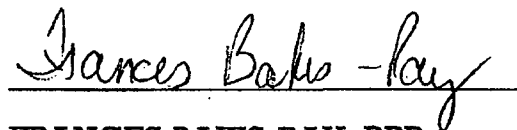
5

6 **I, FRANCES BAKIS-RAY, Registered Professional**
7 **Reporter (RPR), court reporter for the State of South**
8 **Carolina, Twelfth Judicial Circuit, do hereby certify that**
9 **the foregoing proceeding is a stenographic report and was**
10 **transcribed through computer-aided transcription; that the**
11 **foregoing transcript contains a true record of the**
12 **proceedings.**

13 **I further certify that I am neither counsel for,**
14 **nor related to nor employed by any of the parties**
15 **connected to the action, nor am I financially interested**
16 **in the action.**

17 **Witness my hand at Florence, South Carolina,**
18 **this 10th day of November, 2009.**

19

20 

21

22 **FRANCES BAKIS-RAY, RPR**
23 **My Commission Expires: 9-13-2014**
24
25

STATE OF SOUTH CAROLINA,)
COUNTY OF FLORENCE) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
STATE,)

v.)

LEWIS DAVID WILLIAMS,)

DEFENDANT.)

TRANSCRIPT OF RECORD
08-CS-21-1800
June 15, 2009
Florence, South Carolina

BEFORE:

THE HONORABLE RALPH KING ANDERSON, JR.;
AND JURY

APPEARANCES:

PATRICIA S. PARR, ESQ.
Assistant Solicitor

C. STEVENS MCLAURIN, ESQ.
Attorney for the Defendant

FRANCES BAKIS-RAY, RPR
Circuit Court Reporter

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1 THE COURT: All right, the State ready to
2 proceed?

3 MS. PARR: Your Honor, the State is ready to
4 proceed.

5 THE COURT: Defense?

6 MR. MCLAURIN: Your Honor, the only other issue
7 that we didn't address yesterday is sequestering of the
8 witnesses to be called for trial. We would ask that be
9 done during this case.

10 THE COURT: What do you say to that,
11 Ms. Solicitor?

12 MS. PARR: Your Honor, the State will have no
13 problem with witnesses being sequestered. Your Honor,
14 under the law though the State -- the victims in this
15 matter who are, will be witnesses in this case, are
16 entitled to be in the courtroom during the trial. We
17 would ask that the victims be entitled to be here. They
18 were the victims of the armed robbery and it's the five
19 that are seated in the front. And then also the
20 investigating officer. Other than that, the State will
21 have no other witnesses in the court. And Your Honor, we
22 would ask that the Court order the same for Defense
23 witnesses as well. Your Honor, I understand that they may
24 have some potential alibi witnesses that were provided to
25 me and we would ask that they not be in the courtroom, and

1 some of those persons are in the courtroom at this time.

2 THE COURT: For a long time we had major
3 precedent extant in South Carolina in regard to the issue
4 of sequestration. One of the leading cases is State
5 versus Cabbagestalk, spelled just like it sounds, State
6 versus Cabbagestalk. But with the advent of the rules of
7 evidence, the matter is covered under Rule 615 entitled
8 Exclusion of Witnesses. "At the request of a party, the
9 Court may order witnesses excluded so that they cannot
10 hear the testimony of other witnesses, and it may make the
11 order of its own motion. This rule does not authorize
12 exclusion of: One, a party who is a natural person; two,
13 an officer or employee of a party which is not a natural
14 person designated as its representative by its attorney;
15 or three, a person whose presence is shown by a party to
16 be essential to the presentation of the party's cause."

17 Historically, and today, I apply the rule with
18 equanimity, i.e, it applies to both sides, State and
19 Defendant. The rule as applied is as follows. The State
20 will be allowed to keep in the investigating officer, the
21 main investigating officer, and, and all alleged victims.
22 The defendant will obviously be here and defendant's
23 witnesses will be subject to sequestration. Now sometimes
24 it becomes a little onerous to keep the sequestration in
25 place; but it's now your burden, lawyers, so

1 Ms. Solicitor, who is the investigating officer?

2 MS. PARR: Investigator Barley, Your Honor.

3 THE COURT: And he will be exempt. Who are the
4 alleged victims?

5 MS. PARR: Your Honor, these five persons seated
6 here.

7 THE COURT: They are alleged victims?

8 MS. PARR: That's correct, Your Honor. Those
9 are the ones they held the gun on.

10 THE COURT: All right. Defendant's witnesses,
11 you got them in the courtroom?

12 MR. MCLAURIN: Your Honor, there would be one
13 potential person in the courtroom. I can take care of
14 that situation.

15 THE COURT: Take care of that right now. The
16 person must leave.

17 (WHEREUPON, State Exhibits Nos. 1 through 13 were marked
18 for identification and received into evidence.)

19 THE COURT: Bring the jury out please.

20 (WHEREUPON, the jury was returned to the courtroom at
21 approximately 9:35 a.m., and the following proceedings
22 commenced in open court.)

23 THE COURT: Good morning. Jurors, I hope you
24 had a good night's rest. We're now ready to proceed.

25 Ms. Clerk, you're recognized.

1 DEPUTY CLERK OF COURT: Members of the jury
2 please stand raise your right hand.

3 (WHEREUPON, the jury was sworn at 9:36 a.m..)

4 DEPUTY CLERK OF COURT: You may be seated.

5 THE COURT: Mr. Bailiff, get the back door. No
6 one coming in. If you're in the courtroom stay in your
7 seat.

8 Jurors, please give me your attention. Please turn and
9 face me, give me your attention. The paper that I hold in
10 my hand is called an indictment. It is not evidence. It
11 does not prove anything in the case. It's simply the
12 charging paper that brings the matter for court action.
13 There are three pending charges. One is count one, armed
14 robbery; count 2, burglary in the first degree; and count
15 three, possession of a weapon during the commission of a
16 violent crime. You must separately and distinctly
17 evaluate the evidence and the law as I give it to you in
18 deciding these three charges. There are major principles
19 of constitutional law that govern this trial. One, the
20 State must prove defendant guilty beyond a reasonable
21 doubt. The State must prove the defendant guilty beyond a
22 reasonable doubt considering these three charges
23 separately and distinctly. Under the constitution the
24 defendant is presumed to be innocent. And that
25 presumption is legal proof of innocence and remains with

1 the defendant unless and until you, the jury, remove the
2 presumption of innocence by evidence satisfying you of his
3 guilt beyond a reasonable doubt.

4 Many of our legal terms come from Latin. In the law
5 today we use Latin in its pure form in many instances to
6 indicate principles. You are designated as a juror. The
7 word comes from Latin. The word means an oath person, a
8 person who has taken a solemn oath. And you stood and
9 raised your right hand and just took an oath. We didn't
10 go through the motion, folk. That's a solemn oath where
11 you swear to bring your best talents and capabilities to
12 the task so that the verdict will speak the truth in this
13 case.

14 I love the word verdict. It comes from Latin. Two
15 Latin root words, verus. In Latin that means truth. In
16 the old Latin the concept is pure truth. Verus. The old
17 word is dicto. In Latin it means to speak the truth. The
18 words are combined in Latin, the word is veredicto. The
19 word verdict means to speak the truth. And when you come
20 back to the courtroom and the foreperson says, yes, you
21 reached a unanimous verdict, it must speak the truth in
22 this case.

23 I look forward to trying the case with you now as we
24 proceed. The lawyers are officers of the Court; please
25 understand that. They have duties and responsibilities

1 given to them by the law. At times they will bring
2 matters to my attention. On some instances I will rule on
3 those matters of law in your presence. I will say
4 objection sustained or objection overruled. I do not have
5 an opinion on the facts and I'm not entitled to an opinion
6 on the facts. I'm just simply deciding that legal point
7 so please do not derive any inference from any ruling that
8 I make in your presence as to any opinion. I repeat
9 again, I'm not entitled to an opinion but I do not have an
10 opinion in this case. That is solely for you to decide
11 and determine.

12 Your role under the constitution is to decide the facts
13 of the case. My role is to decide the law. I cannot
14 invade your role and you cannot invade the role of the
15 Court. We blend our duties and responsibilities so that
16 the verdict speaks the truth in the case. Thank you very
17 much for your attention.

18 Ms. Solicitor, you're recognized.

19 MS. PARR: Thank you, Your Honor. Mr. McLaurin,
20 good morning members of the jury. Today we're here for a
21 trial against the defendant William, David Williams. He
22 has been indicted for armed robbery, burglary first, and
23 possession of a weapon during the commission of a crime of
24 violence. Today you will hear testimony from that witness
25 stand. You will also observe some photographs that will

1 be entered in the evidence of the crime scene on June 5th,
2 2008, roughly one year ago. We believe the evidence will
3 show that on June 5th, 2008, early in the morning, which
4 was a Thursday morning, that the defendant and three
5 co-defendants came from Darlington, South Carolina and
6 rode around. We also believe the evidence will show that
7 they went through an apartment complex off of south Irby
8 Street in the vicinity of the Super-Walmart. We also
9 believe the evidence will show that when they were in that
10 apartment complex they saw one person outside his
11 apartment on a phone. We also believe the evidence will
12 show that the defendant Mr. Lewis William gave his brother
13 Shakeem Williams a gun for him to rob Mr. Barry Poston,
14 the gentleman who was on the outside of his apartment.

15 We also believe the evidence will show that he had the
16 other co-defendant get out the car as well to assist in
17 this endeavor. We also believe the evidence will show
18 that they took Mr. Poston, along with another one of his
19 friends who came out of the apartment to see why he was
20 outside so long, took them back into their apartment and
21 held them gun point while they stole items from their
22 house. Now you will hear testimony from all the victims
23 in that case who were there that particular evening or
24 early morning hours thinking they were just chilling out.

25 Now you will also hear testimony from the two other --

1 the two of the co-defendants, and they will tell you what
2 they in fact did on that particular evening. You will
3 also hear testimony that those two co-defendants, who will
4 come before the Court and testify today as, or today or
5 tomorrow, as to their actions and their involvement in the
6 matter. You will hear that they have been given a plea
7 offer in exchange for their testimony. Now we ask that
8 you listen to all the evidence that you hear in this case;
9 and once you've had an opportunity to do that we would ask
10 that you find the defendant, Lewis David Williams guilty
11 of armed robbery, burglary first, and possession of a
12 weapon during the commission of a crime of violence.

13 Now I will also tell you that at the close of this case
14 Judge Anderson will give you a charge. That means he will
15 give you the law in this case. And we believe that one of
16 the charges he will give you would be the hand of one is
17 the hand of all. Now once you listen to the charge we
18 would ask that you apply all the evidence that you have
19 heard in this case which will primarily be the
20 eyewitnesses' account of what happened on that dreadful
21 night, and then we would ask that you find the defendant
22 guilty of all of the charges. Thank you.

23 THE COURT: Mr. McLaurin, you're recognized.

24 MR. MCLAURIN: Yes, sir, Your Honor. If it
25 please the Court, Ms. Parr, members of the jury. As I

1 introduced myself to you earlier, my name is Steve
2 McLaurin. I practice here in Florence with the McGowan
3 Law Firm. I am honored and privileged to be before you
4 representing Lewis Williams who of course is seated right
5 over here at the table with me here today. Now probably
6 about a month ago you guys went to your mailbox and you
7 got that juror response in your hands and probably said to
8 yourself, my gosh, I've got a thousand things I've got to
9 do, work commitments, job commitments, family commitments.
10 And I know it is a burden to you to be here today but it
11 is a quite amazing process. As the judge has already
12 indicated, when 12 people from different backgrounds,
13 different cultures, can come together render a verdict
14 that speaks the truth. That's what Lewis Williams has
15 come to you today for, for justice, for a verdict that
16 speaks the truth, so I want to thank you on behalf of him
17 and the court system for your participation today and the
18 sacrifices that you're making here today. Now just like
19 when you got your jury summons that morning you may have
20 looked at your newspaper that morning, been talking with
21 your loved one or your spouse, and you may have said to
22 them, man, I am glad they arrested that guy, I'm glad they
23 got him off the street. And that's fine when you're in
24 your house but you have presumed that that person was
25 guilty. You presumed that the police arrested the right

1 person. And as the judge has indicated today, when you
2 broke the threshold of this door and you came in here and
3 you raised your hand and took that oath, you no longer can
4 think that way because Lewis Williams is presumed
5 innocent. In fact, the State has to prove their case
6 beyond a reasonable doubt. So basically what that means
7 is as you listen to the case today, as you listen to the
8 witnesses that come from the stand, you have to second
9 guess what's being presented. If there is a another
10 plausible explanation to what's being presented you have
11 to side with Lewis Williams on that.

12 Citizens of this community depend on people like
13 yourselves to hold the State to that burden of proof. All
14 their resources they have brought, officers, prosecutors,
15 all the powers of the State, you are the guardian of
16 justice, the people, like Lewis Williams. And just
17 because the State says you're charged with this doesn't
18 mean it's true. Just because they say you're indicted
19 with this particular charge does not mean it's true. So I
20 don't want you to get confused though with the burden of
21 proof, and the fact is there's absolutely no doubt that
22 what happened to these victims who are seated right here
23 shouldn't have happened to anybody. Nobody should be held
24 up in their house like that by gun point. No doubt about
25 that. But just by that same token it's wrong to have

1 wrongfully accused somebody who didn't do anything 'cause
2 the evidence today, members of the jury, is going to show
3 you that Lewis Williams was not present at that time on
4 that particular night on June 5th. In fact, the evidence
5 is going to show you that this is a juvenile situation.
6 Three young boys the night before graduation over in
7 Darlington got together over in Darlington. You're gonna
8 hear their names: Hakeem Costa; Shakeem Williams, who is
9 Lewis Williams' younger brother; and Christian Richardson.
10 16, 17 year old boys. They go out, do like all juveniles
11 do. They go to the skating rink, start talking to some
12 girls. They dress in all black in masks. With guns they
13 go over to these victims' apartment, hold them up. One of
14 them stands in the living room with the gun with all of
15 them, probably seated on the couch just like they're
16 seated right there today. While the other two boys
17 admittedly, the people that are going to come testify are
18 going to admit to you that they committed these crimes.
19 They're criminals. They're gonna come in and say, yeah,
20 we went back through these people's bedroom. We ransacked
21 their furniture. We went through their clothes, found
22 their money, their cell phone, their watches, credit
23 cards, we took all that. Then we left and went out the
24 door.

25 Statements to the police initially saying nothing about

1 Lewis Williams, don't mention him. Then all of a sudden,
2 facing a bunch of time, Lewis Williams comes up in the
3 second statement. The boys are not telling the truth,
4 members of the jury.

5 And the other thing that you're gonna find curious is
6 none of the victims can identify Lewis Williams. You're
7 not gonna hear anything today about finding a gun on Lewis
8 Williams or fingerprints or a wallet or cash or credit
9 card or cell phones. There's gonna be nothing. Members
10 of the jury, once again I want to thank you for the
11 attention I know you're going to pay to this case. This
12 is simply a case of two juvenile boys taking advantage of
13 the system, getting a good deal and coming into this
14 courtroom misleading this court. We ask that you find
15 Lewis Williams not guilty of all the charges. Thank you.

16 THE COURT: Call your witness, Ms. Solicitor.

17 MS. PARR: Your Honor, at this time the State
18 would call Barry Rudell Poston, Junior to the stand.

19 WHEREUPON,

20 **BARRY RUDELL POSTON, JR.**

21 having been duly sworn by the Court, testified
22 as follows:

23 DEPUTY CLERK OF COURT: If you will, sir, go to
24 the witness stand. Please be seated right there at the
25 witness chair. State your name for the record.

1 THE WITNESS: Barry Rudell Poston.

2 DIRECT EXAMINATION

3 BY MS. PARR:

4 Q Mr. Poston, would you please state your full name
5 again.

6 A Yes, ma'am. It's Barry Rudell Poston, Jr.

7 Q And Mr. Poston, what is your address?

8 A Currently it's [REDACTED], Florence, South
9 Carolina 29505.

10 Q And how old are you?

11 A Twenty-four.

12 Q Where are you employed?

13 A I work at Quality Oil and Lube on South Irby Street.

14 THE COURT: A little louder and a little slower
15 please.

16 THE WITNESS: Yes, sir. I work at Quality Oil
17 and Lube, south Irby Street.

18 THE COURT: Let's stop just a minute. We have
19 how many photographs introduced into evidence, Ms. Court
20 Reporter? 1 through 13 in evidence without objection. Is
21 that correct, Counsel?

22 MR. MCLAURIN: Judge, let me just look through
23 these. I'm fine with that.

24 THE COURT: 1 through 13 in evidence without
25 objection. Identify the exhibits as you go, Ms.

1 Solicitor.

2 BY MS. PARR:

3 Q Mr. Poston, you indicate that you're employed with

4 Quality Oil and Lube; is that correct?

5 A Yes, ma'am.

6 Q And where did you go to high school?

7 A South Florence.

8 Q Are you a high school graduate?

9 A Yes, ma'am.

10 Q Now let's go back to June 5th, 2008. During that time

11 where were you living?

12 A Staying in Florence Apartment Complex.

13 Q And where is that located?

14 A Right behind the Shell Station across from the Super

15 Walmart on South Irby Street.

16 Q Is that address [REDACTED]?

17 A Yes, ma'am, apartment [REDACTED] I believe it was.

18 Q Now on that particular day, let's go back to that

19 particular day. Would you please tell us where you were

20 that day.

21 A Well, during that day I was at work. That evening when

22 I came home we had a couple of friends over and we were

23 just hanging out at the apartment.

24 Q Now would that day being at work be June 4?

25 A Yes, ma'am.

1 Q All right, go on.

2 A We had a few friends over. Once everybody went home we
3 still all hanging out at the apartment. And I guess it
4 was around 12:30 that eve-- well, that morning that night.
5 I was standing outside talking on the phone to one of the
6 friends who had left the apartment earlier. Whenever --
7 when I was talking to her on the phone she -- I was
8 approached by a couple of guys. I saw them walk around
9 the corner of the apartment but didn't think nothing of
10 it, figured they were just someone who lived there, until
11 they approached me and put a handgun on my back and
12 snatched my cell phone from my ear and just they started
13 asking me where I lived, asking me what I had and told me
14 they didn't want to hurt me. But I didn't realize what
15 was going on I guess at the time.

16 Q Okay. Now who was in the apartment?

17 A My cousin Jessica Waters.

18 THE COURT: A little slower and a little louder
19 now. A little slower.

20 THE WITNESS: My cousin Jessica Waters, her
21 friend Sherelle Brooks, Corey Byrd, and Matt Rogers. They
22 call him Rudy.

23 BY MS. PARR:

24 Q All right. Now about how long were you outside of the
25 apartment on the phone?

1 A On the phone I'd been out there for a while. I guess
2 I'd say about an hour or so.

3 Q Okay. And what floor was your apartment on?

4 A Lower level first floor.

5 Q Okay. I'm going to show you what has been entered into
6 evidence as State's Number 1. Do you recognize this
7 exhibit?

8 A Yes, ma'am.

9 MS. PARR: Your Honor, may the witness have
10 permission to come down?

11 THE COURT: Yes. You may step down, sir, but
12 keep your voice up now. We're required to take down
13 everything you say and the jury needs to hear you.

14 THE WITNESS: Yes, sir.

15 BY MS. PARR:

16 Q Mr. Poston, if you would stand and stand to this one
17 side and so the court reporter can hear you. And would
18 you identify what that document is, State's Exhibit Number
19 1.

20 A Well, the entire thing is a layout of the apartment
21 complex that we lived in at the time. The actual building
22 we lived in was [REDACTED] right there on the bottom left corner
23 with the parking spots right in front of it.

24 Q And would you indicate where you were at the time you
25 were approached?

1 A Exactly I was in the last parking spot right in front
2 of the apartment complex right in front of that building
3 right out in front of our apartment.

4 Q Okay. And would you please describe the lighting at
5 the apartment complex?

6 A Not very good. Some of the lights were knocked out.
7 Some of them worked. They worked in the alley way between
8 the apartments that separated that building, but there
9 wasn't any right in that corner because that was the
10 last -- that was the corner of the apartment. There was
11 no other lights there except from the gas station in
12 front.

13 Q Okay. Would you indicate on there where the gas
14 station was?

15 A Right there.

16 Q Now would you please tell us or indicate the path in
17 which the persons came up on you?

18 A From what I saw they came through the center of the
19 apartment building and turned to the right, headed towards
20 the gas station, and approached me while I was standing in
21 the very last parking spot talking on the phone.

22 Q Okay. You can be seated.

23 A (Complied.)

24 Q Now please tell us which direction you were facing when
25 they came up to you?

1 A When I was first approached I was faced away from the
2 apartment complex in the direction of the gas station.

3 Q And then tell us what happened?

4 A They came. They put the gun to my back. I was
5 approached by two guys. They put the gun to my back.

6 THE COURT: Sir, please slow down. I mean,
7 we're not going to a fire this morning now. Just real
8 slow, okay.

9 THE WITNESS: Yes, sir. I was approached by two
10 guys. They put the gun to my back. They asked me where
11 my money was. I told them at that time I didn't have any
12 money. They took my cell phone and at that time my friend
13 Corey walks outside. And I guess he was coming to check
14 on me and they assumed that was my friend and told me to
15 call him over. So I called him over and he said that --
16 he grabbed Corey and I'm not sure if he put the gun to his
17 back or not. He told him to give him all his stuff. He
18 got Corey's wallet and went through his wallet. Then he
19 said he wanted to go inside of the house and I told him I
20 didn't want him to go inside the house. I had family, you
21 know, I had family in there and I just kind of -- he asked
22 me what apartment I lived in. I told him the apartment
23 over there and I just kind of pointed the entire building.
24 And he pressed the gun in the small of my back. He said
25 he wanted to know the exact apartment they were going

1 inside. So forced us to the door and told me to open the
2 door, and said to make sure nobody screamed. So I slid
3 the curtains back far enough so my cousin could see, my
4 cousin Jessica could see over my shoulders, see the guys
5 behind me. And at that time they waked inside. I told
6 them not to scream. They went in the living room and a
7 guy with a purple bandanna around his face held me,
8 Sherelle, Corey, and Jessica in the living room while Matt
9 was in his bedroom at gun point in the living room.

10 Q Can you describe the guy that had the purple bandanna
11 and the gun.

12 A He kind of a heavy set guy. I say I guess he was
13 around 6-foot, pretty heavy set. Kind of light skin; he
14 wasn't real dark. Anything other, anything else?

15 Q Okay. Anything else you remember? Okay. Would you
16 please tell us the other guy.

17 A The other guy was a really light skin guy who had a
18 black bandanna on, and he went -- he was one of the ones
19 who went in the bedroom. And the other guy ---

20 Q Okay. Is there anything else about the guy that was
21 real light with the black bandanna?

22 A His hair -- that's the guy that didn't -- he didn't
23 have -- he was the one who went into the bedroom. He was,
24 I guess he was kind of tall, real skinny, light skinned,
25 and he had his hair braid pulled back in a ponytail.

1 Q All right.

2 A Once they -- he -- the guy in the purple ski mask, or
3 the bandanna, I'm sorry, he held us gunpoint in the living
4 room while Matt was in his bedroom, I guess on the phone
5 or something. And he held us there and told us he wasn't
6 there to hurt nobody while the two others went through the
7 rooms. And one of them screamed where is the X-Box 360
8 from the back bedroom. He found the X-Box 306 but we
9 didn't have X-Box 360.

10 Q You said there were three. Who was the other?

11 A The other was a dark skinned guy. He was wearing all
12 black and he had a black ski mask on.

13 Q Okay.

14 A They went -- the black ski mask and the light skinned
15 guy with his hair pulled back went through the bedrooms
16 while the guy in the purple bandanna held us at gunpoint
17 in the living room. Told us he wasn't there to hurt
18 anybody, just listen to what they said and they wouldn't
19 hurt nobody. And at that time they went through the
20 bedrooms, came out. And he -- another guy came and stuck
21 his head in the front door of the apartment and asked him
22 if they were ready to go after they had been going through
23 the apartment for a couple of minutes. As soon as they
24 opened the door, stuck his head in, he -- the guy in the
25 purple bandanna just kind of pushed him back out the

1 apartment 'cause he was -- he didn't have anything on him.

2 Q When you say he didn't have anything on, what you mean
3 he didn't have anything on?

4 A His face wasn't covered. I mean, we could -- you
5 couldn't catch the best look at his face but you could
6 catch the complexion and you could see how big he was.

7 Q And would you please tell us, give us a description of
8 what you were able to see?

9 A Well, when I saw him he stuck his head in the door.
10 You could tell he was really heavy set, kind of tall. He
11 was hunched over. And he stuck his head and said, hey
12 man, y'all ready to go. When he say that, the guy in the
13 purple bandanna slammed the door back in his face. And at
14 that time that's when, you know, I guess it was a matter
15 of 30 seconds they all left, hauled butt out the front
16 door.

17 Q Okay. Now so how many people were in the apartment
18 first?

19 A Inside the apartment first?

20 Q Yes, they came -- who robbed you?

21 A Two walked me through the sliding glass door. Another
22 one in the black bandanna, he came through the front door
23 and went back to the bedroom. So there were three in the
24 apartment during the time of the robbery and then the
25 fourth one who came to the door and asked if they were

1 ready to go and a white T-shirt and nothing on his face.

2 Q Okay. And did you see what kind of color pants he had
3 on?

4 A They looked to be dark colored pants, but it was dark
5 outside so I couldn't -- it was not much time before he
6 slammed the door in his face.

7 Q Okay. Now would you please tell us which bedrooms they
8 went in?

9 A They went into the bedroom I was sleeping in and Matt
10 Rogers' bedroom.

11 Q Okay, all right. I'm going to show you what's been
12 entered into evidence as State's Exhibits 2 through 13.
13 Can you -- would you identify by the exhibit number and
14 tell us whether or not you recognize this.

15 A Yes, ma'am, I do.

16 Q What exhibit is that?

17 A Exhibit Number 2.

18 Q Okay. Would you please tell us what that is a
19 photograph of.

20 A That's the apartment complex that we stayed in the
21 exact building with my car out front.

22 MS. PARR: Okay. Your Honor, at this time I
23 would ask that we be allowed to publish these photographs
24 to the jury.

25 THE COURT: You may do so.

1 MS. PARR: Okay. And Your Honor, I would like
2 so all of them can see view it by way of the computer.

3 THE COURT: Yes, that's granted.

4 BY MS. PARR:

5 Q All right. And State's Exhibit Number 3, do you
6 recognize that?

7 A Yes, ma'am.

8 Q And would you please tell what that is a photograph of.

9 A The front door and looks to be like angle shot of our
10 apartment.

11 Q And State's Exhibit Number 4?

12 A The balcony.

13 Q And you recognize it?

14 A Yes, ma'am. That's right outside of our apartment.

15 Q And State's Exhibit Number 5.

16 A The living room where my cousin and
17 she slept.

18 THE COURT: Sir, please keep your voice up. Now
19 you got — she's got to take down everything you say. She
20 is a court reporter. The jury needs to hear everything
21 you say, every word. Please keep your voice up. You
22 trail off on me.

23 THE WITNESS: Yes, sir.

24 BY MS. PARR:

25 Q State's Exhibit Number 6.

- 1 A That's the hallway, the kitchen. That's inside the
2 apartment —
- 3 Q Okay.
- 4 A —that we stayed in.
- 5 Q All right. And Number 7, do you recognize it? Nice
6 and loud.
- 7 A Yes, ma'am, that's the back bedroom.
- 8 Q Okay.
- 9 A The door leading into the back bedroom.
- 10 Q Okay. And State's Exhibit Number 8?
- 11 A That would be Matt Rogers' bedroom.
- 12 Q Nice and loud. State's Exhibit Number 9.
- 13 A That would be Matt Rogers' bedroom again.
- 14 Q And State's Exhibit Number 10?
- 15 A That's the back bedroom where I slept, where I stayed.
- 16 Q Okay. And State's Exhibit Number 11?
- 17 A That's one of the bedrooms — that's Matt Rogers'
18 bedroom, one of his drawers on his bed.
- 19 Q And State's Exhibit Number 12?
- 20 A That's my bedroom where they pulled the dresser drawers
21 out.
- 22 Q And State's Exhibit Number 13?
- 23 A That's the X-Box 360 they were asking about when they
24 found that box in the back bedroom closet.
- 25 Q All right. Now Mr. Poston, with the lazor pointer if

1 you would indicate where you were.

2 A Where I was standing or?

3 Q Yes, where you were standing.

4 A You can't see where I was standing from that picture.

5 I was in the far left-hand corner.

6 Q If you would turn the lazer pointer on it.

7 A I was -- to where this white car is that's my car. All
8 the way to the left in the very last parking spot is where
9 I was standing.

10 Q Okay. And where was your apartment?

11 A That one right there.

12 Q Okay. And would you go to State's Exhibit Number 3.
13 Would you please tell us what that's a photograph of?

14 A That looks like a side way shot from our house.
15 There's my balcony and my front door.

16 Q And what is that a photograph of?

17 A Our balcony.

18 Q And State's Exhibit Number 5?

19 A The living room that we stayed in inside the apartment.

20 Q Okay. Now would you go back to the previous exhibit,
21 number 4. Would you please tell us where everyone was
22 seated.

23 A Corey came inside. He was standing up at first. He
24 then sat beside Jessica on this couch. Jessica and Corey
25 were seated on this couch. Sherelle Brooks was over here,

1 and Matt Rogers was in his bedroom on the other side of
2 that wall. And the guy with the gun was in the front
3 right by the front door. I was seated -- I was standing
4 right beside the TV which is right in front of that coffee
5 table down this way, somewhere around in here I guess.
6 Jessica Waters asked the guy with the gun if she could
7 move from this couch to this couch with her friend. She,
8 I guess she felt better, and he told her to move. She
9 moved to this couch so Jessica and Sherelle were seated
10 here. Matt Rogers came out of his bedroom, down the
11 hallway.

12 Q Can you tell us, point to where the bedroom would be, I
13 mean the hallway would be?

14 A Down that little alley right there.

15 Q Okay.

16 A Matt Rogers came down the hallway and he sat on the
17 couch here beside Corey Byrd who was sitting there. And
18 the gunman sat on the counter of the couch right beside
19 him.

20 Q Okay. And would that be the guy with the purple
21 bandanna?

22 A Yes, ma'am.

23 Q Okay, all right. And would you go to State's Exhibit
24 Number 6, and what's that a picture of?

25 A That's the kitchen there, the hallway leading to the

1 back bedroom, and the second bedroom right there on the
2 left and the corner of the living room.

3 Q Okay. And now which bedroom would have been your
4 bedroom and which bedroom would have been Matt Rogers'?

5 A I stayed in the very back bedroom where the master
6 bedroom and Matt Rogers stayed in the bedroom to the left.

7 Q And State's Exhibit Number 7, do you recognize that?

8 A Yes, ma'am.

9 Q And what is that?

10 A That's the bathroom in the apartment, the back bedroom,
11 hallway closet, and it looks like Rudy's door.

12 Q Okay. And who is Rudy?

13 A Matt Rogers, I'm sorry.

14 Q Now that door that's open, whose bedroom would that
15 have been?

16 A The one in the back? This one?

17 Q Yes.

18 A That's my bedroom.

19 Q And State's Exhibit Number 8. Now can you see that
20 one?

21 A Yes, ma'am.

22 Q And would you please tell us whose bedroom that is?

23 A That's going into Matt Rogers' bedroom.

24 Q And State 9?

25 A That's Matt Rogers' bedroom again.

1 Q Okay. And would you please tell us what, if anything,
2 the defendant did in Matt's bedroom?

3 A They went through and took some of the drawers out,
4 flipped the mattresses up on the bed to look underneath
5 the bed, and took some watches and stuff that were
6 actually broken off the top of the dresser.

7 Q Okay. And State's Exhibit Number 10.

8 A That's ---

9 Q Go ahead.

10 A That's the back bedroom where I stayed.

11 Q Okay. And tell us what the defendants did when they
12 went in your bedroom.

13 A Pulled several things out of the closet, went through
14 the drawers. There is the little dresser. And flipped
15 the mattresses up like you can see right there on the bed.

16 Q And things that were strewn out?

17 A Clothes, all kinds of stuff, clothes and tennis balls
18 -- stuff from the closet, just things that were stowed
19 inside the closet. I don't remember everything.

20 Q And were those things that the defendants pulled out?

21 A Most of them, yes, ma'am.

22 Q And State's Exhibit Number 12?

23 A That's Matt Rogers' bedroom, one of his drawers on his
24 bed.

25 Q And State's Exhibit Number 13?

1 A That's where they pulled my dresser drawers out in the
2 back bedroom and moved it and went under the bed, moved
3 the mattresses so they could see underneath.

4 Q And what, if anything, taken from your bedroom?

5 A From my bedroom just a little bit of cash was taken. I
6 don't really remember finding anything else missing out of
7 that bedroom.

8 Q Okay. Now --

9 THE COURT: When you say a little bit of cash
10 what are you talking, how much?

11 THE WITNESS: Approximately 80-dollars, sir.

12 THE COURT: 8 dollars?

13 THE WITNESS: 80-dollars.

14 THE COURT: 80-dollars?

15 THE WITNESS: Yes, sir.

16 THE COURT: 8-0?

17 THE WITNESS: Yes, sir.

18 BY MS. PARR:

19 Q And so cash was taken out your bedroom. Where did you
20 have your cash?

21 A It was in a pair of my pants from work. I went through
22 it first thinking that he got my entire wallet but they
23 shook the pants. My wallet fell on the floor underneath
24 some other clothes, but the cash was missing from my
25 pocket.

1 Q Okay. Now how long did it take for the two guys to go
2 through the, you know, your bedroom?

3 A I'd say it was a matter of five to six minutes, not
4 long.

5 Q Okay. And where were you during that whole time?

6 A In the living room.

7 Q Okay. And were you permitted to leave?

8 A No, ma'am, I was not.

9 Q And please describe the demeanor of the other victims
10 in the living room at the time?

11 A She and Jessica were terrified. Corey and Matt were
12 just kind of curious as to what was going on. They really
13 didn't -- I guess it really didn't hit anybody until after
14 it happened. After it all happened Corey and Matt were
15 pretty angry. Jessica and Sherelle were really upset and
16 I was upset with trying to keep them two calmed down but
17 didn't work out too well.

18 Q Okay. And when they left tell us what happened.

19 A When they left Matt and Corey got in Matt's truck and
20 tried to find them waiting on police to get there. I
21 stayed with Jessica and Sherelle inside the apartment and
22 called the -- called 9-1-1.

23 Q Okay. Now which door did they leave out of?

24 A The front door, not the sliding glass door but the
25 front door.

1 Q So they left out the front door?

2 A Yes, ma'am.

3 Q Now when the fourth person came in and tried to come in
4 which door did he try to come in?

5 A The front door.

6 Q And that's the same door that the other three left out
7 of?

8 A Yes, ma'am.

9 Q And then what did you use to call -- whose phone you
10 used to call the police, 9-1-1?

11 A I believe it was Corey's. I took Corey's phone because
12 everybody else's phones were taken, and I got Corey's
13 phone because they didn't get his while him and Matt were
14 outside trying to see if he could see anybody.

15 Q Okay. Now do you know what other items they took from
16 the apartment?

17 A They got Sherelle's entire purse, not sure what was in
18 it. They got Jessica's cell phone. They got Corey's
19 wallet. And they got Matt Rogers' cell phone and watches
20 and other -- I don't remember all of the items out of the
21 bedroom but they got his phone and a few items out of his
22 bedroom.

23 Q Okay. And did they carry them all in their hands, or
24 what did they do with these items they took?

25 A No, they came out. One of the guys had his hands,

1 looked like they were down his pants. And the other one
2 had his stuff in Sherelle's purse, had all the stuff in
3 Sherelle's purse.

4 Q All right. Now about how long do you recall it was
5 before the police officers got there?

6 A I really don't remember. It didn't take them long,
7 five to ten minutes at the most.

8 Q Okay. And so where were you when the police arrived?

9 A I believe I was inside and came outside as they pulled
10 up.

11 Q Okay.

12 A Because I was kind of going through the bedroom to see
13 what was -- if -- to see if I can figure out anything that
14 was missing if they told us to come outside.

15 Q Okay. Now had you been drinking that night?

16 A I hadn't, no, ma'am.

17 Q You said you worked earlier that day?

18 A Yes, ma'am.

19 Q Now Mr. Poston, I believe about in 2004 you had an
20 incident in the State of California; is that correct?

21 A Yes, ma'am, it is.

22 Q And what was that?

23 A I got charged with larceny.

24 Q Okay. And did you plead guilty or what happened?

25 A Yes, ma'am, I did.

1 Q Okay, and what happened with that?

2 A It was long drawn out conver— started with me and my
3 fiancée.

4 Q Okay. But what was the -- you said -- the disposition?

5 A I did 15 days of community service. I was put on three
6 years of informal probation and to pay restitution, couple
7 of hundred dollars in fines.

8 Q Okay, all right. Now did you know any of the
9 defendants prior to this incident?

10 A No, ma'am, I didn't.

11 Q All right. And -- beg the Court's indulgence.

12 THE COURT: Yes.

13 BY MS. PARR:

14 Q Now one other question. The person that stuck his hand
15 in the -- head in the door, the fourth person you
16 indicated, was that -- do you know if that person was
17 light skinned or dark skinned?

18 A Light skinned.

19 MR. MCLAURIN: Objection, Your Honor.

20 THE COURT: Rephrase, Counsel.

21 BY MS. PARR:

22 Q What was the complexion of the person who stuck their
23 head in the door?

24 A It was a light skinned individual, heavy set, and tall.

25 Q Nothing further for this witness. Would you answer any

1 questions Mr. McLaurin may have for you?

2 A Yes, ma'am.

3 MR. MCLAURIN: If it please the Court.

4 **CROSS-EXAMINATION**

5 BY MR. MCLAURIN:

6 Q Mr. Poston, how many times have you spoken with the
7 police about this particular situation?

8 A Exact number I can't recall. I spoke with them that
9 night, went and did a -- went and filled out a report a
10 couple of days later. I would say, I think, four times
11 total.

12 Q Okay. And you remember filling out a report, a
13 voluntary statement that you wrote in your own
14 handwriting, right?

15 A Yes, sir, I do.

16 Q Okay. And you tried to be accurate in that; did you
17 not?

18 A Yes, sir, I did.

19 Q And you told the truth in this particular statement;
20 did you not?

21 A Yes, sir, I did.

22 Q I'm gonna show you a copy of the voluntary statement
23 that you gave on 6/5/08. Do you recognize that document?

24 A Yes, sir, I do.

25 Q Is that your handwriting?

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1 A Yes, sir, it is.

2 Q And is that the statement that you gave, the detailed
3 statement that you gave in this particular case?

4 A Yes.

5 Q Nowhere in that statement do you mention anything about
6 a fourth person, do you?

7 A If I read through it -- if you want me to read through
8 it I can.

9 Q Yeah, I'd like for you to take a look at it.

10 (Pause.)

11 THE WITNESS: No, sir, I didn't.

12 BY MR. MCLAURIN:

13 Q And that's your best recollection at the time of the
14 event of what happened, right?

15 A Well, pretty emotionally distressed, yes, sir, it was.

16 Q And certainly if you didn't mention anything it simply
17 didn't describe any details of what any kind of fourth
18 person looked like, did you?

19 A I couldn't have, sir.

20 Q Now you've indicated -- did you have a few drinks that
21 night?

22 A I did not.

23 Q Were other people drinking?

24 A Yes, sir, they were.

25 Q There were, from the pictures that we saw, there were

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- 1 beer cans on the tables and in the kitchen; is that right?
- 2 A Yes, sir, it is.
- 3 Q What time did all this happen around?
- 4 A All of this being what, sir?
- 5 Q What went down that night on ---
- 6 A That night I worked at a restaurant at the time so I
- 7 really, I wasn't there for all of it. I probably didn't
- 8 get home till 10:00 or so when I got there, you know, I
- 9 changed clothes, and I -- I guess it was around 10:30 or
- 10 10:45 and I was kind of hanging out in the living room
- 11 with a couple of friends.
- 12 Q Well, what time was it when you were first approached?
- 13 You said you were standing outside.
- 14 A Oh, that was at 12:30, sir.
- 15 Q That was around 12 ---
- 16 A Around 12:30, 12:00, somewhere in there.
- 17 Q And you feel pretty confident about that?
- 18 A Yes, sir, I do.
- 19 Q And what makes you sure that's what time that happened?
- 20 A Just looking at the clock whenever -- after everything
- 21 was said and done and knowing it didn't take more than 10,
- 22 15 minutes for the entire process it was -- it would have
- 23 left it at 12:30, right around 12:30.
- 24 Q Okay. And you were first approached by two gentlemen;
- 25 is that correct?

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1 A Yes, sir.

2 Q Okay. And they approached you outside?

3 A Yes, sir.

4 Q And by the -- where you were standing they wouldn't
5 have known which apartment was yours; is that correct?

6 A Unless they had been standing there watching me for an
7 hour-and-a-half or hour-and-a-half, no, sir, they wouldn't
8 have.

9 Q Didn't they ask you where is your apartment?

10 A Yes, sir.

11 Q Okay. And I guess you tried to mislead them at first
12 and then what did they say?

13 A They put the gun in the small of my back and told me
14 they wanted to know which apartment 'cause they were going
15 inside.

16 Q Didn't they cuss at you and threaten you at this time?

17 A Yes, sir.

18 Q What did they tell you?

19 A They told me -- their exact words, if you don't tell me
20 which apartment you live in I'll fucking kill you.

21 Q And you were scared, right?

22 A Terrified.

23 Q What else, what other threats did these people make to
24 you that came up to you?

25 A I don't recall every exact word. I really remember

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- 1 that one sentence that he told me that and —
- 2 Q Can't really forget that.
- 3 A All I could think about is my daughter.
- 4 Q Okay. So you go inside the apartment and two of them
- 5 instantly go back to the bedroom; is that correct?
- 6 A One of them went straight back to the bedroom, and as
- 7 soon as we walked inside another came through the front
- 8 door. He went straight to the bedroom. That was the ones
- 9 wearing the black ski mask and the black bandanna while
- 10 the purple bandanna held us in the living room.
- 11 Q The two that went to the back bedroom —
- 12 A Yes, sir.
- 13 Q Did you hear anything that they would have said while
- 14 this was going down?
- 15 A Their voice —
- 16 Q Did you understand —
- 17 A Their voices were really muffled. You couldn't
- 18 really — they — it didn't seem like they were trying not
- 19 to talk much at all except for the guy with the gun; he
- 20 didn't mind talking.
- 21 Q And so when they went back to the back bedroom did you
- 22 hear him say anything back to the guy up front from the
- 23 back bedroom?
- 24 A No, I heard him scream out where is the X-Box 360 at.
- 25 Q Do you know which one did that?

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1 A I would assume it would be the one, whichever one went
2 to the back bedroom, my bedroom.

3 Q Two of them went back there, right?

4 A Yes, sir, there's two bedrooms there. So I'm not sure
5 if they did it together in both bedrooms or if one went
6 into each.

7 Q And then they came out from the back bedroom, is that
8 correct, about five or ten minutes later?

9 A Yes, sir, after everything was said and done. They
10 didn't come out till they were leaving. They had --

11 Q And did they have -- what did they have that they had
12 stolen? Could you see?

13 A I couldn't -- I couldn't see anything. One of them,
14 like I said, seemed like he had his hands down his pants
15 almost or either curled up in his shirt and the other had
16 everything in Sherelle's purse.

17 Q And so when did one of them take Sherelle's purse?
18 When did that happen?

19 A When they first came in and she was sitting on the
20 couch her purse was -- if I'm not mistaken it was sitting
21 on the coffee table or either on the floor right in front
22 of her and they grabbed it then.

23 Q Okay. And so one of the ones that went in the back
24 bedroom grabbed that purse?

25 A Yes, sir.

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- 1 Q Is that what you're telling us?
- 2 A Yes, sir.
- 3 Q So he used that to put his stolen goods in?
- 4 A Yes, sir.
- 5 Q Okay. You talked a little bit about the lighting.
- 6 That's a corner apartment; is that correct?
- 7 A Yes, sir, it is.
- 8 Q Lighting was not good; is that correct?
- 9 A Not the best.
- 10 Q Okay. Particularly down that hallway it's not very
- 11 good where the door is.
- 12 A If I'm not mistaken the lights in the center of the two
- 13 apart-- the center of the apartments were on at the time.
- 14 They were all working, but there's no lighting fixtures on
- 15 the outside corners of the apartment like shining on the
- 16 parking lot or anything. The only visibility you have
- 17 over there is the gas station.
- 18 Q Okay. And when y'all first entered the apartment you
- 19 entered through the sliding glass door; is that correct?
- 20 A Yes, sir, when they brought us inside.
- 21 Q Okay. And now you're telling us that they left through
- 22 the solid wood door. Is that what you're telling us?
- 23 A When they left, yes, sir.
- 24 Q Okay. And supposedly this fourth person knocked on the
- 25 door; is that correct?

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1 A Didn't even knock. He just kind of opened the -- he
2 just kind of opened the door and poked his head in and
3 said, hey, you guys ready. And the guy slammed the door
4 on his face.

5 Q And you said he didn't have on a mask?

6 A No, sir, he didn't.

7 Q I think one of your quotes was at one time that that
8 wasn't very smart of that person, was it?

9 A I wouldn't say so.

10 Q In fact, you said he was a dumb ass to come in and do
11 that, right?

12 A Yes, sir, I think I did.

13 Q What did they steal of yours? 80-dollars of cash?

14 A Yes, sir, it was cash. They got my cell phone.

15 Q And your cell phone?

16 A Yes, sir.

17 Q Did you ever get any of those items back?

18 A No, sir, I did not.

19 Q Do you know which one -- I know it's hard to tell which
20 one, but which one would have stolen that initially?
21 Which person had your items?

22 A I'm not sure.

23 MR. MCCLAURIN: Court's indulgence one moment.

24 THE COURT: Yes, sir.

25 MR. MCCLAURIN: That's all the questions I have.

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1 THE COURT: Redirect, Mr. Solicitor.

2 MS. PARR: Yes, Your Honor.

3 **REDIRECT EXAMINATION**

4 BY MS. PARR:

5 Q Mr. Poston, Mr. McLaurin asked you about your written
6 statement. Prior to giving this written statement did you
7 make a statement to law enforcement the night of this
8 incident?

9 A When they got there.

10 Q Okay. And at what point did you tell law enforcement
11 about the fourth person?

12 A I'm pretty sure it was on the reporting.

13 Q And was that the time when you said exactly what the
14 defendants said about killing you and the use of the --

15 A Yes, sir.

16 Q --profane language?

17 A Yes, ma'am, I'm sorry.

18 Q Now he also asked you, wasn't it true that you called
19 him a dumb ass?

20 A Yes, ma'am, he did.

21 Q Okay. Now was that in your written statement?

22 A No, ma'am, it was, I believe, it was a verbal statement
23 given to law enforcement that night.

24 Q Okay. Now the statement that you gave that particular
25 night, the verbal statement, was that the first statement

SW - B. POSTON - REDIRECT.

1 you had given to law enforcement?

2 A Yes, ma'am, that was matter of minutes after everything
3 had happened they got there.

4 Q Okay. And now at that time was that statement more
5 detailed than what you wrote down a day or two later?

6 A I feel as though it was.

7 Q Okay. And in fact, from your testimony here today the
8 statements that Mr. McLaurin brought up were the ones that
9 you gave in your oral statement; is that correct?

10 A The one he gave is the one I wrote whenever I went to
11 the police station, yes.

12 Q That's the one that he showed you?

13 A Yes, ma'am.

14 Q That's the shorter one; is that correct?

15 A Yes, ma'am.

16 Q But the statement you made calling the defendant a dumb
17 ass and the one where he used the explicit language as to
18 what he would do to you, which statement was that in?

19 A That was when the police first got there and I think I
20 was speaking on the recorder of some sort.

21 Q So that was in your oral statement?

22 A Yes, ma'am.

23 Q Okay. And was that -- which statement would have been
24 more complete or more detailed?

25 A In my opinion it would be right after it happened, as

SW - B. POSTON - REDIRECT.

1 soon as it happened and the police got there and talked to
2 me. It was the same night. It happened right then.

3 Q Okay. Now this witness statement that you made, now
4 that was the later on that morning of the incident; is
5 that correct?

6 A Yes. It was either the later that day or the next day.
7 It was sometime, you know, right after -- within a day or
8 so after it happened.

9 Q Okay, all right. Now the night of this incident after
10 it occurred did you go right to bed after that?

11 A Right after the incident occurred, no, ma'am, I didn't.

12 Q Okay. What time did you go to bed or?

13 A I really don't remember. I know I saw daylight come
14 up.

15 Q Okay. Now -- Your Honor, may I approach the witness?

16 THE COURT: Certainly.

17 BY MS. PARR:

18 Q Now if you'll look at this. Would you please indicate
19 what date it was and the time that you gave that written
20 statement?

21 A June 5th, 2008 at 11:30 hours.

22 Q Okay. Would that have been 11:30 in the daytime?

23 A Yes, ma'am, a.m.

24 Q So that was a few hours later; is that correct?

25 A Yes, ma'am.

SW - B. POSTON - REDIRECT.

1 Q Okay. And had you had any sleep before giving that?

2 A Not much.

3 Q Okay.

4 A I had a small nap.

5 Q All right. And what was your physical condition at the
6 time when you went to the police department to give that
7 written -- when you wrote that written statement?

8 A I was telling all. I was just shocked, the entire
9 situation, never thought it'd happen to me.

10 Q Okay, all right. And now on the night you told law
11 enforcement what happened on that oral recorded statement,
12 how were you feeling at that time?

13 A Upset.

14 Q Okay.

15 A All I could think about was family.

16 Q And at first were you in fact very emotional when you
17 —

18 A Yes, ma'am, I was crying pretty good.

19 MS. PARR: Nothing further for this witness.

20 THE COURT: Recross.

21 **RECROSS-EXAMINATION**

22 BY MR. MCLAURIN:

23 Q You just indicated at the time this happened you were
24 upset to the point of crying?

25 A Yes, sir.

SW - B. POSTON - RECROSS

1 Q Hardly concentrate when you're that upset.

2 A Yes, sir, it can be.

3 Q So the next morning you give a written statement as we
4 talked about, correct?

5 A Yes, sir.

6 Q Okay. And in that statement you described in detail
7 the three people that came into the house; did you not?

8 A Yes, I did, they came inside the house.

9 Q Just as you've done today.

10 A Yes, sir.

11 Q Described what they were wearing, their height, their
12 size, their weight, all those type things; is that
13 correct?

14 A Yes, sir. There was only three people that came inside
15 the house, yes, sir.

16 Q I'm talking about in your written statement.

17 A Yes, sir.

18 Q Of course, once again didn't indicate anything about
19 Lewis Williams or a fourth person; is that correct?

20 A No, sir, I didn't.

21 MR. MCLAURIN: Thank you. I don't have anything
22 further.

23 THE COURT: You may step down.

24 MS. PARR: One last question, Your Honor, one
25 last question.

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1 THE COURT: Yes.

2 FURTHER DIRECT EXAMINATION

3 BY MS. PARR:

4 Q Mr. Poston, if you know, why didn't you mention the
5 fourth person in your written statement when you told law
6 enforcement about the night it happened?

7 A I really don't know. I can't answer that question for
8 sure. The night it happened I told them everything I, you
9 know, everything I remembered from that point on. Next
10 morning when I went to the police station and talked to
11 Investigator Barley and did a written statement I -- I
12 wrote and wrote and wrote and until I couldn't write
13 anymore. And I just, I guess I just forgot it and left it
14 out. I -- kind of hard to forget someone opening a door
15 and sticking their head in the door. Actually the night
16 it happened I think I laughed about it 'cause I thought he
17 was going to get his head cut off by the door but, you
18 know, I'm not sure why I didn't involve it in both
19 statements.

20 Q Okay. But the fact that you did not put it in the
21 written statement, does that negate that person was
22 There?

23 MR. MCLAURIN: Objection, Your Honor, that's
24 leading.

25 THE COURT: Rephrase Counsel please.

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1 MRS. PARR: So -- nothing further, Your Honor.

2 THE COURT: Anything further?

3 MR. MCLAURIN: No, sir.

4 THE COURT: You may step down.

5 Next witness please.

6 MS. PARR: Your Honor, may we approach a
7 Moment.

8 THE COURT: Sure.

9 (WHEREUPON, counsel approached the Bench for an
10 off-the-record discussion.)

11 THE COURT: We'll take a short recess. Please
12 go to your jury room.

13 (WHEREUPON, a recess was taken from the
14 proceedings.)

15 THE COURT: Bring them out.

16 (WHEREUPON, the jury was returned to the courtroom at
17 approximately 11:00 a.m., and the following proceedings
18 commenced in open court.)

19 THE COURT: Thank you, jurors. We'll run till
20 about 12:30 or 1, then take lunch break.

21 Ms. Solicitor.

22 MS. PARR: Your Honor, at this time we call
23 Corey Byrd to the stand.

24 DEPUTY CLERK OF COURT: If you will, sir, place
25 your left hand on the Bible, raise your right hand.

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1 WHEREUPON,

2 **COREY HAMILTON BYRD,**

3 having been duly sworn by the Deputy Clerk of Court,

4 testified as follows:

5 **DEPUTY CLERK OF COURT:** Please be seated. State
6 your full name for the record.

7 **THE WITNESS:** Corey Hamilton Byrd.

8 **DIRECT EXAMINATION**

9 **BY MS. PARR:**

10 **Q** Mr. Byrd, where do you live?

11 **A** [REDACTED], Florence, South Carolina 29505.

12 **Q** And how old are you?

13 **A** Nineteen years of age.

14 **Q** Okay. And are you a high school graduate?

15 **A** No, ma'am, I'm not.

16 **Q** Okay. Did you go back to school?

17 **A** I'm currently -- I just got through with my classes at
18 adult education and I'm taking my test in July.

19 **Q** Okay. And are you employed?

20 **A** Yes, ma'am, I am.

21 **Q** And who do you work for?

22 **A** I work for the City of Florence. I work at the skate
23 park. McLeod Park.

24 **Q** Okay. Now on going back to last year July 5th, 2008,
25 where were you staying or where were you that evening?

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- 1 A Well, I was staying at my house on [REDACTED]
2 [REDACTED] and that evening I was at my apartment complex where
3 Matthew Rogers and Barry Boston stayed at on Irby Street.
4 Q Okay. And how long had you been there that evening?
5 A Probably — I was over there a lot. I think I was over
6 there probably at five in the afternoon.
7 Q Okay.
8 A Till the night time.
9 Q Okay. Had you worked that day?
10 A It was at — I can't remember what the exact date was.
11 Can you tell me what day it was.
12 Q Did you work on Wednesday, June 4th?
13 A Oh, no, ma'am.
14 Q All right. Now tell me what, if anything, you were
15 doing at the apartment that day.
16 A Well, I was just hanging out with some friends,
17 watching TV, hanging out pretty much.
18 Q Okay. Now had you had anything to drink that evening?
19 A Yes, ma'am, I did.
20 Q Okay. Do you recall what?
21 A I had three or four beers in a matter of two hours,
22 three hours.
23 Q Okay. Now tell us what happened while you were at the
24 apartment that evening or early morning hours of June 5th,
25 2008.

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1 A Well, me, Mat, Sherelle and Jessica were at the
2 apartment and Barry got off work around 10, 10:30, can't
3 remember when was the exact time. And we were just
4 hanging out and later on Barry walks outside to go talk to
5 somebody on the phone. It was probably about 11:30, I'm
6 guessing. I really don't keep the track of the time when
7 it was at.

8 THE COURT: Keep your voice up now please.

9 THE WITNESS: Yes, sir. And he walked outside
10 to talk to somebody on the phone, and he was out there for
11 about four minutes to an hour I guess you could say. And
12 me, Jessica, and Sherelle were sitting on the couch in the
13 apartment, and I think Rudy was in his room walking around
14 somewhere in the apartment.

15 Q When you say Rudy, who is Rudy?

16 A Matthew, I'm sorry.

17 Q That's all right.

18 A And we were like, where's Barry at. And he was outside
19 and so I said, I'm going to walk outside and check on
20 Barry 'cause he's been out there for a while, you know.
21 And I walk outside and I see Barry out in the corner of
22 the apartment complex. And I -- as I'm walking up it's
23 dark out there. As I'm walking up I see these two
24 individuals with Barry. And as I walk up I see that one
25 of the individuals has a gun and I see that they're --

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1 their faces are covered. And walk up and they say, give
2 me your wallet. And -- I'm sorry, Barry calls me up and
3 they say, give me your wallet. I gave them my wallet.
4 They said, what else do you have. I said nothing else.
5 And --

6 Q What was in your wallet?

7 A I had my driver's license, my debit card, no cash. I
8 just had my debit card. I think my social security
9 number, or card, I can't recall. And nothing really else
10 important. That's pretty much it in my wallet and they
11 took that.

12 Q Okay. And they took that. And so when you walked up
13 and they took -- they asked you for that and you gave it
14 to them and what happened?

15 A They said, asked Barry what apartment you live in.
16 Barry said, pointed at, you know, the apartment complex,
17 that one. And they said what apartment complex, what's
18 the number of the apartment and he told them. And the
19 bigger fellow walked me into the -- walked me and Barry
20 into the apartment, and the big guy has a gun up to my
21 back and the smaller long-haired guy walked Barry into the
22 apartment. We walked in. Barry told them to just, you
23 know, calm down 'cause they don't -- we don't want them to
24 scream or anything.

25 Q You don't want who to scream?

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1 A The girls, Jessica and Sherelle, scream.

2 Q Okay.

3 THE COURT: Please keep your voice up for us
4 please.

5 THE WITNESS: Yes, sir. And we walked in,
6 Jessica and Sherelle are sitting down. You know, they're
7 kind of freaking out, not like screaming or anything. But
8 me and Barry, they asked in the house. They just run
9 through the house, you know. They run to Matthew's room.
10 And Matthew was talking on the phone, and I don't know
11 exactly who the guy was that took Matthew's phone. Took
12 his phone and then, well, there was another guy that came
13 in there. He had a ski mask on. It was in all black, and
14 he was running out throughout the house looking for things
15 too. So pretty much they just ran throughout the house
16 and looked for stuff to take. And they took -- the items
17 that they took were Sherelle's cell phone, Jessica's cell
18 phone, Matthew's cell phone, and I think I'm pretty sure
19 Barry's cell phone. They didn't take mine. They took
20 Sherelle's purse, maybe Jessica's purse -- I'm not sure if
21 she had one on her. And that's pretty much everything
22 that I saw that they took. But they went into -- they
23 went into the back room. They could have took some of the
24 stuff of Barry's and Matthew's but I --

25 Q So you were not living there at the time; is that

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1 correct?

2 A Oh, no, ma'am, I was just hanging out with them,
3 friends.

4 Q Now are you nervous today?

5 A Little bit.

6 Q Do you need something to drink?

7 A I've got something right here. I'm fine. Thank you.

8 Q All right. And so where were you in the apartment when
9 they were going through the apartment? Where were you?

10 A I was sitting on the couch, not the big one, the little
11 one. And the big guy sat beside me and --

12 Q Now when you say the big guy?

13 A The big guy with the gun. He sat beside me and he
14 tapped me on the back. He said, you're the coolest one in
15 the bunch, we're not -- I'm not trying to hurt anybody.

16 And I said okay. And I was just sitting on the couch.

17 Matthew sat beside me. Barry was standing up next to the
18 TV. Sherelle and Jessica were sitting on the other couch.

19 And the big guy stood there the whole time and just
20 watched over us to make sure we wasn't doing anything.

21 Q Okay. Can you describe the two that were in the other
22 rooms?

23 A The guy with the black ski mask and all black on, I
24 remember him very well. He had his hands down his pants
25 the whole time pretty much running throughout the house.

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1 He was probably about 5'8", 150, 5'9", 150, somewhere
2 around there. Then the long-haired guy, he's pretty
3 skinny. He's probably 5'11", somewhere around there.
4 Either -- I can't exactly remember if he had a bandanna on
5 or a ski mask, but I know for sure the guy in all black
6 had a black ski mask on. Then the big guy, he had a
7 bandanna on or ski mask; I really can't remember. But I
8 could tell, you know, I could tell that the skinny guy
9 with the long hair, -- I could, you know, point him out
10 anywhere but ---

11 Q Okay. What happened while the other -- while the
12 people were still at the house and holding you?

13 A What happened?

14 Q Uh-huh. What else, what if anything happened?

15 A They pretty much just ran through the house looking for
16 X-Box 360. They saw the box and said, where's the X-Box.
17 We don't have one. That's pretty much just run throughout
18 the house wanting to take things.

19 Q Okay. Now to your recollection did anybody else come
20 through the house while you were there?

21 MR. MCLAURIN: Objection, Your Honor, leading.

22 THE COURT: Rephrase it, Counsel.

23 MS. PARR: Okay.

24 BY MS. PARR:

25 Q What else -- what if anything occurred while you all

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1 were there when they were looking for items?

2 A Okay. Three guys were in there. They were just
3 running throughout the house. Ac— we heard a knock on
4 the sliding glass and the guy, the guy at the sliding
5 glass left. We found out later that it was one of our
6 friends.

7 BY MS. PARR:

8 Q Uh-huh, okay. Go ahead.

9 A And then they just run out through the house, the three
10 guys. And then we heard a — the door open, not the
11 sliding glass but the door. A door opens —

12 Q Was it -- now which door was this? Was it the front
13 door, sliding door?

14 A Front door.

15 Q Okay.

16 A And we see the door open, and I'm sitting, you know,
17 right -- the door is right here so I'm right here. And
18 the door opens about this much but you can see a face.
19 But I -- the person -- the people that had the best view
20 of the guy were Barry, Jessica, and Sherelle from what I
21 could see 'cause the door was open this much. And me and
22 Matthew were sitting right there, the door right here, so
23 there's no way I really could see. But he put his head,
24 he put his head in the door and I could see a little bit.
25 I couldn't really recall like what exactly he looked like,

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1 but I could tell it was a bigger guy. And it was probably
2 about ten seconds or 10 or 15, 20 seconds of him looking
3 through the door and then his friend just shut the door.
4 And he said, you guys ready, and the guy just shut the
5 door in his face. But I could see that it was a heavier
6 set guy and I could see his hand; but that's, you know, I
7 could see his face a little bit, probably that much.

8 Q Okay. And in terms of the size how would that person's
9 size compare to the other persons that had been in the
10 house over there?

11 A Well, the big guy with the gun, he wasn't that tall.
12 He was probably -- I'm 6'2". He's probably about 5'11" to
13 6 foot, but he was probably I could say 250. But the rest
14 of the guys were, you know, skinny. Not skinny, but
15 normal size I guess you could say. The guy that came to
16 the door I could tell he was, you know, a heavy set guy.
17 So he was -- he looked and his head was, you know, up
18 there so I guess he was pretty tall.

19 Q Okay. Would he have been bigger or smaller than the
20 other ones that were there?

21 A Height-wise taller. Weight-wise, you know, he did open
22 the door, you know, like I guess you could say that much
23 but he just like probably like 250 plus.

24 Q Okay. And on the night of this incident did you make
25 an oral statement to the police officer that responded?

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- 1 A Yes, ma'am, I did.
- 2 Q Okay. And on that -- at that time did you give them a
- 3 statement you said?
- 4 A Yes, ma'am, I did.
- 5 Q Okay. And do you recall whether you told the officer
- 6 about that person during your statement?
- 7 A Pre-- yes, ma'am, I'm pretty sure I did.
- 8 Q Okay. Now what time did you go home after this
- 9 incident?
- 10 A I'm pretty sure I didn't go home last -- not last
- 11 night -- that night. My mother was kind of upset and I
- 12 didn't feel like going home. And plus, I didn't want to
- 13 leave because I didn't know if they were still there or
- 14 they could be, you know, just out there.
- 15 Q Okay. Now did you get any sleep that evening?
- 16 A We really -- I don't think any of us really got a lot
- 17 of sleep. I didn't get a lot of sleep. We probably -- I
- 18 probably went to sleep probably about 6 a.m., 7. Just
- 19 like Barry said, I saw sun light too and...
- 20 Q Now I think you indicated that they had taken your
- 21 wallet; is that correct?
- 22 A Yes, ma'am.
- 23 Q And had your debit card?
- 24 A Yes, ma'am.
- 25 Q Okay. And what, if anything, happened to that?

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1 A They -- I didn't really have a lot of money at the time
2 on my debit card. They used it at a gas station and maybe
3 a McDonalds. I'm not exactly sure. I can't recall. I
4 can't remember. And they over-drafted 30, 40-dollars on
5 my debit card.

6 Q Okay. And do you recall when your debit card was used
7 at the gas station?

8 A Probably about an hour later after the incident
9 happened, not long ago after.

10 Q Now was your debit card a -- what kind of debit card
11 was it?

12 A First Federal.

13 Q Okay. It was tied to your checking account or
14 something like that?

15 A Yes, ma'am.

16 Q And now when did you find out that your debit card had
17 been used?

18 A The next day when I went to the city/county complex.

19 Q Okay. Now when you say the next day are you referring
20 to that same day later on once daylight came up or another
21 day?

22 A The same day, that morning pretty much, yeah.

23 Q And do you recall what time you went to the city/county
24 complex?

25 A Oh, probably about 10 or 11:00. I'm not really exactly

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1 sure what exact time.

2 Q But it was that same day?

3 A Yes, ma'am.

4 Q Okay. Now, and you gave a -- you did a written
5 statement for Investigator Barley; Is that correct?

6 A Yes, ma'am.

7 Q Okay. Now, and have you had an opportunity to see that
8 written statement; is that correct?

9 A Uh-huh.

10 Q Now in the written statement how would you compare the
11 written statement with the oral statement that you gave
12 the night of, right after it happened?

13 A The oral statement would be more, I guess, better, more
14 accurate than the written statement 'cause I really didn't
15 have a lot of sleep. I was just, you know, I was kind of
16 frustrated that I got robbed. I was, you know, upset I
17 got robbed so I was just writing down stuff, you know,
18 what happened. But right after the incident happened I
19 told them pretty much, you know, everything.

20 Q Okay.

21 MS. PARR: Beg the Court's indulgence once
22 moment.

23 THE COURT: Yes, ma'am.

24 BY MS. PARR:

25 Q Now when your debit card was used do you know how it

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1 was used, whether or not a pin was used with it?

2 A I'm pretty sure ---

3 MR. MCLAURIN: Objection, Your Honor. There's
4 got to be some foundation for that. I don't see how he
5 can testify as to how it was used.

6 THE COURT: Lay a foundation, Counsel, as to the
7 knowledge.

8 BY MS. PARR:

9 Q Okay. Now what kind of debit card did you have or did
10 you have at that time?

11 A First Federal debit card from my work. I get paid from
12 my check.

13 Q And you found that -- I think you testified that you
14 found that your card had been used; is that correct?

15 A Yes, ma'am.

16 Q Okay. And how were you able to find, how did you
17 determine that it had been used?

18 A I went to the ATM the next day and I see that I have no
19 money. And I go up to First Federal and I talked to a
20 lady up there and they said I ---

21 MR. MCLAURIN: Objection, Your Honor.

22 MS. PARR: Your Honor, I think he can say what
23 he did.

24 THE COURT: Yes. Don't quote the lady but tell
25 just what you did.

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1 THE WITNESS: Yes, sir. I went up to First
2 Federal. I talked to the lady up there and she told me
3 that I —

4 BY MS. PARR:

5 Q Don't tell me what she said.

6 THE COURT: I sustain the objection.

7 THE WITNESS: I found out I —

8 THE COURT: Just listen to me young man,
9 please. You can state what you did but you can't quote a
10 person outside your statement because it's hearsay.

11 THE WITNESS: Okay, yeah. Pretty much I found
12 out I owed, over-drafted 30-dollars, which I did not do
13 'cause I got robbed. So they used my debit card, plain
14 and simple.

15 BY MS. PARR:

16 Q All right. And did you get a statement indicating the
17 time?

18 A Yes, ma'am, I did. It's at my house.

19 Q And it indicated the time?

20 A Yes, ma'am.

21 Q And the place where your card was used?

22 A Yes, ma'am.

23 Q Okay. And did it indicate how that card was used on
24 your statement?

25 A Yes, ma'am.

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1 Q Okay. And how was that?

2 A Sav-way. Got gas.

3 Q Please answer any questions Mr. McLaurin may have.

4 A All right.

5 **CROSS-EXAMINATION**

6 BY MR. MCLAURIN:

7 Q Mr. Byrd, as you indicated there was a lot going on
8 that night; wasn't there?

9 A Yes, ma'am.

10 Q There were five of y'all in there?

11 A Yes, sir.

12 Q Correct? How big is that apartment, do you know?

13 A Two bedrooms, a bathroom, living room, kitchen, not too
14 big.

15 Q This five of y'all in there and you guys had had a few
16 drinks that evening. Is that a fair statement?

17 A I did.

18 Q You did. Did anybody else have anything to drink?

19 A I don't speak for others.

20 Q Well, I mean, you were there, right?

21 A I was not watching them.

22 Q You weren't there watching to see if anybody else was
23 drinking at the same time you were?

24 A I was -- no, I was drinking.

25 Q So you were the only one drinking?

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- 1 A That I recall, yes.
- 2 Q So there's beer cans on as we've seen in these
- 3 pictures, that's all your beer cans, right?
- 4 A Other times, other different nights.
- 5 Q Different night?
- 6 A Yeah.
- 7 Q Those beer cans would just be left out?
- 8 A Teenagers.
- 9 Q All right. So there's five of y'all that evening and
- 10 you go outside, you said, to go talk to Barry, correct?
- 11 A Yes, sir.
- 12 Q And then that's when this guy puts a gun in your back?
- 13 A Yes, sir.
- 14 Q You walk inside. Were you disturbed, were you upset?
- 15 A I was disturbed. I was kind of mad; but you know, I've
- 16 had a gun up to my back.
- 17 Q So you go inside and your testimony is that you had
- 18 your back to the wood door; is that correct?
- 19 A Yes, sir, I guess you could say that.
- 20 Q So you had your back to the wood door, but you could
- 21 see the sliding glass door?
- 22 A Yeah.
- 23 Q Is that correct?
- 24 A Yeah.
- 25 Q Okay. So two guys came in initially and then a third

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- 1 one comes running in --
- 2 A Uh-huh.
- 3 Q --the apartment?
- 4 A Yes, sir.
- 5 Q Hectic scene, right?
- 6 A Oh, it was running all --
- 7 Q People everywhere?
- 8 A Yeah.
- 9 Q Okay. Then as you're sitting there all of a sudden
- 10 somebody knocks on the sliding glass door?
- 11 A Uh-huh.
- 12 Q Okay.
- 13 A Yes, sir.
- 14 Q And I guess you had an angle to the sliding glass door,
- 15 right?
- 16 A Yes, sir.
- 17 Q You were sitting there where you could see?
- 18 A Yes, sir, there's blinds.
- 19 Q You can't tell me who that was. You didn't know that
- 20 night, did you?
- 21 A Oh, I know.
- 22 Q Okay. I thought you said you didn't find out till
- 23 later that it was a friend of yours?
- 24 A We found out that night. We -- the guy called and
- 25 said --

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- 1 Q Right. But you couldn't see that guy. You didn't say,
2 oh, there's Stan, there's whoever, you couldn't see him.
- 3 A No, sir.
- 4 Q Although you were facing right there at him, right?
- 5 A There's blinds.
- 6 Q Right?
- 7 A Yes, sir.
- 8 Q You got your back to the wood door, and your testimony
9 here today is you heard a knock, right?
- 10 A Yes.
- 11 Q Is that what you heard?
- 12 A Yes, sir.
- 13 Q Okay. Prior to that can you tell me what kind of
14 conversations were going on, what happened these people
15 who are holding you up, what were they saying to you?
- 16 A The only guy that was really talking to me was the big
17 guy with the gun. Like I said, he said, he tapped me on
18 the back. He said, I'm not trying to hurt anybody, you're
19 the coolest one in the bunch.
- 20 Q So how about the two guys that go in the back, did you
21 hear them say anything?
- 22 A No, sir, not really. They were kind of far back there.
23 I was —
- 24 Q When they came out did they say anything?
- 25 A They were just asking us where the stuff was, where

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1 X-Box 360, what kind of valuables you have. They pretty
2 much just took our valuables.

3 Q You could hear what everybody was saying from where you
4 were in that -- if somebody was talking in that living
5 room you could hear them, right?

6 A Yes, sir.

7 Q So your testimony is that -- I think I've got it
8 right -- that you can't really recall what the guy looked
9 like that knocked on the door?

10 A Yes, sir.

11 Q Okay. And once again, now we've talked a little bit
12 about written statements. You gave a written statement?

13 A Yes, sir.

14 Q And you understood how important it is to essentially
15 point out to the police who was involved in this, right?

16 A Yes, sir.

17 Q And in that written statement you only mentioned the
18 three people that were in there; is that correct?

19 A Can I see the statement?

20 Q Yes, sir.

21 A I said nothing about the fourth guy in my statement.

22 Q Thank you. Now you were able to say that you could
23 identify one of the three guys that went in there, right?

24 A Yep.

25 Q You knew for sure who he was?

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1 A Yes, sir.

2 Q Who was he?

3 A The guy with the ski mask?

4 Q Yeah, the guy you said you could identify.

5 A If I saw him right now I could identify all three for
6 sure.

7 Q Okay, all right. Well, let me ask you this. Didn't
8 you indicate that this was a boy, one of the guys that
9 went in, somebody went to West Florence with you?

10 A No, sir, that was — me and Matthew thought at first.
11 We played football for West Florence; and we thought that
12 it was one of the guys that tried out for the football
13 team, but it wasn't.

14 Q Okay. And you were mistaken?

15 A Yes, sir.

16 Q So you thought you saw somebody and you realized later
17 on that you were mistaken, right?

18 A Yes, sir.

19 Q The guys that came into the place, they were wearing
20 all black?

21 A Not all of them. Well, on their face not all of them.
22 I'm not sure about clothing.

23 Q You don't know about clothing.

24 A I know the guy with the ski mask was the — the guy
25 with the ski mask was dressed in all black and had a black

SW - C. BYRD - CROSS

1 ski mask. That's the one I remember like the most. And
2 the guy, skinny guy, long hair, bandanna or either ski
3 mask, skinny. The bigger guy, ski mask or bandanna, big
4 guy.

5 Q After that happened that next day or early that morning
6 did you talk to some of the people who came in the
7 apartment on your cell phone?

8 A No, sir. I think every single one of those people I
9 was with did. I didn't talk to anybody.

10 Q Okay. I don't have any further questions.
11 Thank you.

12 THE COURT: Redirect.

13 MS. PARR: Nothing for this witness, Your Honor.

14 THE COURT: You may step down.

15 Next witness please.

16 MS. PARR: Your Honor, at this time we would
17 call Jessica Waters to the stand.

18 WHEREUPON,

19 JESSICA DANIELLE WATERS,
20 having been duly sworn by the Deputy Clerk of Court,
21 testified as follows:

22 DEPUTY CLERK OF COURT: If you will, ma'am,
23 place your left hand on the Bible, raise your right hand.
24 Please be seated. State your full name for the record.

25 THE WITNESS: Jessica Danielle Waters.

SW - J. WATERS - DIRECT

DIRECT EXAMINATION

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BY MS. PARR:

Q Ms. Waters, where do you live?

A With my mom, [REDACTED] in Florence, South Carolina.

Q And how old are you?

A Twenty-one.

Q And where did you go to school?

A South Florence.

Q Okay. And when did you graduate?

A 2006.

Q Now going back to June 5th, 2008 or June 4th, 2008

as -- well, where were you that day?

A I was at Barry Poston and Matthew Rogers' house.

Q How did you know them?

A Barry Poston is my cousin and Matthew Rogers I know through school.

Q And what were you doing at their house that day?

A I was just hanging out with them.

Q What time, if you recall, were you out there?

A I was there all day. I had spent the night the night before.

Q Okay. Now in that evening tell us what happened.

A That evening we had a few friends over, and they had ended up leaving probably around 11:00. Barry went

SW - J. WATERS - DIRECT

1 outside to talk on the phone, and he had been out there
2 for about an hour. Me, Sherelle, and Corey were inside
3 the house in the living room and Matthew was in his
4 bedroom on the phone as well. We were sitting there, and
5 I asked Corey where Barry was and he told me that he was
6 outside. So I asked him if he would go check on Barry to
7 make sure he was okay because he had been outside for
8 about 45 minutes to an hour. Corey went outside and
9 checked on Barry. And he was outside probably about three
10 minutes, and then Barry came through the blinds and opened
11 them and said, whatever you do do not scream. I asked him
12 what he was talking about. He said, just don't scream. I
13 said okay. I sat up on the couch and he walked in and
14 behind him was Corey and the bigger guy with a purple
15 bandanna on his face dressed in black. And another guy
16 walked in behind him. He was dressed in all black with a
17 black bandanna on his face. As they walked in the guy
18 with the purple bandanna stood at the front door with a
19 gun and told us to just all sit down and be calm. The guy
20 with the black bandanna went into the back bedroom. By
21 the time he was walking down the hallway another guy with
22 a ski mask dressed in all black came in the house as well.
23 Those two went into the back bedrooms and ransacked
24 through everything while the guy with the purple bandanna
25 stood there with the gun. I asked if I could please move

SW - J. WATERS - DIRECT

1 on over to the other couch with my friend Sherelle and he
2 told me that was fine. At that time I had a blanket
3 covering over my legs and my purse was up underneath so I
4 hid it and moved over to the other couch with Sherelle.
5 So Corey was the only one on the small couch and Sherelle
6 and I were on the big couch and Barry was standing up by
7 the TV. He told me that I may move over to the other
8 couch; that they weren't there to hurt anybody.

9 At that time Rudy came out of his room down the
10 hallway, and the guy with the gun walked to him and took
11 his cell phone from him, told him to sit down on the couch
12 beside Corey. So Rudy sat down, and the guy with the gun
13 sat down on the couch as well and started talking to Corey
14 and just told him that he was the coolest out of the bunch
15 that was there. After that he stood back up and went back
16 to the door. And the guys in the back, one of them asked
17 where's the X-Box 360. We told him that we did not have
18 one and they went back and kept searching through the
19 rooms.

20 About that time after they were searching through
21 the rooms still, there was a knock on the front door. And
22 Sherelle and I were sitting on the big couch facing the
23 front door. The guy with the purple bandanna opened the
24 front door; and this big guy wearing a white T-shirt and
25 black jeans, light skinned, probably about 270, 6-foot,

SW - J. WATERS - DIRECT

1 6'1" asked, are y'all ready. Once the guy with the purple
2 bandanna realized who he was he shut the door on his face.
3 About a minute later the other guys came from the back
4 bedroom and they all ran out. But before they ran out my
5 cell phone went off and the skinny, skinnier guy with the
6 black bandanna on, told the guy with the purple bandanna
7 to take my cell phone.

8 Q Now the guy that had the black bandanna on, can you
9 describe him?

10 A Yes, ma'am. He was wearing a black, long sleeved
11 looked like a long john shirt. He had on black jeans. He
12 was very skinny, light skinned, long hair tied up in a
13 ponytail, and I think black shoes as well with a black
14 bandanna on his face.

15 Q And where was he when the fourth guy knocked on the
16 door?

17 A Back in the back bedroom.

18 Q Okay. And how long did you get to see the fourth
19 person at the door?

20 A He was probably there about ten seconds.

21 Q Okay. And what all could you see?

22 A I saw that he was wearing a white short sleeved shirt.
23 He had on dark colored jeans. He also had light skinned,
24 a bigger, heavier set guy than the guy at the front door.

25 Q Okay. Did you get a good look at his face?

SW - J. WATERS - DIRECT

1 A I got an okay look at his face.

2 Q Okay. But was it enough so you could identify him?

3 A No, ma'am.

4 Q Okay. And on the night of this incident did you advise
5 the responding officer of this information that you
6 testified to today in court?

7 A I believe I did.

8 Q Now, and that was by way of she recorded your
9 statement?

10 A Yes, ma'am.

11 Q Now I'm gonna show you what has been entered into
12 evidence as a state's exhibit. And Jessica, if you would,
13 if you would point out where you were. And I'm going to
14 request the court's record -- I'm gonna ask you to
15 identify the exhibits, the photographs.

16 A Okay.

17 Q State's Exhibit Number 2 please. Okay. State's
18 Exhibit Number 3, can you identify that?

19 A Yes, ma'am. That is our -- the apartment that I was
20 staying at. There's the sliding glass door, and there's
21 the front door.

22 Q Okay. And State's Exhibit Number 4?

23 A Yes, ma'am. That's the patio where they came through
24 with the blinds shut.

25 Q Okay. And what point did they come through this door?

SW - J. WATERS - DIRECT

1 A When they first came in.

2 Q All right. And State's Exhibit Number 5?

3 A That's the living room. Sherelle and I were sitting on
4 this couch. That's the longer couch where you can see the
5 front door. It's facing the front door. And this couch
6 is where Corey and Rudy or Matt Rogers were sitting.

7 Q Okay. Now initially where were you seated when they
8 came in?

9 A When they came in I was sitting here on the small couch
10 and then after they came to the house I asked if I could
11 sit on this couch with Sherelle.

12 Q Okay. And where was the blanket?

13 A I had the blanket covered over me. As you can see
14 right here I just stepped out of it. I had my purse
15 hidden up underneath it.

16 Q Now is that the blanket from that particular night?

17 A Yes, ma'am.

18 Q And where was the -- which sofa faced the door?

19 A This one.

20 Q State's Number 6?

21 A This is the hallway to the bedrooms. That back bedroom
22 was where Barry was. This bedroom is where Rudy was and
23 that's the bathroom.

24 Q Okay. Now the sofa that is showing, which sofa is
25 that?

SW - J. WATERS - DIRECT

- 1 A This sofa is the smaller sofa that has the back towards
2 the kitchen. Your side is facing the door when you're
3 sitting on that couch.
- 4 Q Okay. Now were you able to see which rooms or what the
5 other -- the co-defendants -- where the other
6 co-defendants went in the house, in the apartment?
- 7 A I wasn't able to see -- that wall right here is to the
8 couch. The wall right there to the living room is the
9 couch where Sherelle and I were sitting, and you could
10 hear one of the guys in there against the wall in that
11 bedroom.
- 12 Q Okay. And who else's bedroom was that?
- 13 A That was Matthew Rogers' bedroom.
- 14 Q Okay. And I will show you what's been entered into
15 evidence as State's Exhibit Number 7. And do you know
16 who's bedroom that?
- 17 A Yes, that's Barry Poston's bedroom right there.
- 18 Q Okay. And where would that bedroom be in relations to
19 where you were in the living room?
- 20 A I was sitting against Matthew Rogers bedroom wall right
21 here so I couldn't see down the hall.
- 22 Q Okay. And so that would have been the bedroom down the
23 hall?
- 24 A Yes, ma'am.
- 25 Q And State's Exhibit Number 8?

SW - J. WATERS - DIRECT

1 A There is Rudy's -- well, Matthew Rogers' bedroom.

2 Q Okay. And where was that bedroom?

3 A That bedroom, when you walk down the hall is on the
4 left before you get to the back bedroom.

5 Q Okay. And where would that bedroom be in relation to
6 where you were seated?

7 A I could not see that bedroom, but the wall to that
8 bedroom is right there against the couch where I was
9 seated.

10 Q And could you hear?

11 A Yes, ma'am. I could hear them with the dresser drawers
12 pulling out 'cause they hit them against the wall.

13 Q And State's Exhibit Number 9?

14 A This is also Matthew Rogers' bedroom.

15 Q Now when you -- when -- at what -- do you recall how
16 long they were in the apartment?

17 A They were probably in the apartment for about six or
18 seven minutes. They weren't in there long.

19 Q Okay. And what were you doing when you were just --
20 when you were seated there.

21 A After I asked if I could move over to the other couch
22 with Sherelle, the guy told me that he wasn't trying to
23 hurt anybody and he stood back up and went back to the
24 door. I asked what was going on and he didn't say
25 anything to me. And so I just sat there with Sherelle.

SW - J. WATERS - DIRECT

- 1 Q Okay. And how were you feeling at that time?
- 2 A Scared.
- 3 Q And did you tell the defendant that, that was holding
- 4 the gun on you?
- 5 A Yes, I believe I did.
- 6 Q Okay. And what if anything did he do or say?
- 7 A He just basically told us that he wasn't there to hurt
- 8 anybody; they just wanted the stuff in the house.
- 9 Q And what did they take of yours?
- 10 A They just took my cell phone.
- 11 Q And did you attempt to get your cell phone back?
- 12 A Yes, ma'am, I did. I asked them to please not take it,
- 13 but the skinny guy with the black bandanna told him to
- 14 take it now and so he had to take it. He told me he had
- 15 to.
- 16 Q Okay. And so when they took the phone what did they
- 17 do?
- 18 A After he took my cell phone they left.
- 19 Q Okay. And then what happened?
- 20 A After they left the house Matthew Rogers and Corey got
- 21 in Matthew's car and started looking for them. Barry and
- 22 I and Sherelle stayed in the house while Barry called
- 23 9-1-1. After the cops got there we walked outside.
- 24 Q And were you drinking that night?
- 25 A No, ma'am.

SW - J. WATERS - DIRECT

1 Q Now when you walked outside did you make an effort to
2 try to find your cell phone?

3 A No, ma'am, they had taken it.

4 Q Okay. And, you know, the police officers came; is that
5 correct?

6 A Yes, ma'am.

7 Q And did you also give a statement to law enforcement
8 that night?

9 A Yes, ma'am, I did.

10 Q Okay. And was that what you testified to today?

11 A Yes, ma'am.

12 Q Now what, if anything, happened while you were outside
13 with the police officer?

14 A While we were outside we could see Matthew and Corey
15 driving behind the apartment complex looking for the guys
16 'cause they thought they had went back way through the
17 apartment complex. As we stood outside I was very
18 emotional and I started to cry. And then the officers
19 came and Sherelle and I sat in the back of Matthew's car
20 when he got back.

21 Q Okay. And did -- and how many phones had been taken
22 that belonged to you all?

23 A My cell phone was taken, Barry Poston's cell phone was
24 taken, Matthew Rogers' cell phone was taken. I don't
25 believe Sherelle or Corey got theirs taken.

SW - J. WATERS - DIRECT

1 Q Okay, all right. Now what if -- what, if anything, did
2 anyone do with the telephones?

3 A Well, after we came in and made our statements, that
4 following morning we -- a couple of our friends had called
5 and they came over to the apartment and asked what was
6 going on 'cause they thought that we were just joking with
7 them. We told them our cell phones were taken so we ended
8 up calling Matthew Rogers' cell phone. They were
9 answering the cell phone and told the guys that they
10 didn't want to speak to them; they wanted to speak to the
11 girls that were there which were me and Sherelle. We got
12 on the phone with them and they told us that if we would
13 meet them at Timrod Park and do anything they wanted they
14 would give us our stuff back.

15 Q Now when this was done -- when the -- when you all
16 called the telephone was law enforcement there at that
17 time?

18 A No, ma'am. We ended up -- after they told us that they
19 would meet us at Timrod Park, to call them back, we ended
20 up calling Investigator Barley.

21 Q Okay. Now on that -- on the night when law enforcement
22 was there, when Officer Carpenter was there was -- did you
23 give Officer Carpenter, or did anybody give Officer
24 Carpenter the telephone numbers of the phones that had
25 been taken?

SW - J. WATERS - DIRECT

1 A Yes, ma'am.

2 Q Okay. And what, if anything, happened with the phones
3 that had been taken that night?

4 A We were supposed to let them know.

5 Q Okay. Now so after you got the call from someone on
6 your phone you did what?

7 A We ended up calling Investigator Barley and we told him
8 that they had agreed to meet us at Timrod Park.

9 Q And then what happened?

10 A Investigator Barley told us not to do anything until he
11 had called us back so we waited on him to call us back and
12 he told us that we could meet with them, to call back and
13 meet with them and he would have people out there watching
14 us so nothing would happen to us. Sherelle and I ended up
15 going to Timrod Park and we waited on them, but they never
16 showed up. So we started —

17 Q What time was this? I'm sorry. If you recall.

18 A Probably around three or four in the afternoon.

19 Q Okay. But this was the — this was later on that day
20 of the incident?

21 A Yes, ma'am.

22 Q Go ahead.

23 A After we got there we had tried calling Matthew Rogers'
24 phone because they didn't show up. They turned the phone
25 off or it had died. It was going straight to voice mail.

SW - J. WATERS - DIRECT

1 So they had given us a number earlier that day because
2 they wanted us to send pictures to them, but they couldn't
3 get them through the phones of ours that they had so they
4 gave us another number. So we called the other number
5 while we were at Timrod and it was one of their friends.
6 He told us his name was Ricardo I believe. He started
7 talking to us and we told him that we would call him right
8 back. We called Investigator Barley while we were out
9 there, told him that we had gotten in touch with one of
10 their friends, they had told us they couldn't make it
11 because they couldn't find a ride. So we ended up leaving
12 Timrod and came back here to the city complex and sit in
13 the parking lot with the investigators and talked to their
14 friend Ricardo. And while we were talking to them he
15 ended up giving us their names and where they lived.

16 Q Okay. And then what happened after that?

17 A The investigators -- we had him on speaker phone. The
18 investigators told us to just try to keep talking to him
19 so he didn't think anything was going on and that they
20 would handle it from there.

21 Q Okay. And Investigator Barley was there at the time?

22 A Yes, ma'am.

23 Q Okay. Now on the -- so you got that information and
24 Investigator Barley was there at that time and you were
25 back at the Florence Police Department; is that correct?

SW - J. WATERS - DIRECT

1 A Yes, ma'am. We were here at the county complex out in
2 the parking lot.

3 Q Okay, all right. Now did anyone else ever call that
4 cell phone back?

5 A I believe -- they kept hanging up on us and the guys
6 were talking to them at first. They had called because
7 one of our friends said that they were answering our cell
8 phones. They asked if we could have our stuff back and
9 they kept telling us that the Goose wouldn't let them.

10 Q And when was this?

11 A Before we went to Timrod.

12 Q Oh. Now was the police officer there at the time when
13 they -- when y'all were talking on the phone and begging
14 for your stuff back?

15 A No, ma'am.

16 Q Okay. Jessica, is there any -- on the night of this
17 incident you said you gave a recorded statement as well?

18 A Yes, ma'am.

19 Q Okay. And then the next day or later on that day you
20 came in there and wrote a statement; is that correct?

21 A Yes, ma'am.

22 Q Okay. Had you had any sleep that morning?

23 A No. I had about an hour of sleep. That was about it.

24 Q Now the statement that you gave the -- right after this
25 incident happened, how would you compare that to the

SW - J. WATERS - DIRECT

1 written statement you gave?

2 A The written statement I gave probably wasn't as
3 thorough as my oral statement that I had given right
4 after the incident.

5 Q And why was that?

6 A After everything had happened and we went to fill out
7 our reports, our written reports, I was very tired and I
8 couldn't fill, finish about all the details. I couldn't
9 really think about all of it at that time.

10 Q Okay. But now have you had an opportunity to read your
11 written statement again?

12 A Yes, ma'am.

13 Q Okay. And did you hear your oral statement as well?

14 A Yes, ma'am.

15 Q Now, and was there any inconsistencies in either one of
16 them?

17 A I don't believe so. I think that they were both pretty
18 close to each other.

19 Q Okay. And – the Court's indulgence.

20 MS. PARR: Nothing further for this witness.

21 Would you please answer any questions Mr. McLaurin has for
22 you.

23 THE WITNESS: Yes, ma'am.

24 CROSS-EXAMINATION

25 BY MR. MCLAURIN:

SW - J. WATERS - CROSS

1 Q Turn it to Number 5. Ms. Waters, I want you to look
2 here at State's Exhibit Number 5. I'm just wondering, a
3 question, there's a door right behind this particular
4 couch, what door is that right there?

5 A That isn't the door. That's where the kitchen is.

6 Q That's where the kitchen is, okay. That's all I have
7 on that. Thank you.

8 MR. MCLAURIN: You can turn on the lights.

9 BY MR. MCLAURIN:

10 Q Now Ms. Waters, you were talking about this Ricardo
11 Richardson fellow; is that right?

12 A I guess that's his name. He just gave us his first
13 name.

14 Q Okay, Ricardo?

15 A Yes, sir.

16 Q And so I'm not confused now, he had your -- whose cell
17 phone did he have?

18 A He had his cell phone. The guys that we had talked to
19 earlier that day had given us his cell phone number
20 because they wanted us to send pictures through the cell
21 phone to him because they couldn't get them on our cell
22 phones that they had taken.

23 Q And the name that Ricardo gave you was Hakeem Costa and
24 Christian Richardson, right?

25 A Yes, sir, and he gave us their nicknames. I can't

SW - J. WATERS - CROSS

1 recall what they are.

2 Q Okay. But he gave you those names, right?

3 A Yes, sir.

4 Q He didn't mention anything about a Lewis Williams or
5 Lewis David Williams, correct?

6 A No, sir.

7 Q So Ricardo Richardson would have told you that what,
8 about what did Hakeem and Christian do supposedly?

9 A He just told us that those two had told him that they
10 had met us the night before; that's it.

11 Q So according to him he didn't know anything about any?

12 A No, sir.

13 Q You guys all -- you guys that were there that night you
14 are all friends, right?

15 A Yes, sir.

16 Q You hang out some?

17 A Yes, sir.

18 Q Are you related to anybody?

19 A Yes, sir, Barry Poston is my cousin.

20 Q Okay. And so do y'all see each other on a regular
21 basis?

22 A Yes, sir, approximately once a week.

23 Q And once again this was a probably a traumatic event;
24 was it not?

25 A Yes, sir.

SW - J. WATERS - CROSS

1 Q And I'm sure all you guys have talked about it on
2 numerous occasions since then; is that correct?

3 A Yes, sir.

4 Q Probably re-lived it over and over again, correct?

5 A Yes, sir.

6 Q So you no doubt you've talked with each one of them
7 about that night; is that correct?

8 A Yes, sir.

9 Q Did you hear somebody knock on the sliding glass door
10 that night?

11 A Yes, sir.

12 Q Okay. Did you see that person?

13 A All I could see was a white T-shirt.

14 Q On the sliding glass door?

15 A Yes, sir, 'cause the blinds were closed.

16 Q Okay. So you don't know who that was?

17 A No, sir.

18 Q By the same token you don't know who knocked on the
19 wood door, right? You don't know who that was?

20 A I couldn't tell face, no, sir.

21 Q And your testimony is that whoever knocked on that wood
22 door you were able to see their full body —

23 A They —

24 Q —opening that door?

25 A They tried to step in and asked if the guys were ready.

SW - J. WATERS - CROSS

- 1 Q So once again, could you see the full body?
- 2 A No, sir.
- 3 Q Okay. Just poked the head in, right?
- 4 A Yes, sir.
- 5 Q Hard to tell much about somebody when all you see is
- 6 just their head, right?
- 7 A Yes, sir.
- 8 Q And you seem like a very detailed person. You gave a
- 9 written statement, right?
- 10 A Yes, sir, I did.
- 11 Q And you did mention the fact that there was somebody
- 12 that actually knocked on that particular door, right?
- 13 A Yes, sir.
- 14 Q You heard them knock, correct?
- 15 A Yes, sir.
- 16 Q Just didn't barge in and come in, did they?
- 17 A No, sir, he knocked, then opened the door.
- 18 Q Just like the person on the sliding glass door, they
- 19 knocked on the door, right?
- 20 A Yes, sir.
- 21 Q Knocked on the sliding glass door, correct?
- 22 A Yes, sir.
- 23 Q Okay. In that statement you didn't describe the person
- 24 at all that knocked on the door, right?
- 25 A Yes, sir, I did not.

SW - J. WATERS - CROSS

1 Q I'm sorry?

2 A I did not.

3 Q Okay. Whoever it was didn't have a mask on, correct?

4 A No, sir, he did not.

5 Q What did they steal of yours?

6 A Just my cell phone.

7 Q Did you ever get your cell phone back?

8 A No, sir.

9 Q And you were also mentioning about you said that the
10 heavy set guy was holding the gun; is that correct?

11 A Yes, sir.

12 Q There was a skinnier guy coming from the back; is that
13 correct?

14 A Yes, sir.

15 Q And what did the skinnier guy tell the heavy set guy
16 when you asked him about your pocketbook?

17 A My pocketbook wasn't taken. He had Sherelle's
18 pocketbook.

19 Q What was said? What was that dialogue?

20 A He didn't say anything about her pocketbook. He just
21 told the guy with the purple bandanna to take my cell
22 phone.

23 Q It was your cell phone, I'm sorry.

24 A Yes, sir.

25 Q Okay. So the skinnier guy told the other guy take her

SW - J. WATERS - CROSS

1 cell phone?

2 A Yes, sir. And when the guy with the purple bandanna
3 walked over he told me that he had to take it.

4 Q Because the other guy said so.

5 A Yes, sir.

6 Q So he was taking orders from the other guy?

7 A Yes, sir.

8 MR. MCLAURIN: Beg the Court's indulgence one
9 moment.

10 THE COURT: Yes, sir.

11 MR. MCLAURIN: That's all the questions I have.
12 Thank you.

13 THE COURT: Redirect.

14 MS. PARR: Beg the Court's indulgence.

15 **REDIRECT EXAMINATION**

16 BY MS. PARR:

17 Q Jessica, Mr. McLaurin asked you what you saw of the
18 person who came through the front door.

19 A Yes.

20 Q What all were you able to see?

21 A He tried to step in and he poked his head through.
22 That was about it.

23 Q Okay. But earlier I think you described ---

24 MR. MCLAURIN: Objection, Your Honor,
25 leading.

SW - J. WATERS - REDIRECT

1 She is leading the witness right now.

2 THE COURT: Yes, please rephrase.

3 MS. PARR: I'll rephrase.

4 BY MS. PARR:

5 Q How were you able to give a description of what the
6 person was wearing?

7 A I could not see his full body but I could see at least
8 half of his body, and I could tell what he was wearing. I
9 could see the white T-shirt and dark jeans.

10 MS. PARR: Nothing further, Your Honor.

11 THE COURT: Recross.

12 MR. MCCLAURIN: I don't have anything further.

13 THE COURT: Thank you. You may step down.

14 Next witness please.

15 MS. PARR: Your Honor, at this time we would
16 call Sherelle Brooks to the stand.

17 WHEREUPON,

18 **SHERELLE GRAYSON MAXINE BROOKS,**

19 having been duly sworn by the Deputy Clerk of Court,

20 testified as follows:

21 THE DEPUTY CLERK OF COURT: Please be seated,
22 state your full name for the record.

23 THE WITNESS: Sherelle Grayson Maxine
24 Brooks.

25 **DIRECT EXAMINATION**

SW - S. BROOKS - DIRECT

- 1 BY MS. PARR:
- 2 Q Ms. Brooks, where do you live?
- 3 A At [REDACTED].
- 4 Q Okay. Where is that?
- 5 A In Darlington.
- 6 Q Okay. And are you employed?
- 7 A Yes, ma'am.
- 8 Q And where do you work?
- 9 A I work at the McDonalds in Darlington.
- 10 Q Okay. How old are you?
- 11 A Twenty-one.
- 12 Q And where are you originally from?
- 13 A I'm originally from New York but I moved to Charleston.
- 14 Q Okay. Where did you graduate from high school?
- 15 A Fort Rochester High School?
- 16 Q And where is Fort Rochester?
- 17 A It's in Charleston.
- 18 Q Now going back to June of 2008 where were you at that
- 19 time?
- 20 A June 2008 I was at the apartment [REDACTED].
- 21 Q Okay. And that's here in Florence?
- 22 A Yes, ma'am.
- 23 Q Okay. And how long have -- how long had you been in
- 24 Florence at that time?
- 25 A About three-and-a-half months I was in Florence.

SW - S. BROOKS - DIRECT

1 Q Okay. Now on the date of this incident where were you?

2 A On the date of the incident I was in the apartment
3 sitting on the couch.

4 Q Okay. And that would have been June 5th of 2008?

5 A Yes, ma'am.

6 Q Okay. And when did you get there that day?

7 A I had stayed overnight with Jessica at the apartment.

8 Q Okay. And on that Wednesday evening, which would have
9 been June 4th, 2008, what was going on that day, that
10 evening?

11 A That evening there was a couple of friends over at the
12 apartment. I was -- me and Jessica were there hanging out
13 with everybody else.

14 Q Okay. And had you been drinking?

15 A No, ma'am.

16 Q Okay. And what time did some of the people start
17 leaving?

18 A Around 11:00 they started leaving to go home.

19 Q And then who remained at the apartment?

20 A It was me, Jessica, Matt, Barry, and Corey.

21 Q Okay. And would you please tell us where everybody
22 was?

23 A Everybody -- at first everybody was in the apartment,
24 and then Barry walked outside to go talk on his phone and
25 Matt went in his room to talk on his phone. Me, Jessica

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1 and Corey were sitting on the couches watching TV.

2 Q Okay. And then what happened?

3 A And then it was like I'd say 11:30 that Barry walked
4 outside to go talk on his phone. He had been out there
5 for about an hour or so so Jessica was like, where's
6 Barry. And she asked Corey if he'd go outside and check
7 on him, see where he was at. And me and Jessica -- and
8 stayed in the house. Corey went outside to go outside the
9 sliding glass door to go see where Barry was at, and they
10 were out there for a minute or three or four minutes
11 before they came walking back in the house through the
12 sliding glass door.

13 Q Okay. And tell us what happened when they came through
14 the sliding door.

15 A Barry was the first person to come in. He stood at the
16 sliding glass door, held the blinds open so we could see
17 what was going on. He said, whatever you do don't scream,
18 be calm. And after he walked in, I'm not sure if Corey
19 walked in after him or another guy. One of the other guys
20 walked in. But all four of them walked in the apartment
21 or -- yeah, Corey, Barry and the two guys, the gunman, the
22 big gunman with the purple bandanna and the guy with the
23 black bandanna and long hair and ponytail walked in the
24 apartment. And Corey sat down on the couch with Jessica
25 at first before she moved to the couch where I was

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1 sitting, and Barry stood up in front of the TV. And
2 once -- the one guy, the guy with the long hair started
3 walking back to the room. Another guy came in with a ski
4 mask on and they walked back to the rooms.

5 Q Now the guy that came in with the ski mask, do you
6 recall what color ski mask?

7 A It was a black ski mask.

8 Q Okay. And do you have a description of -- or can you
9 remember anything about that guy?

10 A He was not darker skinned but a, I guess, brown skinned
11 complex. He was about 5, 5'8, 5'9", about 150. The one,
12 the guy with the black bandanna and the longer hair was
13 about 5'10", light skinned. He weighed about 150, 160,
14 not a big guy. The guy with the gun had on the purple
15 bandanna and he was about 5'11" to 6 foot and he was I'd
16 say 230, 240.

17 Q All right. And so when they came in where did they go?

18 A The two smaller guys walked back to the rooms. And one
19 of them knocked on the door of Matthew's bedroom, and they
20 just -- after he knocked on the door he kept walking by
21 the bedroom and Matthew walked out of his room I guess to
22 see what was going on. And he walked in the living room
23 where the gunman had us sitting, all sitting on the couch,
24 and the gunman took Matthew's gun and hung it up.

25 Q And then what happened?

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1 A And then after he did that the two guys, the two
2 smaller guys were in the room so I'm not sure which rooms,
3 if they were together in one room or separate or whatever,
4 but one guy yelled from the back of room where's the X-Box
5 306 because there was a box in the closet of the back
6 room. The gunman sat on the arm of the chair and he
7 patted Corey on back and he said, we're not here to hurt
8 anybody, you're the coolest one out of everybody. And
9 Jessica proceeded and asked him if she could sit on the
10 couch with me and she moved her blanket and her purse
11 together at the same time on the couch where I was sitting
12 facing the TV.

13 Q And about how long were you all sitting, seated there?

14 A We were seated -- the whole process took about six,
15 seven minutes, not long at all.

16 Q And then what happened?

17 A And after we're all sitting on the couch the two guys
18 come back from the room, and Jessica's phone rings and she
19 asked if she could keep her phone and the guy with the
20 black bandanna and the long hair told the bigger guy with
21 the gun that to take her phone, that he had to take her
22 phone. And I asked him before they left if they could
23 take everything out of my purse but just leave -- or take
24 the purse but leave my ID and all that stuff. They said,
25 no, we have to take it all. And after they -- after they

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1 were about to leave out the door a guy came to the front
2 door. He came to the front door. He knocked on the door.
3 He pushed it; he opened it a little bit. And when he
4 opened it one of the, I think it was the gunman, he closed
5 the door in his face. And well, the guy he closed the
6 door on his face, he asked them are you ready to go. He
7 was a big guy. He was about 6'2". I saw he had on a
8 white shirt and jeans 'cause you could see half of his
9 body in the doorway. He was light skinned, much bigger,
10 not much, much bigger but bigger than the gunman.
11 Q All right. And about how long, you know how long he
12 was in the door way?
13 A About no more than five to ten seconds he was in the
14 doorway.
15 Q Okay. And then what happened?
16 A And then afterwards they left. They left out of the
17 apartment out of the front door. Matthew and Corey got in
18 Matthew's truck, was riding around the apartment complex
19 looking to see if they went away on foot or in a car or
20 whatever. And Jessica, myself, and Barry stayed in the
21 apartment and Barry was calling the police. When the
22 police got there they -- me, Barry, and Jessica walked
23 outside. Matthew and Corey were still riding around the
24 complex looking for the guys. They talked to all of us.
25 We all made statements and whenever the police were there

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1 we did call Matthew's cell phone and they answered
2 Matthew's cell phone. They told us they couldn't give the
3 cell phones back because the Goose said they couldn't give
4 them back. And they were -- they talked to an officer
5 while they were there.

6 Q The defendant?

7 A Defendants talked to an officer.

8 Q Okay. And then what happened?

9 A They talked to the officers. I think it was after we
10 gave our statements; I'm not sure. And then after all of
11 it was done the officers left and we were -- it was the
12 five of us at the apartment.

13 Q And did you go to sleep that evening?

14 A We all watched daylight come up. It's kind of hard to
15 sleep when you're scared like that so.

16 Q Okay. And then so what did you -- and then later that
17 morning did you end up coming to the city-county complex?

18 A Yes, ma'am.

19 Q Okay. What did you do when you came here?

20 A We came to the city county complex around I think 11:00
21 or so and met with Investigator Barley. We wrote our
22 written state-- everybody sat separately and wrote their
23 written statements.

24 Q Well, you had already given a --

25 A Oral statement.

SW - S. BROOKS - DIRECT

1 Q —oral statement the night the first officer came?

2 A Uh-huh.

3 Q Is that correct?

4 A Yes, ma'am.

5 Q Go on.

6 A We all gave our written statements and after we gave
7 the written statements we went home and Barley said he'd
8 contact us, or if we talk to the guys again or whatever to
9 let him know. And when we went home we called the phone,
10 Matthew Rogers' phone, to see if we could get in contact
11 with the guys again, and they answered the phone. So we
12 called Barley and we told him they were answering the cell
13 phone. We were actually told that they were answering the
14 cell phone because one of our friends called Matthew's
15 cell phone, told him it had been answered. So we told
16 Barley they had answered the phone, and we asked -- Barley
17 said just talk to them and see what they're gonna do.
18 Told us that what would we do for our stuff, to get our
19 stuff back. So naturally we're like we're gonna do
20 whatever we have to do 'cause they took pretty much
21 everything. They took my social security card, my I.D. I
22 had two cards in there in my wallet. But we said we'll do
23 what we have to do to get it back and we told them -- they
24 said meet them at Timrod. We told him we'd meet him at
25 Timrod later that day. And we called Barley -- well, he

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- 1 was still on the phone with -- he was on the phone with
2 Jessica while I was talk-- we were both talking to the
3 guys. And they told us to send pictures and all this
4 stuff 'cause they couldn't get pictures. So they give us
5 another cell phone to send the pictures to the -- we never
6 did any of it. They were supposed to meet them at Timrod
7 and they never showed because they said they didn't have a
8 ride. We finally called the other cell phone number that
9 they gave us and we talked to Ricardo.
- 10 Q Okay, now who was at Timrod Park?
- 11 A It was me and Jessica in the gazebos at Timrod meeting
12 them.
- 13 Q And where was law enforcement?
- 14 A Law enforcement was all around.
- 15 Q Okay. But Investigator Barley and his crew ---
- 16 A Uh-huh.
- 17 Q -- were other police officers were at Timrod?
- 18 A Yes, uh-huh.
- 19 Q Go on.
- 20 A And when we were at Timrod we finally called the other
21 cell phone, that cell phone number that they gave us, and
22 we talked to Ricardo. And he gave us the names of two of
23 the guys. I can't remember. I remember he gave us one
24 nickname was Hulk from one of the guys. And before we had
25 talked to Ricardo and we were calling Matthew's cell phone

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1 and they were telling us that they couldn't give us the
2 stuff back because the Goose was telling them that they
3 couldn't give it back to us. The -- he said that the
4 Hulk -- when they never showed up so we came back to the
5 city-county complex with the investigator and the
6 officers. He sat -- me and Jessica talked to the guy on
7 speakerphone with Investigator Barley and another officer
8 standing there and they told us that Hulk, or whoever,
9 played basketball for Darlington. One of them tried out
10 for football in Darlington, didn't make it, that they were
11 troublemakers in school. That's why -- they got in
12 trouble in school; that's why they couldn't play football.

13 Q Okay. And did you hear anymore from the guys after
14 they -- after you just found out the names from Ricardo?

15 A After they didn't show up and I found out the names did
16 I hear anymore?

17 Q Yes, did you have any other contact?

18 A No. The only person that contacted was Ricardo because
19 I hadn't -- had my cell phone; it wasn't taken. But
20 because I had been calling -- I called his phone from my
21 number. He had been texting me that night and he was
22 asking me where I was and all kind of stuff and I got
23 scared. So I was like, we're all sitting in the apartment
24 the night, June 5th that night, and he was like asking me
25 where I was, kept texting my phone asking me a bunch of

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1 questions and stuff trying to find out information.

2 MS. PARR: Beg the Court's indulgence.

3 THE COURT: Yes, ma'am.

4 MS. PARR: Would you please answer any
5 questions that Mr. McLaurin may have for you, Sherelle.

6 THE WITNESS: Yes, ma'am.

7 CROSS - EXAMINATION

8 BY MR. MCLAURIN:

9 Q Ms. Brooks, you were saying that -- who was it that
10 told you the boys were troublemakers?

11 A Ricardo told me that the reason the Hulk and the other
12 guy didn't make the football team in Darlington was
13 because they got in trouble in school.

14 Q Okay. And said they were troublemakers, right?

15 A Sir?

16 Q You said they said they were troublemakers, correct?

17 A Well, not the exact words but they said they got in
18 trouble in school.

19 Q Okay. And do you remember that those two boys were
20 Hakeem Costa and Christian Richardson?

21 A I know one --

22 Q One of the two names that he said?

23 A Hakeem Costa. I couldn't remember if it was Christian
24 Richardson.

25 Q Certainly they didn't say anything about Lewis

SW - S. BROOKS - CROSS

- 1 Williams. You certainly remember that.
- 2 A I know one last name was Williams. I couldn't remember
- 3 the first name they gave me.
- 4 Q Okay, all right. And the boys that went in there that
- 5 did this, they were all wearing black, right?
- 6 A Uh-huh.
- 7 Q Black shirts.
- 8 A Black shirts, black pants.
- 9 Q Black pants, right?
- 10 A Yes, sir.
- 11 Q Had on ski masks?
- 12 A One ski mask and two bandannas.
- 13 Q Looked planned; didn't it?
- 14 A Very well planned.
- 15 Q And the person who came to the door didn't have a mask
- 16 on, correct?
- 17 A No, sir.
- 18 Q Had on a white shirt?
- 19 A And dark jeans.
- 20 Q And dark jeans your testimony. You couldn't see his
- 21 face?
- 22 A He peeked his half body in the door. He was light
- 23 skinned and bigger, a big guy.
- 24 Q You could see his face?
- 25 A I couldn't see details of his face, no, sir, but if I

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1 saw him I could point out who he was.

2 Q If you saw him you could point him out?

3 A Yes, sir.

4 Q All right. I don't have anything further.

5 THE COURT: Redirect.

6 REDIRECT EXAMINATION

7 BY MS. PARR:

8 Q You just told Mr. McLaurin that if you saw the person
9 in court you can point him out; is that correct?

10 A Yes, ma'am.

11 Q And do you see him in the courtroom today?

12 MR. MCLAURIN: Objection, Your Honor. We need
13 to take up something outside the presence of the jury.

14 THE COURT: I'm ready to rule. State versus
15 Rice is controlling. State versus Rice is a very lengthy
16 writing from the South Carolina Court of Appeals. Cert
17 was denied by State Supreme Court. I'm ready to rule.
18 Proceed.

19 MR. MCLAURIN: Your Honor, we had discovery and
20 this question was asked in motion in limine. My
21 understanding there was going to be none of this coming
22 up.

23 THE COURT: This is totally different from
24 pretrial identification. Under State versus Rice an
25 identification in court without a prior identification is

SW - S. BROOKS - REDIRECT

1 not subject to the general rules of identification
2 admissibility. I will sustain the objection in regard to
3 you laying the foundation in terms of whether there's been
4 any prior identification or not. State versus Rice is
5 controlling.

6 BY MS. PARR:

7 Q Ms. Brooks, did you do an identification outside of the
8 courtroom of the individual that you saw stick their head
9 in the door with law enforcement?

10 A You mean did I do -- what do you mean did I do an
11 identification?

12 Q Were you shown -- did you see anybody -- were you shown
13 anybody the night of the incident?

14 A Well, all right, was I shown any pictures or anything,
15 no, ma'am.

16 Q Pictures of the person that stuck their head in the
17 door?

18 A No, ma'am.

19 Q Okay. And did you go to law enforcement officer and
20 with Investigator Barley were you shown any pictures?

21 A No, ma'am.

22 Q And were you taken to any detention centers to see
23 anybody?

24 A No, ma'am.

25 Q Okay. But now defense counsel asks you after you --

SW - S. BROOKS - REDIRECT

1 asked you a question about could you identify the person.

2 A Yes, ma'am.

3 Q Okay. And your response was?

4 A Yes, I could.

5 Q Okay. And do you see that person in the courtroom
6 today?

7 A Yes, I do.

8 Q And would you please point out who the person is that
9 you saw that night that stuck their head into the doorway.

10 A Right there (indicating).

11 MS. PARR: Nothing further, Your Honor.

12 THE COURT: Recross.

13 MR. MCLAURIN: Your Honor, I need to take a
14 brief recess. I've got a statement that I need to queue
15 up on the computer that will take me a minute or two to
16 get the computer.

17 THE COURT: Well, it's getting close to lunch
18 time. I'll either just sit right here and wait, or either
19 we can just take a lunch respite if you want to do that.

20 MR. MCLAURIN: If we can do that.

21 THE COURT: There are three rules that govern.
22 First and foremost, Ms. Brooks, you're on the witness
23 stand and our law says that since you're on the witness
24 stand and still subject to cross-examination. You cannot
25 talk to anyone during the lunch recess. You understand

SW - S. BROOKS - REDIRECT

1 that?

2 THE WITNESS: Yes, sir.

3 THE COURT: So don't talk to -- you can go to
4 lunch with them but don't talk to them about your
5 testimony. Don't talk to them about anything that might
6 be asked you after lunch.

7 THE WITNESS: Yes, sir.

8 THE COURT: No discussion about the case. You
9 understand?

10 THE WITNESS: Yes, sir.

11 THE COURT: Thank you. And regard to jurors
12 there are two rules that I mention to you that control
13 your conduct: One, do not talk among yourselves. Do not
14 talk among yourselves. Absolutely do not talk among
15 yourselves about the testimony or any of the facts. The
16 state law provides specifically that you cannot engage in
17 any discussion in regard to the case or any talk about the
18 case until the charge on the law. Second, obviously no
19 outsider can talk to you about the matter. And if any
20 outsider tries to talk to you about the matter, you must
21 report that matter directly to the Court. If an incident
22 like that occurs and you do not report it, that's a
23 violation of the law on your part. It's a very serious
24 matter so please, please, be careful in that regard. I
25 want you back by 2:00. When you come back come through to

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1 this door here and we'll walk you right on into the jury
2 room. Come to this door right here.

3 Catch them the elevator, please go. No one leaving
4 now. No one leaving but the jury, but the jury. Have a
5 nice lunch. 2:00.

6 (WHEREUPON, the jury was removed from the
7 courtroom at 12:21 p.m. , and the following proceedings
8 commenced in open court.)

9 THE COURT: In order to provide certitude for
10 the record, the authority that I rely on in allowing the
11 witness to answer the question concerning an in-court
12 identification is State versus Rice. It is reported at
13 652 Southeastern Second 409, 375 S.C. 302. The opinion is
14 written by a person by the name of Anderson. The opinion
15 reads in terms of roman numeral number III as a header,
16 in-court identification. And I cite this with exactitude
17 because of its impact upon admission of a eyewitness where
18 there has not been any prior identification by the
19 witness. Rice alleges the trial court erred in admitting
20 Heidi Feagin's in-court identification maintaining it was
21 unreliable and posed a substantial risk of
22 misidentification... here the witness only identified Rice
23 at trial, not at any time prior to trial. Therefore, the
24 factors provided by Neil, N-E-I-L, do not apply. The
25 protections needed from suggestive pretrial

1 identifications are not necessary in an in-court
2 identification because of cross-examination and argument.
3 Rice had the opportunity to cross-examine Feagin regarding
4 her in-court identification. This was the proper remedy.
5 The trial court did not err when it allowed the witness to
6 make in-court identification of Rice." As is stated in
7 Rice, the rule is substantially different when juxtaposing
8 an in-court identification as to a prior pretrial
9 identification. All of the factors in Neil are applicable
10 and efficacious in regard to pretrial identifications.
11 None of the Neil factors are relevant in regard to an
12 in-court identification for the first time.

13 All right, any further presentation?

14 MR. MCLAURIN: Nothing at this point from the
15 Defense.

16 THE COURT: All right, once again, Mr.
17 Solicitor, be very cautious. You, of course, are
18 prohibited from talking to Ms. Brooks during the lunch
19 hiatus. 2:00 it is. 2:00.

20 (WHEREUPON, a lunch break was taken and court resumed at
21 2:00 p.m.)

22 THE COURT: What is the issue?

23 MS. PARR: Your Honor, I have been advised
24 earlier that the defendant has been communicating with his
25 brother who was brought from the Department of

1 Corrections, and they're screaming back and forth for
2 quite a while now. It was first of all brought to my
3 attention by Ms. Heather from our office, and she did go
4 and advise law enforcement. She is here if you need to
5 put it on the record.

6 THE COURT: All right.

7 DEPUTY CLERK OF COURT: Do you want me to swear
8 her in?

9 THE COURT: Yes.

10 DEPUTY CLERK OF COURT: If you will, place your
11 left hand on the Bible, raise your right hand.

12 WHEREUPON,

13 HEATHER BUDDY,

14 having been duly sworn by the Deputy Clerk of Court,
15 testified as follows:

16 DEPUTY CLERK OF COURT: Please state your full
17 name.

18 THE WITNESS: It's Heather Buddy.

19 THE COURT: Okay. Have a seat please.

20 All right, Ms. Solicitor, you may examine.

21 DIRECT EXAMINATION

22 BY MS. PARR:

23 Q Ms. Buddy, would you state your name.

24 A Heather Buddy.

25 Q And where are you employed?

SW - H. BUDDY - DIRECT

1 A At the Solicitor's Office.

2 Q Okay. And on today did you have an occasion to hear
3 the defendant communicate on the 10th floor?

4 A I did.

5 Q Okay. Would you please tell us the nature of that?

6 A I came in from my lunch break and heard sounds in the
7 holding cell, and I just took it as normal commotion that
8 goes on in the holding cell but then when I came back out
9 after I ate my lunch I still heard communication going on.
10 And when I listened I could hear talk in between the 11th
11 and 10th floor going on through -- I don't know if it was
12 the vents or just screaming through the ceiling. I
13 couldn't make out anything that was being said, but I
14 could hear 11th floor and 10th floor holding cells having
15 conversation back and forth.

16 THE COURT: Yes.

17 BY MS. PARR:

18 Q And then what did you do after that, after you heard
19 that?

20 A I went down to the 10th floor and notified one of the
21 deputies, and then he notified another deputy to come and
22 help with the problem.

23 Q Okay. And then did you hear anything further after you
24 made the deputies aware of what was going on?

25 A I did go back to the door and I heard -- I just heard

SW - H. BUDDY - DIRECT

1 two names being yelled back and forth and I believe they
2 were the defendants name. Keem and Lewis were the two
3 names that I heard, and it was one calling the other to
4 make sure that they could -- they were still having the
5 conversation and I just heard I've got a lot of pictures,
6 I've got a lot of pictures. Those are the only phrases
7 that I made out.

8 THE COURT: All right, you may examine her.

9 CROSS-EXAMINATION

10 BY MR. MCLAURIN:

11 Q I mean, you didn't hear any other conversation other
12 than just got some pictures, that's it?

13 A Those were the only phrases that I made out, yes.

14 Q And the first conversation you heard, you can't be for
15 sure who those voices were, can you?

16 A No, sir, I couldn't see through. No, sir.

17 Q I mean, you never heard my client's voice or the other
18 person's voice; is that correct?

19 A That's correct.

20 MR. MCLAURIN: I don't have anything further,
21 Your Honor.

22 THE COURT: Okay, anything else?

23 MS. PARR: Nothing else for her but...

24 THE COURT: Okay, thank you. You may step down.

25 MS. PARR: Your Honor, I call Lieutenant

SW - H. BUDDY - CROSS

1 Bellflowers to the stand.

2 THE COURT: All right. Swear him, Ms. Clerk.

3 MR. MCLAURIN: Judge, if I could ask, I'm just a
4 little bit confused what we're doing. I mean, what --

5 THE COURT: Apparently there is a contention
6 that there has been a violation of my sequestration order
7 by the defendant; is that --

8 MS. PARR: That is correct, Your Honor.

9 MR. MCLAURIN: Okay.

10 THE COURT: Is that the gist and gravamen --

11 MS. PARR: That's it. That's the gist of it,
12 Your Honor, and I'm going to put Lieutenant Bellflowers on
13 to tell us who was in the holding cell on the 11th floor
14 and who was on the 10th floor.

15 MR. MCLAURIN: Your Honor, I mean, I just
16 thought it was just you couldn't be in the courtroom
17 during the testimony, I mean, during the --

18 THE COURT: Sequestration?

19 MR. MCLAURIN: Yes.

20 THE COURT: Sequestration involves in the entire
21 scope in regard to relationships. You can't have
22 conversations outside the courtroom. You can't have
23 conversations in the courtroom. Sequestration is a very
24 rigid procedure once I implement that which I did by order
25 this morning.

SW - M. BELLFLOWERS - DIRECT

1 **MR. MCLAURIN:** Okay.

2 **THE COURT:** Okay.

3 **WHEREUPON,**

4 **MICHAEL WAYNE BELLFLOWERS,**

5 having been duly sworn by the Deputy Clerk of Court,

6 testified as follows:

7 **DEPUTY CLERK OF COURT:** Please state your name
8 for the record.

9 **THE WITNESS:** Michael Wayne Bellflowers.

10 **DIRECT EXAMINATION**

11 **BY MS. PARR:**

12 **Q** Lieutenant Bellflowers, who are you employed with?

13 **A** Florence County Sheriff's Office.

14 **Q** Okay. And are you in charge of the courtroom security?

15 **A** I am.

16 **Q** Now you have inmates on 11th floor and on 10th floor;
17 is that correct?

18 **A** Yes.

19 **Q** Would you please tell us who is on the 11th floor?

20 **A** The defendant is on the 11th floor, but there's also
21 eight or ten other defendants in there. The defendant's
22 brother is on the 10th floor in that holding cell. I'm
23 not sure what his name is. I know his last name is
24 Williams; but I mean, there's you know, eight or ten other
25 people up here with this defendant.

SW - M. BELLFLOWERS - DIRECT

1 MS. PARR: Okay. Nothing further from this
2 witness, Your Honor.

3 THE COURT: All right. Anything?

4 **CROSS-EXAMINATION**

5 BY MR. MCLAURIN:

6 Q You didn't hear any conversations?

7 A I heard the yelling. When I got the call from Thomas I
8 heard the yelling when I went -- was walking down the hall
9 towards the holding cell. I have no clue who it was.

10 MR. MCLAURIN: I don't have anything further.

11 THE COURT: Thank you. All right.

12 MS. PARR: Nothing further, Your Honor.

13 MS. PARR: Just would ask to be heard.

14 THE COURT: All right, I'm listening.

15 MS. PARR: Your Honor, the State's concern is
16 that there is a violation of the sequestration order,
17 overheard them call the name of Lewis and Hakeem she said.
18 Hakeem is what she said. Your Honor, and when I walked
19 by, you know, I heard say something, still going forward,
20 still going forward with your jury trial.

21 THE COURT: All right, so what is your motion?
22 What is the relief you request?

23 MS. PARR: Your Honor, you know, I don't think
24 he should be allowed to testify. Your Honor, or at least
25 that the Court should admonish them because it is a

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1 violation of the Court's order. I mean, I don't want to
2 do a retrial.

3 THE COURT: All right, Counsel.

4 MR. MCLAURIN: Your Honor, obviously there's
5 not any proof that this came from my client. There was
6 six, or he said eight, I think, people in the holding
7 cell, and probably including the co-defendants that are
8 gonna testify who all know each other and are cousins and
9 related. So there's absolutely no telling who was yelling
10 back and forth. This lady who testified does not know the
11 people's voice so I just don't think there's adequate
12 proof to proceed forward with this and just ask the Court
13 that we move on. I'll be glad to tell him though. I'll
14 be glad to tell him, you know, obviously don't
15 communicate, which you can't.

16 THE COURT: Well, the motion for sequestration
17 emanating from the defendant, obviously I applied it with
18 equanimity which is mandated by the rule. But if I get a
19 violation in regard to this matter I'm going to give six
20 months without a jury trial. Let me repeat that again.
21 It's six months without a jury trial, kind of a truncated
22 procedure, without a jury trial.

23 MS. PARR: Your Honor, I would for the record,
24 I've been advised the other co-defendants are separated
25 from the Hakeem Williams as well as this defendant.

1 They're on separate -- in separate areas; is that correct?

2 THE DEPUTY: Yes.

3 MS. PARR: So it would not have been the
4 co-defendant he was communicating with on that floor until
5 --

6 THE COURT: Well, sequestration means what it
7 says. And I have in a multiplicity of trials applied
8 Miranda, the Miranda warnings. I'm gonna give you folk
9 what we call the Anderson warnings today. Any other
10 violation and I will take care of it with alacrity. Have
11 a nice day everyone.

12 Are we ready to proceed?

13 MS. PARR: The State is ready, Your Honor.

14 MR. MCLAURIN: Your Honor, just so I'm clear on
15 that, I mean, I can communicate with Hakeem Williams.

16 THE COURT: You can communicate but you cannot
17 relate back and forth.

18 MR. MCLAURIN: Sure, sure. I mean, I haven't --
19 he's been in there. I hadn't had a chance to talk about
20 it with him so I'd like to talk with him if I could. And
21 the other thing, Your Honor, before we bring the jury out,
22 I was looking at your case, the State versus Lewis, and
23 asked the Court to consider allowing an in-camera hearing
24 before we bring the jury as to the reliability of this,
25 that person's identification as indicated in your opinion.

1 I think you dissented and said you thought that would have
2 been proper.

3 THE COURT: Well, I now am relying on State
4 versus Rice and that is the hearing is not applicable and
5 I would decline to proceed with that. Under that direct
6 holding in Rice an in-court identification is totally
7 disparate from the pretrial identification process.

8 MR. MCLAURIN: And I was just relying on your
9 dissent in State versus Lewis, Your Honor, so...

10 THE COURT: Well, I love my dissent but as you
11 know a dissent is a dissent.

12 MR. MCLAURIN: Yes, sir.

13 THE COURT: It's like two to one.

14 MR. MCLAURIN: If we'd just note that for the
15 record, Your Honor.

16 THE COURT: Yes, sir.

17 All right, bring the jury out and ask her to come back
18 around.

19 (WHEREUPON, the jury was returned to the
20 courtroom at approximately 2:12 p.m., and the following
21 proceedings commenced in open court.)

22 THE COURT: I hope everyone had a nice lunch.

23 Now, Ms. Brooks, you remain under oath. You understand
24 that?

25 THE WITNESS: Yes, sir.

1 THE COURT: All right, Counsel, you're
2 recognized.

3 MR. MCLAURIN: Yes, sir, Your Honor, if it
4 please the Court.

5 BY MR. MCLAURIN:

6 Q Ms. Brooks, you remember giving a written statement at
7 the time of this particular incident; is that correct?

8 A Yes, sir.

9 Q And you gave that in front of Officer Barley; is that
10 correct?

11 A Yes, sir.

12 Q And in that written statement you provided the details
13 of what happened that particular night; is that correct?

14 A Yes, sir.

15 Q In fact, you described each one of the individuals who
16 went into this particular house in detail, correct?

17 A Yes, sir.

18 Q Okay. You described one guy as the light skinned guy
19 with about 5'10", 5'11" and asked if we had any money.

20 You remember doing that?

21 A Yes, sir.

22 Q Okay. Then you describe another one, light skinned
23 male and a male with a ski mask walked into the back of
24 the apartment while the dark skinned male who was about
25 6'1" and 150-pounds stood at the door?

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1 A The gunman, yes, sir.

2 Q So you described all them in detail in that particular
3 statement; is that correct?

4 A (No verbal response.)

5 THE COURT: You got to answer. Don't shake your
6 head.

7 THE WITNESS: Yes, sir.

8 BY MR. MCCLAIRIN:

9 Q You understood at that particular time the importance
10 of giving information to the police, right?

11 A Yes, sir.

12 Q And giving them details to help them locate the people
13 who victimized you guys; is that correct?

14 A Yes, sir.

15 Q And you gave an accurate statement?

16 A Yes, sir.

17 Q In this particular statement you give absolutely no
18 description of a fourth individual; is that not correct?

19 A Did I mention the fourth individual?

20 Q I'm going to show you the statement that you gave.
21 That statement was given on June 5th of 2008; is that
22 correct?

23 MS. PARR: Your Honor, we would ask that she be
24 given an opportunity to read it.

25 THE COURT: Let her read it, yeah.

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- 1 (Pause.)
- 2 THE WITNESS: I mentioned the individual but I
- 3 didn't describe him.
- 4 BY MR. MCLAURIN:
- 5 Q Didn't say light skinned, didn't say weight, height,
- 6 nothing in there?
- 7 A No, sir.
- 8 Q And at that time you understood the importance of that;
- 9 didn't you?
- 10 A Yes, sir.
- 11 Q And do you remember also being interviewed that
- 12 particular night at the police station?
- 13 A Not at the police station that night.
- 14 Q Okay, all right. Well, do you remember being
- 15 interviewed and being recorded during an interview?
- 16 A In that night, yes, sir.
- 17 Q When was that?
- 18 A It was at the apartment complex.
- 19 Q It was at the apartment complex?
- 20 A Yes, sir.
- 21 Q Right when it happened?
- 22 A Right after it happened, yes, sir.
- 23 Q You would agree with me people can remember things
- 24 easier the minute it happens, not later on. You would
- 25 agree with that; wouldn't you?

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1 A Yes, sir, but when you -- I mean, it's hard to explain
2 whenever you're upset and crying and all kind of stuff.

3 Q Okay, all right. Well, you wouldn't mislead the police
4 at all, would you? If you gave an interview to them you
5 wouldn't mislead the police, would you?

6 A No, sir.

7 Q You would tell them the truth; wouldn't you?

8 A Yes, sir.

9 Q You'd want them to have all the information?

10 A Yes, sir.

11 Q I'm going to play for you a recording in that
12 particular evening of your statement. I want you to tell
13 me if you can identify this as your voice.

14 (Playing of recording began.)

15 THE COURT: All right, cut it off just a second,
16 Counsel.

17 MR. MCLAURIN: Yes, sir.

18 THE COURT: Now ordinarily we do not allow
19 something to be heard by the jury that's not in evidence.

20 MR. MCLAURIN: Yes, sir.

21 THE COURT: And this is not in evidence. You
22 hadn't offered it in evidence at this point, and I have
23 grave concern; but in regard to playing something that's
24 not in evidence to the jury. Just -- it's not covered by
25 the rules.

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1 MR. MCLAURIN: I would —

2 THE COURT: Do you intend to offer it into
3 evidence.

4 MR. MCLAURIN: I can offer it into evidence. I
5 was going to see if she would identify her voice and then
6 go from there.

7 THE COURT: But in the meantime you're
8 publishing it to the jury and it's not in evidence.

9 MR. MCLAURIN: Yes, sir.

10 THE COURT: And it may never get into evidence.
11 That's my major concernment at this point.

12 MS. PARR: May it please the Court.

13 MR. MCLAURIN: Yeah, I mean...

14 MS. PARR: Your Honor, this is a matter we can
15 take this out of the presence of the jury as he's trying
16 to...

17 THE COURT: Well, it's just simple as A, B, and
18 C. I'm not going to let the jury hear something that's
19 not in evidence. That's what the rule says. I mean, I
20 don't have any problem understanding that rule, and I
21 don't have any problem applying that rule. And so at this
22 point I'm not going to let you play the thing to the jury
23 when it's not in evidence. It's got to be in evidence for
24 the jury to hear it. That's the basic rule. Now if you
25 want to query her about it and ask her did she say

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1 something and play it to her privately, I'll send the jury
2 out and we'll just play it to her privately and that kind
3 of thing if that's what you lawyers want to do. You
4 understand?

5 MR. MCLAURIN: I understand, yes, sir.

6 THE COURT: Okay. So where do you want to go?

7 MR. MCLAURIN: I would rather play it to her
8 privately and see if she can identify it. It was given to
9 me by the State so we can go from there.

10 THE COURT: All right. Jurors, just be patient
11 with us. Sometimes we have these things come up. Please
12 go to your jury room and have another cup of coffee.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 2:18 p.m., and the following proceedings
15 commenced in open court.)

16 THE COURT: Let the record show that the jury
17 has been taken to the jury room. And Counsel, identify
18 for me so I can put it in the record, what is this
19 document that you are going to play to her? What is it?

20 MR. MCLAURIN: It is a recorded statement by the
21 officers of that particular evening of the criminal act
22 and it was given to me by the State and it was an
23 interview with Ms. Brooks, and frankly, all the
24 defendants -- I mean, all the victims in the case, Your
25 Honor.

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1 THE COURT: And you now desire to play it to her
2 and ask her some questions?

3 MR. MCLAURIN: Yes, sir.

4 THE COURT: Proceed.

5 (While recording was played there was questioning.)

6 BY MR. MCLAURIN:

7 Q Is that your voice?

8 A Yes, sir.

9 Q [REDACTED], that's your address?

10 A Yeah. Lived in the apartment next door to me.

11 Q That's your voice?

12 A Uh-huh.

13 Q Say yes or no.

14 A Yes, sir.

15 (Pause while playing of recording continued.)

16 BY MR. MCLAURIN:

17 Q That's the complete statement of the statement you gave
18 that night; is that not correct?

19 A Yes, sir.

20 Q And that's an accurate disclosure of what was said,
21 correct?

22 A Yes, sir.

23 MR. MCLAURIN: At this time we'd like to offer
24 it into evidence, Your Honor.

25 THE COURT: What says the State in regard to him

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1 offering it into evidence?

2 MS. PARR: Your Honor, it would be the State's
3 position that if he offers the tape that he needs to play
4 all the -- the whole tape for the jury.

5 THE COURT: Well, if it comes in it's coming in
6 in totality. I'm not going to redact or extirpate
7 anything that's coming in. Just as it is. You offer it
8 as it is, right?

9 MR. MCLAURIN: Well, they've recorded all the
10 other statements of the individuals on this one CD and
11 that's all I have. So I mean, all I'd like do is just get
12 this one statement introduced.

13 THE COURT: For her?

14 MR. MCLAURIN: Yes. I mean, that's all.

15 THE COURT: You have that in a format that's
16 available?

17 MS. PARR: Your Honor, no, the State does not.

18 THE COURT: What do you suggest, Counsel?

19 MR. MCLAURIN: I don't mind if they want the
20 whole thing in, that's fine; we can do that.

21 THE COURT: What do you say to that?

22 MS. PARR: Your Honor, normally what happens is
23 the defendant -- I mean, the defense counsel can ask her
24 questions in regards to it, Your Honor. The State would
25 object to the tape coming in. We, you know, he can ask

1 all the questions in regards to it. If there's some
2 inconsistencies and let her answer those questions.

3 THE COURT: What about that procedure, Counsel?
4 You just ask the questions. I assume you're going to ask
5 her --

6 MR. MCLAURIN: I felt like I've already asked
7 them and she's indicated she can provide an identification
8 in court and I think this is --

9 THE COURT: Well, the question that you now want
10 to ask her is that she didn't say that on the tape. She
11 didn't mention anything about identifying him on the tape.
12 Is that what you asked?

13 MR. MCLAURIN: That, yes, sir, that would be one
14 of the things I'd like to ask her from that particular
15 tape. She says it in two difference places.

16 THE COURT: Well, that doesn't satisfy what
17 you're attempting to do with this witness in regard to
18 asking those questions rather than introducing the whole
19 tape?

20 MR. MCLAURIN: I just think the -- for purposes
21 of the case I think playing it would be much clearer for
22 the jury to be able to hear it themselves and see her
23 demeanor and how she was talking and for the jury to be
24 able to hear it.

25 THE COURT: All right, I'm going to let the

1 whole thing in, just let the jury hear it all. Now you're
2 offering the whole thing now. You don't have any kind of
3 rights in regard to the other part of the statement.
4 You're offering the entire tape as it is?

5 MR. MCCLAURIN: Like I said, I think for this,
6 for purposes it would be great if we had it just her
7 statement; but you know, if we want to do the whole thing
8 we can do the whole thing. I don't have a problem if we
9 ---

10 THE COURT: Well, I mean, I don't control your
11 evidence and I don't have anything to do with what you
12 offer. You're offering a composite presentation here of
13 more than one witness. And what I'm saying is if you
14 offer it in I'm probably just going to let the whole thing
15 in but you ---

16 MR. MCCLAURIN: Can I see -- I don't know if I
17 can see over tonight or tomorrow if I could somehow, I'm
18 not sure I can to be honest with you, but break it down to
19 her individually?

20 THE COURT: Well, we got other witnesses. You
21 want to revisit it that way?

22 MS. PARR: Your Honor, then my question would be
23 at this time, he's in the middle of cross-examining her
24 and logistically how do you stop cross-examining and then
25 come back later after other witnesses have gone. Your

1 Honor, if the -- normally if there had been a statement,
2 you know, under the rules he can cross-examine her and
3 asking her different things from each statement, the prior
4 statement, and that's normally how it's handled, not
5 playing the whole, playing the whole tape anyway.

6 THE COURT: I agree that's normally the way it's
7 handled. Now he's got this tape in this format.

8 MS. PARR: Your Honor, the State would ask that
9 he be required to go the normal way of asking questions
10 from the two statements and proceeding in that manner.

11 THE COURT: I don't see any disparate testimony
12 emanating from this witness at this point based on the
13 prior query. Obviously the rule deals with statements
14 that are inconsistent. The consistency of the statement
15 is not before the Court. At this time in totality it
16 certainly is going to be rather difficult to perceive what
17 is admissible and what is inadmissible. I sustain the
18 objection at this point but leave you with the right to
19 cross-examine her in detail as to what's on this tape,
20 what's on the tape, and that you played it to her and that
21 you ask her about it and I will not restrict you in that
22 regard. I think that's the better —

23 MR. MCLAURIN: And if there's some
24 inconsistencies the Court would allow me to impeach her
25 using this?

1 THE COURT: That's correct. That's correct.

2 All right.

3 MR. MCLAURIN: I hope I can get to that point.

4 I mean, I just want to make sure -- I don't want to have

5 any problem here. If I want to impeach her on that, on

6 that one spot, it's kind of hard to get to that one spot

7 where she may say that if --

8 THE COURT: Well, ask her questions is the first

9 way to do it.

10 MR. MCLAURIN: Right, I understand that.

11 THE COURT: Go from there.

12 MR. MCLAURIN: Okay. Can I get just a second

13 and get it back.

14 THE COURT: Okay. Bring the jury out.

15 (WHEREUPON, the jury was returned to the courtroom at

16 approximately 2:30 p.m., and the following proceedings

17 commenced in open court.)

18 THE COURT: You may proceed, Counsel.

19 MR. MCLAURIN: Thank you, Your Honor.

20 BY MR. MCLAURIN:

21 Q So Ms. Brooks, we've -- just to kind of summarize, we

22 went through the voluntarily statement that you gave,

23 handwritten statement that night, which does not give a

24 description of Lewis Williams at all; is that correct?

25 A Yes, sir.

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1 Q And you also were interviewed by the police that
2 evening; is that correct?

3 A Yes, sir.

4 Q And how many hours after the event was that did that
5 occur?

6 A After it happened, how many hours? It wasn't hours; it
7 was a couple of minutes after.

8 Q So a couple of minutes after it happened you were
9 interviewed?

10 A The police showed up about five or ten minutes after it
11 happened.

12 Q And you were interviewed; is that correct?

13 A Yes, sir.

14 Q And there was a recorded statement of your interview?

15 A Yes, sir.

16 Q And do you remember in that particular statement they
17 were asking you about whether you could identify the
18 person who knocked on the door?

19 A Yes, sir.

20 Q And you indicated at that time that you couldn't see
21 his face, correct?

22 A Yes, sir.

23 Q And in fact, they ask you that twice. At the end of
24 that particular recorded statement they ask you once
25 again, could you see his face, and you indicated you could

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- 1 not.
- 2 A Yes, sir.
- 3 Q You cannot see his face?
- 4 A No, sir.
- 5 Q That's what you told them?
- 6 A Yes, sir.
- 7 Q And in fact, you told them that you heard a guy go and
- 8 knock on the sliding glass door, right?
- 9 A Before, before he came to the front door there was a
- 10 knock on the sliding glass door.
- 11 Q And you indicated that that was the same guy in that
- 12 particular recorded statement, correct?
- 13 A I just said I heard a knock on the sliding glass door
- 14 and then there was a knock on the front door.
- 15 Q You didn't --
- 16 A Of course I would think it was the same guy because I
- 17 wouldn't think somebody else would be coming by that late.
- 18 Q You remember telling that to the police --
- 19 A Yes, sir.
- 20 Q --that it was the same guy?
- 21 A Yes, sir.
- 22 Q You never indicated to any of these officers, anybody
- 23 before today, that you could identify who's responsible
- 24 for this; is that correct?
- 25 A Could you repeat the question?

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1 Q You never have indicated to anybody, any police
2 officer—

3 A Uh-huh.

4 Q ---anybody that you could identify who the defendant
5 was in this case?

6 A I mean, I said that if I saw him I could point out who
7 he was, yes, I have.

8 Q Okay. You said that?

9 A Yes, sir.

10 Q And who did you tell that too?

11 A I told that to the solicitor before.

12 Q Okay. And was any identification provided?

13 A No, sir.

14 Q Did they ever take you and show you any kind of
15 pictures, any kind of lineup with who the defendants were?

16 A No, sir.

17 Q When you — when a person knocked on the door it wasn't
18 but a matter of a seconds that he was in the —

19 A In the door.

20 Q —in the actual apartment; is that correct?

21 A In the doorway, yes, sir.

22 Q We've heard ten seconds. Would that be a fair
23 statement?

24 A That would be a maximum, yes, sir.

25 Q That would be the maximum?

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1 A Uh-huh.

2 Q Probably shorter, correct?

3 A Yes, sir.

4 Q And in that particular area sort of dark over there
5 correct?

6 A Not in the walkway between where the apartments are but
7 in the apartment parking lot, yes, it is dark.

8 Q I don't have anything further. Thank you.

9 THE COURT: Anything further?

10 **REDIRECT EXAMINATION**

11 BY MS. PARR:

12 Q Ms. Brooks, have you seen — since the night of this
13 incident had you seen the defendant before then?

14 A No, ma'am.

15 Q Or since that time?

16 A No.

17 Q Before today?

18 A No.

19 Q Okay.

20 MRS. PARR: Nothing further, Your Honor.

21 THE COURT: Recross.

22 **RECROSS-EXAMINATION**

23 BY MR. MCLAURIN:

24 Q You hadn't seen him until he's sitting in the chair
25 right beside me, right?

SW - S. BROOKS - REDIRECT

1 A I saw him whenever he was at the door at the
2 apartment.

3 Q You haven't seen him since then until he's sitting in
4 the chair right beside me, right?

5 A No, sir.

6 Q I don't -- I don't have any further questions.

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

8 Next witness please.

9 MS. PARR: Your Honor, Matthew James Rogers.

10 DEPUTY CLERK OF COURT: If you will, sir, place
11 your left hand on the Bible, place your right hand on the
12 Bible.

13 WHEREUPON,

14 MATTHEW JAMES ROGERS,
15 having been duly sworn by the Deputy Clerk of Court,
16 testified as follows:

17 DEPUTY CLERK OF COURT: Please be seated and
18 state your full name for the record.

19 THE WITNESS: My name is Matthew James Rogers
20 from [REDACTED], 29501.

21 **DIRECT EXAMINATION**

22 BY MS. PARR:

23 Q And Mr. Rogers, how old are you?

24 A I'm 20 years old.

25 Q And what year did you graduate high school?

SW - M. ROGERS - DIRECT

- 1 A I graduated from Poynor '07.
- 2 Q What year?
- 3 A Poynor from '07.
- 4 Q That's 2007?
- 5 A Yes, ma'am.
- 6 Q Where are you employed?
- 7 A Country Club of South Carolina.
- 8 Q Okay. And where did you live prior to where you're
- 9 staying now?
- 10 A Are you talking about my father's house or the
- 11 apartment?
- 12 Q Yeah, prior to on Stockton Drive.
- 13 A [REDACTED]. That's my father's house.
- 14 Q And were you staying for a period of time someplace
- 15 else?
- 16 A Yes, ma'am, at the apartment complex. I'm not real
- 17 sure what the name of the road was. It was -- I know it
- 18 was apartment [REDACTED]. I can't really remember what the
- 19 name of the road was though.
- 20 Q Okay. And was that where this incident occurred?
- 21 A Yes, ma'am.
- 22 Q Now going back to June 8th, 2008, please tell us where
- 23 you were.
- 24 A I was in my bedroom. I had got -- I don't think I
- 25 worked that afternoon. I got home and me and my buddy

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1 started watching some TV, just hanging out. Barry got
2 home around 10, 10:30. And I went back to my room around
3 11:30, 11:45 or so and I didn't really know what was going
4 on outside in the living room.

5 Q And what were you in your room doing?

6 A I was in there talking on the phone. And my door was
7 closed and locked. Around 12:00 -- I mean, around that
8 time, I didn't look at the clock to see exactly what time
9 it was. I didn't know what was going on. I didn't have
10 any idea what was about to happen. I heard some commotion
11 going on outside my room. I opened up the door. I see a
12 shorter fellow with a black ski mask on dressed in all
13 black go by my room towards Barry's room in the back. I
14 look at him. I look towards the front door. There was a
15 large black male with a purple bandanna around his face.
16 He walks up to me, sticks a gun in my face, says give me
17 your phone and your wallet. He grabs the phone from me,
18 hangs it up. I told him the wallet was in my room. I
19 told him not to stick the gun in my face again. And he
20 said we're not trying to hurt anybody, just to go sit down
21 on the sofa. So he walks me over there; I sit down. They
22 ransacked the house, go through everything. I was sitting
23 next to Corey Byrd facing the sliding glass window, the
24 sliding glass door they came in through. I heard the
25 knock on the door. I was not able to catch a glimpse of

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1 him. I think I saw like a hand. I mean, I did not catch
2 a face or anything. For all I know it could have been a
3 five year old or one of my buddies; I'm not real sure on
4 that part. But it would make sense for somebody to be
5 standing outside the door watching ---

6 MR. MCLAURIN: Objection, Your Honor.

7 THE COURT: Don't guess about stuff now. We
8 don't do that in court.

9 BY MS. PARR:

10 Q Just tell us what you saw and what you know.

11 A After that they went through the house. They were
12 asking where the X-Box and everything was. We told them
13 we didn't have X-box 360. Barry said we have an old X-Box
14 right there in front of the TV. We told them to take
15 that. They said they didn't want that. They grabbed my
16 wallet, everything like that out of my drawers. Tore my
17 room apart, tore Barry's room apart. They were gone
18 within a matter of probably five to eight minutes. As
19 soon as they left out the front door me and Corey Byrd
20 hopped in car, went to go chase them down to try to find
21 them. We could not find them. Came back and police were
22 already there, and that's when we gave all of our
23 statements.

24 Q Okay. Now but you indicated that when you were in the
25 living room there was a knock at the door?

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1 A Yes, ma'am, there was a knock at the door.

2 Q Okay.

3 A I saw the door open probably six to eight inches. I
4 could not see a face or anything. I just saw a hand.

5 Q You saw a hand.

6 A Yes, ma'am.

7 Q Were you able to see anything with the hand?

8 MR. MCLAURIN: Objection, Your Honor, it's
9 leading.

10 THE COURT: Well, the question is were you able
11 to see anything. I overrule that. Proceed.

12 BY MS. PARR:

13 Q Were you able to see anything with the hand?

14 A I just -- I mean, I saw fingertips. That's all I saw.
15 I mean, they could have -- I really have no idea whether
16 it was a white, black, or Asian person. I really couldn't
17 even tell 'cause people could have dirty hands and --

18 Q And then -- and once there was a knock at the door and
19 you saw a hand what happened?

20 A I looked that way and then the bigger fellow with the
21 gun closed the door and then the other two came running
22 from the back and then that whole situation with Sherelle
23 and all them trying to take their purse and they were
24 asking if they could keep their phones and stuff. They
25 said, no, we have to take all that. After that they all

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1 left out the front door, never -- I never saw the fourth
2 person outside but I heard the knock. But I never
3 actually saw -- whenever they all exited the door the door
4 was wide open. I could not see anybody but I did hear a
5 knock.

6 Q Okay.

7 A And it was not one of my friends 'cause I know one of
8 my friends would have come inside.

9 MR. MCLAURIN: Objection, Your Honor.

10 THE COURT: I sustain the objection. Just
11 answer the question.

12 BY MS. PARR:

13 Q Now what was taken of yours?

14 A I had my wallet with probably around 55 or 60-dollars
15 in it, my driver's license, social security card, debit
16 card. I mean, just the regular stuff you have in your
17 wallet. And then I had some watches. Two of them worked;
18 two of them were broken. They went through my room,
19 grabbed the watches, the wallets, some brass knuckles I
20 had, just I mean, minor stuff. It's not nothing real,
21 real big. I'm sure if they had seen something they
22 probably would have taken it but I don't -- I didn't
23 really have much for them to take.

24 Q Now where was your wallet?

25 A My wallet was in my, I believe, I want to say top

SW - M. ROGERS - DIRECT

1 drawer. They had taken the whole drawer out of the whole
2 side dresser and completely taken it out and put it on my
3 bed to where they were looking for stuff.

4 Q Okay. I want to show you what's been marked State's
5 Exhibit Number 9. Can you recognize that?

6 A Yes, ma'am, that's my room.

7 Q Okay. Did you leave your drawers like this?

8 A No, ma'am, I did not. My clothes -- I was on a laundry
9 day so all the clothes were normally that messy. But
10 other than that, that room, they pretty much destroyed
11 that room along with Barry's room.

12 Q Okay. And I'm gonna show you what's been entered in
13 evidence as State's Exhibit 11. What is that?

14 A That was the drawer that my wallet and I think --
15 wallet, rent money, and some swimming glasses I think were
16 in there and that's where they grabbed that stuff from.

17 Q And who put this drawer on the bed?

18 A I don't know which one was going through the room. I
19 was not able to look back towards the room to see who was
20 going through where. I just know it was either the tall,
21 skinny one with the black bandanna or the ski mask one
22 'cause those were the only two that went back there.

23 Q Okay. And where were the watches located?

24 A The watches were on my dresser in a little bowl with
25 like dresser -- watches and rings and brass knuckles and

SW - M. ROGERS - DIRECT

1 stuff like that. Just a like a little change drawer with
2 watches and rings and stuff on my dresser.

3 Q Now was your bed gone through?

4 A Yes, ma'am. My bed was -- you could tell where they
5 had lifted it up to look under the mattress to see if
6 there was anything in there. There wasn't so I guess they
7 didn't really have to destroy it much more. They just put
8 it back down. You could tell in the pictures that it was
9 slid over a little bit, not much, but that was not from
10 me.

11 Q Did you get any of your items back?

12 A No, ma'am.

13 Q Now was your phone taken as well?

14 A Yes, ma'am, my phone was taken and apparently that was
15 the phone they were using to talk to everybody that we
16 were calling them through. I received several calls from
17 other people that they had been calling people off my
18 phone. Several boyfriends of girls I had in my phone
19 saying that I was texting, I mean, rude, rude things to
20 them. And I told them that was not me, that I had been
21 robbed the night before, and they were going through all
22 my phone and stuff.

23 Q Now at one point were you present when the officer
24 talked with the defendants on the phone?

25 A Yes, ma'am, I was there. I was actually yelling at

SW - M. ROGERS - DIRECT

1 them on the phone and then the officer asked to talk to
2 them so I gave him the phone.

3 Q When you say you were yelling at them tell us about
4 that.

5 A I mean, I was cussing them out over the phone very
6 loudly and they said that they were gonna – they said
7 that they were gonna come back, like I told them, to come
8 back, bring the stuff back. And they were like, oh, yeah,
9 we'll come back, we'll come back, we'll come back and
10 we'll bust your heads open, stuff like that. They were
11 just threatening us trying to make them sound big and bad
12 I guess, I don't know.

13 Q Now had you called your phone? Had somebody called
14 your phone?

15 A Yes, ma'am. I called my phone I believe either off
16 Sherelle's or Corey's phone. I'm not real sure which one
17 that was.

18 Q Okay. So you called on your phone?

19 A Yes, ma'am.

20 Q And then how soon after did you call on your phone the
21 incident occurred?

22 A The police were there. After I was riding around I
23 probably road around five or seven minutes looking for
24 them. Couldn't find them so I came back to check on
25 everybody else and the police were there by that time.

SW - M. ROGERS - DIRECT

1 And I called my phone and they answered. A male answered
2 and said, this is the Goose. And that's, I mean, then we
3 just started talking to each other rather violently.

4 Q And then at what point did the police officer handle?

5 A Probably after about three minutes of talking to him
6 and then I walked over there and said, this is him on the
7 phone. And I gave him the phone and he said, this is so
8 and so with the Florence Police Department. I'm not real
9 sure — I can't remember actually what all he said to
10 them, but I believe they hung up on the officer and then
11 he would keep trying to call back and they would keep
12 answering.

13 Q Now did you know any of the persons who came into your
14 house that night?

15 A I was mistaken. I wrote on the police report that I
16 had thought I knew one of them. He was just the same
17 exact build type, same skin color, same kind of hair as a
18 fellow I played football with. Or well he tried out for
19 the JV football team whenever I was playing and ---

20 Q And how many years ago would that have been?

21 A Four, three or four years ago. And I thought I
22 recognized him. Like he looked at me real fast and turned
23 away whenever he first saw me, and that's the whole reason
24 why I thought he knew me 'cause like he didn't know that
25 was me, like my apartment or anything like. And

SW - M. ROGERS - DIRECT

1 apparently I was completely incorrect about that 'cause
2 these guys were from Darlington, and I don't really know
3 anybody from Darlington so that was a mistake on the
4 police report from me.

5 Q Okay. Beg the Court's indulgence. Please answer any
6 questions Mr. McLaurin may have to you.

7 A Yes, ma'am.

8 **CROSS-EXAMINATION**

9 BY MR. MCLAURIN:

10 Q Mr. Rogers, it's easy to mistakenly identify someone in
11 a situation like that like that evening; isn't that
12 correct?

13 A Yes, sir.

14 Q I mean, I think at one point you had a gun in your
15 face; is that correct?

16 A Yes, sir.

17 Q And hard to concentrate when something like that is
18 going on; isn't it?

19 A Yes, sir.

20 Q So you mistakenly thought that one of the guys went to
21 West Florence with you? Is that what your testimony is?

22 A Yes, sir. I mean, they had masks on. I mean, it's
23 hard to tell somebody when they have a mask on. I thought
24 I recognized some facial features and hair and the
25 athletic build but I was completely incorrect.

SW - M. ROGERS - CROSS

1 Q Okay. Now did they have on all black? Did they have
2 on all black?

3 A The three that were inside I believe had all black on.
4 There was a -- the black bandanna and the ski mask were
5 the ones that were going through the room. And then the
6 guy with the purple bandanna, the heavy set fellow, he was
7 the one with the gun that was watching us in the living
8 room making sure we weren't going anywhere.

9 Q And you actually were so certain that this was the guy
10 that went to West Florence that you told the police --

11 A Yeah.

12 Q --that you had -- let me finish. That you had three
13 years worth of annuals, no doubt you could find him,
14 right?

15 A Yes, sir.

16 Q And that's what you said that particular night.

17 A Yes, sir.

18 Q And later on you found out that --

19 A I found out I was wrong.

20 Q You were wrong. It just looked like somebody you know,
21 correct?

22 A Yes, sir.

23 Q Okay. Now in your statement that you gave to the
24 police you don't mention about anything about a knock on a
25 door or even seeing any kind of hand or, I don't know, one

SW - M. ROGERS - CROSS

1 time you said hand, then you said fingertip, don't mention
2 any of that, correct?

3 A No, sir, not in the police report.

4 Q And you remember going out, I think you said, you went
5 out after them after they left?

6 A Yes, sir.

7 Q And so you went out the door?

8 A I went out the sliding glass door. I had my car
9 already cranked up ready for me.

10 Q Ready for you?

11 A Yes, sir.

12 Q How did you do that?

13 A I have automatic starter on it. I was going to run
14 somebody over.

15 Q And so you charged out the door as they went out,
16 correct?

17 A Yes, sir.

18 Q You charged out behind them?

19 A No. They went out the front door. I waited probably
20 about no longer than 20 seconds. Corey Byrd still had his
21 phone. He threw his phone at Barry. He said, call the
22 police. I grabbed my keys that were sitting on the table
23 right there, went out through the sliding glass door,
24 looked around and ran straight for my car. Was in it and
25 probably backed out and ready to go within a matter of 45

SW - M. ROGERS - CROSS

1 seconds. And I tried looking for them. I drove around
2 the whole apartment complex and could not find them.

3 Q And did you see them running out at all? I mean, —

4 A No, sir.

5 Q —did you see anything?

6 A I mean, they were wearing all black. It was hard
7 enough to see them when they were walking in the hallway.

8 Q So when they were in the hallway it was even harder to
9 see?

10 A Well, the hallway was up but the light that shines down
11 in the parking lot had been busted out. It was real dark
12 in that parking lot. The only light was really coming
13 from that gas station across the — well, not across the
14 parking lot, probably about 40 yards away. But once you
15 get to the hallway and stuff, it gets, I mean it gets
16 brighter but it's still not real bright.

17 Q Yes, sir. When you had the conversation with the boys
18 on the phone you were talking about, you were cussing with
19 them on the phone I guess?

20 A Yes, sir.

21 Q Is that right?

22 A Yes, sir.

23 Q And who was present during that conversation?

24 A Everybody.

25 Q Everybody being who?

SW - M. ROGERS - CROSS

- 1 A Including — all of them including the officers that
2 were there. I believe Barley showed up, Detective Barley
3 showed up and I think he might have heard one of the
4 conversations. I'm not exactly sure if he was there.
- 5 Q You certainly would have told him any conversations —
- 6 A Yes, sir.
- 7 Q —you had —
- 8 A Yes, sir.
- 9 Q —right?
- 10 A Yes, sir.
- 11 Q And the details, you understood about the importance of
12 giving the police the details —
- 13 A Yes, sir.
- 14 Q —of what happened, right?
- 15 A Yes, sir.
- 16 Q You would have told them about those conversations;
17 that'd be important, right?
- 18 A Yes, sir.
- 19 Q Now they took watches and I think you said brass
20 knuckles, is that correct, of yours?
- 21 A Yes, sir.
- 22 Q Anything else did they take of yours?
- 23 A My wallet.
- 24 Q Your wallet?
- 25 A And money and stuff in there.

SW - M. ROGERS - CROSS

1 Q Did you ever get any of that back?

2 A No, sir.

3 Q Did you ever get your watches back?

4 A No, sir.

5 Q Is that something you would have liked to have back?

6 A They were broken. I didn't really care.

7 Q Okay, all right. How about the brass knuckles and your
8 wallet, did you care about that?

9 A Yes, sir, I cared about my wallet and my brass
10 knuckles.

11 MR. MCLAURIN: I don't have anything further.
12 Thank you.

13 THE COURT: Redirect?

14 MRS. PARR: Nothing further for this witness,
15 Your Honor.

16 THE COURT: Next witness please.

17 MS. PARR: Your Honor, at this time we would
18 call Kendra Carpenter and this is one of the witnesses we
19 had sequestered so I have to get somebody to get her.

20 (Pause.)

21 DEPUTY CLERK OF COURT: If you will, ma'am, go
22 to the witness stand. Place your left hand on the Bible,
23 raise your right.

24 WHEREUPON,

25 KENDRA O. JEAN CARPENTER,

SW - K. CARPENTER - DIRECT

1. **having been duly sworn by the Deputy Clerk of Court,**
2 **testified as follows:**

3 **DEPUTY CLERK OF COURT: Please be seated. State**
4 **your full name for the record.**

5 **THE WITNESS: Kendra O. Jean Carpenter.**

6 **DIRECT EXAMINATION**

7 **BY MS. PARR:**

8 **Q Officer Carpenter, where are you employed?**

9 **A The city of Florence.**

10 **Q What do you do for the city of Florence?**

11 **A I'm a police officer.**

12 **Q And how long have you been with the Florence Police**
13 **Department?**

14 **A For five years.**

15 **Q And have you had any prior law enforcement experience?**

16 **A No.**

17 **Q Now what are your duties as a police officer with the**
18 **Florence Police Department?**

19 **A I work as a patrol officer. I answer all calls**
20 **dispatched by our telecommunications office from working**
21 **accidents to criminal domestic violence, fights, property**
22 **burglaries, anything.**

23 **Q And have you had any special training for your job?**

24 **A I have. I graduated South Carolina Criminal Justice**
25 **Academy, and I attended ten weeks of training with the**

SW - K. CARPENTER - DIRECT

1 certified officer in the city of Florence as well as
2 yearly training.

3 Q Now on June 5th, 2008, were you working that day, or
4 that morning?

5 A Yes.

6 Q Okay. And where were you working that particular
7 morning?

8 A In the south region area of the city of Florence.

9 Q Okay. Did you have occasion to respond to a call at on
10 Toledo Scales Road?

11 A Yes.

12 Q Is this in the city limits of Florence?

13 A Yes.

14 Q And you recall what time you responded?

15 A I was dispatched around 1:30 that morning and responded
16 just a few minutes later.

17 Q Okay. And would you please tell us what you found when
18 you got there?

19 A There were several people out in the parking lot that
20 were quite upset.

21 Q When you say "quite upset," would you please describe
22 their demeanor?

23 A They were all trying to talk to me at once. Some were
24 crying. Some are yelling. Some are walking away. Some
25 are coming towards me.

SW - K. CARPENTER - DIRECT

1 Q And so what did you do?

2 A I tried to calm everybody down and try to assess and
3 get their statements about what had happened.

4 Q Okay. And what were you able to determine?

5 A That they had just been robbed, that they had -- well,
6 I talked to each of them individually, but collectively I
7 was able to establish that they had just been robbed.

8 Q And then what did you do? Did you go inside the
9 apartment?

10 A No, ma'am.

11 Q Okay. And why?

12 A All of my victims were outside and that's where I took
13 their statement and my corporal was on scene and he
14 contacted investigations who responded and took over from
15 there.

16 Q And would that investigator be Brian Barley?

17 A Yes, ma'am.

18 Q And how long did you stay on scene?

19 A Approximately three hours.

20 Q Okay. And what were you doing there that whole time?

21 A I was taking each individual statement from the victims
22 and I was recording what they were saying and I had to
23 fill out victim forms.

24 Q So you were basically doing the paperwork; is that
25 correct?

SW - K. CARPENTER - DIRECT

1 A Yes, ma'am.

2 Q And beg the Court's indulgence. Now you said that
3 they -- I think you said they were emotional; is that
4 correct?

5 A Yes, ma'am.

6 Q Okay. But they were trying to tell you exactly what
7 happened; is that correct?

8 A Yes, ma'am.

9 Q And were you able to tell how many persons had been
10 through the house based on what they said?

11 A Four.

12 Q Okay. And how were you able to determine that?

13 A The first victim was approached by two individuals in
14 the parking lot. The second victim joined him, and they
15 were forced into their apartment and where the other three
16 victims were. At that time another, a second -- a third
17 suspect joined them and a fourth suspect attempted to but
18 he was pushed out of the door.

19 Q Okay. And were you advised this by the victims at the
20 time?

21 A Yes, ma'am.

22 Q Okay. And please answer any questions Mr. McLaurin may
23 have for you.

24 **CROSS-EXAMINATION**

25 BY MR. MCLAURIN:

SW - K. CARPENTER - CROSS

1 Q Did you happen to check for fingerprints when you got
2 there?

3 A No, sir.

4 Q Did you mark the doors and save the evidence so that
5 somebody could come and dust for fingerprints?

6 A No.

7 Q Why did you not do that?

8 A As I stated, all my victims were outside and I was
9 trying to collect their information. Meanwhile, the
10 investigator had arrived on scene; there was no need for
11 me.

12 Q So he would have done that?

13 A Yes, sir.

14 Q Okay, all right. Did you, after this particular
15 evening, did you have any role really in the investigation
16 after that evening?

17 A No, sir.

18 Q Tell me about how you do a photo lineup and try to
19 identify somebody. Do you know -- have you ever done that
20 before?

21 A I have not.

22 Q I don't have anything further. Thank you.

23 THE COURT: Redirect.

24 MS. PARR: Nothing further, Your Honor. We
25 would ask this witness be allowed to be released.

SW - K. CARPENTER - CROSS

1 MR. MCLAURIN: No objection, Your Honor.

2 THE COURT: She's excused. Thank you.

3 Next witness please.

4 MS. PARR: Terrence Carroway, Investigator
5 Terrence Carroway. I'm sorry, before that, police officer
6 Hart.

7 THE DEPUTY CLERK OF COURT: Place your left hand
8 on the Bible and raise your right hand.

9 WHEREUPON,

10 **BRIAN HART,**
11 having been duly sworn by the Deputy Clerk of Court,
12 testified as follows:

13 DEPUTY CLERK OF COURT: Please be seated and
14 state your full name for the record.

15 THE WITNESS: Brian Hart.

16 **DIRECT EXAMINATION**

17 BY MS. PARR:

18 Q Officer Hart, where are you employed?

19 A City of Florence.

20 Q And what do you do for the city of Florence?

21 A Patrolman.

22 Q And that's for the police department?

23 A Police officer.

24 Q And how long have you been with the Florence Police
25 Department?

SW - B. HART - DIRECT

1 A About five years now.

2 Q Okay. Now have you had any special training for your
3 job?

4 A Went to the police academy here for three weeks and
5 also police academy in Ohio for eight, nine weeks.

6 Q Okay. And are you a certified law enforcement officer?

7 A Yes, ma'am.

8 Q Okay. Now what are your duties as a police officer?

9 A I just do general, general patrol, traffic enforcement,
10 just a little bit of everything, investigations somewhat.

11 Q Okay.

12 A I don't specialize in one field. I don't specialize in
13 one field, just a -- everything is pretty -- everything.

14 Q All right. Now on June 5th, 2008 were you working?

15 A Yes, ma'am.

16 Q Okay. And which area of the city were you working?

17 A I was patrolling actually at Charlie district which is
18 down by like the Magnolia Mall area.

19 Q Okay. Now did you have occasion to respond to a home
20 invasion on Toledo Road?

21 A Yes, ma'am. The robbery call came out and call of that
22 nature requires additional officers to respond so I came
23 all the way from the mall to south Irby Street area.

24 Q Okay. And when you got to the scene what did you find?

25 A The victims standing outside in the parking lot.

SW - B. HART - DIRECT

1 Q And what was occurring when they were standing out in
2 the parking lot or what did you do?

3 A I was just standing assisting Officer Carpenter with
4 her investigation.

5 Q Okay. Now did you have an occasion to be privy to a
6 telephone call that occurred?

7 A Yes, I was.

8 Q Okay. Would you please tell us about that.

9 A I'm not a hundred percent sure if the one of the
10 defendants called or the victim called them; but I spoke
11 to one of the parties involved, one of the suspects.

12 MR. MCCLAIRIN: Objection, Your Honor, unless he
13 can lay the foundation on that.

14 THE COURT: Lay the foundation, Counsel.

15 BY MS. PARR:

16 Q Now you were at the scene; is that correct?

17 A Yes, ma'am.

18 Q Okay. And while you were there did you have an
19 occasion to see one of the victims on the telephone?

20 A Yes, ma'am. They told me their cell phone had been
21 stolen along with some other items.

22 Q Okay. And had one of them called their cell phone?
23 One of the victims call their cell phones?

24 A Yes, ma'am, I believe so.

25 Q And were you there when that occurred?

SW - B. HART - DIRECT

1 A Yes, ma'am.

2 Q And was there an occasion where you -- did you hear the
3 victims have a conversation on the phone with the
4 defendants?

5 A Yes, ma'am. They kept saying, you know, we're calling
6 our phone that was stolen and they're actually answering
7 the phone, the people who stole them.

8 Q Okay.

9 MR. MCLAURIN: Objection, Your Honor, unless he
10 can lay a foundation that he knows that that's the people
11 on the other side which I don't think he can do.

12 THE COURT: I overrule that objection because
13 the testimony is that the cell phone that was called was
14 one of the cell phones actually stolen. Proceed.

15 BY MS. PARR:

16 Q And then after the phone was called and you heard that
17 the subjects had the phone and they were having a
18 conversation, is that correct?

19 A Yes, ma'am.

20 Q Okay. And then what, if anything, did you do?

21 A I actually, I tried to speak to them, maybe get a name
22 of some sort, you know, or some information that will help
23 with the investigation.

24 Q Okay. And what, if anything, were you able to get from
25 that conversation?

SW - B. HART - DIRECT

- 1 A Like I said, they really didn't want to talk to me.
2 They wanted to talk to the female victims involved. They
3 wanted to talk to them. They didn't want to talk to me.
4 But mostly just laughing, carrying on in the background on
5 the other side of the phone.
- 6 Q So the defendants were laughing?
- 7 A Laughing and carrying on.
- 8 Q Did they ever identify themselves?
- 9 A No, ma'am.
- 10 Q Okay. Now you said they wanted to talk to the
11 females; is that correct?
- 12 A Yes, ma'am.
- 13 Q And how did you know they wanted to talk to the
14 females?
- 15 A They told me they wanted to.
- 16 Q Okay. Did you identify yourself to them?
- 17 A Not that I was a police officer at first.
- 18 Q Not at first?
- 19 A No.
- 20 Q Okay. What did you tell them you were?
- 21 A I made up a name, Goofy or something like that,
22 something like that. That's my street name.
- 23 Q Okay. And why did you do that?
- 24 A Just see if I get some more information like most
25 robbery suspects wouldn't want to talk to a police

SW - B. HART - DIRECT

1 officer.

2 Q Okay. And so but you were not able to get anymore
3 information?

4 A No, they just wanted to talk to the girls.

5 Q Okay. And so did you end up -- what did you end up
6 doing after that?

7 A I just hung up and said, you know, the girls told me
8 they want to -- want to let them to -- the suspects wanted
9 to meet them in person at some place. But I was like,
10 let's speak to one of the investigators before we do that.
11 I don't want to mess up their investigation. So I just
12 hung up at that time. I don't want to ruin their
13 investigation.

14 Q And did you do anything else in this particular case?

15 A No, ma'am.

16 Q All right. Well, please answer any questions
17 Mr. McLaurin may have to you.

18 **CROSS-EXAMINATION**

19 BY MR. MCLAURIN:

20 Q Officer Hart, how long have you been on the police
21 force?

22 A In South Carolina about five years.

23 Q In other places?

24 A Ohio for about two years.

25 Q And you've done investigative work; is that correct?

SW - B. HART - CROSS

1 A Little bit.

2 Q Little bit? Okay. Have you taken statements from
3 victims before?

4 A Yes, yes, sir.

5 Q Is it important to have written statements from
6 victims?

7 A Yes, sir.

8 Q Why is that important?

9 A So they don't change their testimony.

10 Q And is it important to speak with the victims almost
11 contemporaneously with when the event happened? Is that
12 an important part of an investigation?

13 A Yes, sir.

14 Q Why is that important?

15 A Everything is, you know, freshly occurred. You can get
16 like, you get the best information then. You don't have
17 time to, you know, mix their stories up, change their
18 stories up with whatever someone else is hearing.

19 Q And when you talk to the victim and tell them to give a
20 statement do you tell them to give a complete statement
21 and tell you everything they can that they remember?

22 A I do personally, but I mean, I'm not an investigator or
23 anything.

24 Q But that would be a standard procedure; wouldn't it?

25 A Yes, sir.

SW - B. HART - CROSS

1 Q And you've studied at the academy, right?

2 A Yes, sir.

3 Q And y'all are taught to tell the victims to give you
4 all the information that you can?

5 A Yes, sir.

6 Q Particularly descriptions of people, that's important;
7 is that correct?

8 A Very important.

9 Q And the more detail the better?

10 A Yes, sir.

11 Q I don't have anything further.

12 THE COURT: Redirect.

13 MS. PARR: Nothing further for this officer.
14 Your Honor, we ask he be released.

15 THE COURT: Suitable, Counsel?

16 MR. MCLAURIN: No objection.

17 THE COURT: He's excused. Thank you.

18 Next witness please.

19 MS. PARR: Your Honor, at this time we would
20 call Investigator Carroway.

21 DEPUTY CLERK OF COURT: If you will, sir, go to
22 the witness stand. Place your left hand on the Bible and
23 raise your right hand.

24 Excuse me, Judge. You have a juror that --

25 (Juror raised his hand.)

1 THE COURT: Yes, yes, sir.
2 THE JUROR: I know that person there.
3 THE COURT: All right. What's your full name
4 please?
5 JUROR BOSTIC: Andy Bostic.
6 THE COURT: And what number is he?
7 JUROR BOSTIC: Juror 10.
8 THE COURT: All right, Mr. Bostic, in regard to
9 knowing this individual are you comfortable in saying to
10 the Court that you can and will give the State and the
11 Defendant a fair and impartial trial?
12 JUROR BOSTIC: Yes, sir.
13 THE COURT: So the relationship will not keep
14 you from complying with your oath that you took?
15 JUROR BOSTIC: Yes, sir.
16 THE COURT: You're comfortable with still
17 serving on the jury?
18 JUROR BOSTIC: Yes, sir.
19 THE COURT: Thank you. And thank you for
20 responding. Thank you very much. That's very nice.
21 Thank you.
22 WHEREUPON,
23 **TERRENCE CARROWAY,**
24 having been duly sworn by the Deputy Clerk of Court,
25 testified as follows:

SW - T. CARROWAY - DIRECT

1 THE DEPUTY CLERK OF COURT: Please be seated and
2 state your full name for the record.

3 THE WITNESS: Terrence Carroway.

4 DIRECT EXAMINATION

5 BY MS. PARR:

6 Q Investigator Carroway, where are you employed?

7 A Florence City Police Department.

8 Q And how long have you been with the Florence Police
9 Department?

10 A Twenty years.

11 Q And what do you do for the Florence Police Department?

12 A I'm a criminal investigator.

13 Q And how long have you been an investigator?

14 A For past six years.

15 Q Now on around June 5th, 2008, did you have an occasion
16 to become involved or matter involving a home invasion on
17 Toledo Road?

18 A Yes, I did.

19 Q Before I ask you about the details of that are you a
20 certified law enforcement officer?

21 A Yes, I am.

22 Q Have you had any special training for your job?

23 A Yes, I have.

24 Q Would you please tell the Court what type of training
25 you have had?

SW - T. CARROWAY - DIRECT

1 A I've had college courses as well as the Criminal
2 Justice Academy, criminal investigation detective school,
3 just to name a few.

4 Q Okay. Now on June 5th, 2008 you indicated that you had
5 an occasion to become involved in this matter?

6 A Yes, I did.

7 Q Now how was it you were brought in this case?

8 A I was informed by Investigator Barley that he had had a
9 home invasion case that he was working, and myself and a
10 few more investigators were told to meet at Timrod Park in
11 order to try to catch the guys who performed the home
12 invasion.

13 Q And so what did you do?

14 A I waited in the car. We all waited in the car for the
15 suspects to come. They were supposed to meet the victims
16 at Timrod Park. One of the victims had telephone
17 conversations with one of the alleged suspects in the
18 case.

19 Q Okay. And did they show up?

20 A No, they didn't. They didn't show up at all.

21 Q Okay. And then what happened?

22 A Then we went to -- we came back here to the Police
23 Department and we were talking in the parking lot
24 downstairs at the city-county complex, and I heard one of
25 the victims talking and they were describing the suspects

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1 and telling the suspects' names. And one of the victims
2 mentioned that one of the suspects goes by the name of
3 Hawk, and I -- that was when I informed Investigator
4 Barley that I thought I knew who Hawk was.

5 Q Now go on, I'm sorry.

6 A I told them that going by the description of Hawk he
7 appeared -- it sounded like one of my football players. I
8 coach football, high school football as well.

9 Q Where do you coach?

10 A Darlington High School. And it sounds like one of my
11 football players from the previous year.

12 Q And so as a result of getting that information what did
13 you do?

14 A The next day Investigator Barley and I, we got
15 together. We went over to Darlington and met with
16 Investigator Weatherford and that was when we -- we told
17 him what he had, you know, we needed some help.
18 Jurisdiction-wise we needed for him to go with us over to
19 Hawk's apartment. I knew where it was, but we needed him
20 to go with us. Upon leaving the police department we ran
21 across a subject -- I think his name was Richardson -- and
22 he goes by the street name of Fiftieth if I'm not
23 mistaken.

24 Q Okay.

25 A But he --

SW - T. CARROWAY - DIRECT

- 1 Q Now would that have been Ricardo Richardson?
- 2 A Correct, Ricardo Richardson.
- 3 Q All right.
- 4 A He had been having conversations with the victims, and
- 5 he told us that he got the victim's phone numbers from
- 6 Shakeem and Hakeem and ---
- 7 Q And that would have been --- Shakeem would have been---
- 8 A ---they gave him ---
- 9 Q ---Shakeem who?
- 10 A Excuse me?
- 11 Q What was Shakeem's last name?
- 12 A Williamson.
- 13 Q Williams?
- 14 A Williams. And the reason being he got it, he was
- 15 supposed to -- he had a picture phone and he wanted the
- 16 victims to send pictures of themselves to his phone.
- 17 Q And then what did you do in Darlington?
- 18 A Then, after speaking with him, myself, Investigator
- 19 Barley, Investigator Weatherford went to Hakeem's house
- 20 where Hakeem opened the door and let us in.
- 21 Q Okay. And what occurred there?
- 22 A Okay. Once he let us in we -- Investigator Barley
- 23 immediately read him his Miranda warnings, his rights.
- 24 And Hakeem openly just started talking to us. He told us
- 25 that he and Christian Richardson and Shakeem went over to

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1 Florence. And at the time we didn't know it -- at the
2 time in the bedroom Christian was in the bedroom.

3 Christian Richardson was in the bedroom.

4 Q How did you find out Christian Richardson was in the
5 bedroom?

6 A Investigator Weatherford went to the bedroom and found
7 him there.

8 Q Okay. So he started checking the apartment to
9 determine who was in there?

10 A Well, yeah. It was officer safety type thing. He
11 didn't really check the apartment. He wanted -- we just
12 wanted to make sure for our safety that no one else was in
13 there, you know, anything going on.

14 Q And go on, I'm sorry.

15 A Okay. Once we were told that they went to Florence
16 Hakeem went on to tell Investigator Barley that they had
17 went to an apartment and they had taken some cell phones
18 and some money. And if I'm not mistaken that's when the
19 conversation stopped when we decided to bring them over to
20 Florence for further investigation.

21 Q Now were they, in fact, transported to Florence?

22 A Yes, they were, but we kept them separate the whole
23 time. We had Hakeem in the car with us, Investigator
24 Barley and I. And Christian Richardson was with
25 Investigator Weatherford and -- excuse me. He transported

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1 them to Merita Bread up at Highway 52 where we had one of
2 our transport units pick him up and bring them over to
3 police department.

4 Q And so they were kept separate at that time?

5 A The entire time. They never got together. Kept them
6 separate the entire time.

7 Q And to this day do you have any knowledge whether or
8 not they've been kept separate?

9 A To my knowledge they've been kept separate.

10 MR. MCCLAURIN: Objection, Your Honor.

11 THE COURT: Sustain the objection. Now unless
12 he knows where was --

13 MS. PARR: I asked whether he knows to his
14 knowledge and he...

15 THE COURT: Obviously the custody is not within
16 his control. The custody would be with the state and the
17 county and/or both at times. I sustain the objection.

18 MS. PARR: Okay.

19 BY MS. PARR:

20 Q So after you got to Florence what did you
21 do?

22 A We talked to Hakeem first. Investigator Barley and I,
23 we talked to him again, separate of course. Investigator
24 Barley asked Hakeem what happened and that when he told us
25 that he, Christian, and Shakeem came over to Florence and

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1 get something to eat and look around for girls. And that
2 was when he also told us when that they met some girls up
3 over at the Skateland, if I'm not mistaken, and the girls
4 told them they lived over at the apartments across the
5 street from Super-Walmart on South Irby Street. A little
6 time went by before they decided to go over there, what we
7 were told. And that was when they went over to the
8 apartment, but they couldn't find the girls so they saw
9 people standing outside and that was when Hakeem stated
10 that Shakeem told them to put some masks on and they were
11 going to scare this guy at the apartment they saw standing
12 outside. That they were going to scare him. From what he
13 was telling us is that he was led to believe that Shakeem
14 knew the guy apparently, and they just wanted to scare him
15 playing a joke, whatever. They went in to the apartment
16 with masks on and Hakeem stated that they took some --
17 bunch of cell phones and money and left back out.

18 Q Now did you have an occasion to do any other work on
19 this particular case? Were there any with the other --

20 A Well, there was -- they talked to -- we talked to
21 Christian as well immediately following talking to Hakeem.

22 Q And what date was this?

23 A This was the 6th of June.

24 Q Okay. So it was the day after --

25 A Right.

SW - T. CARROWAY - DIRECT

1 Q ---this happened?

2 A Right. And when I said the first day we were in Timrod
3 Park and the next day we went over to Darlington. Yeah.
4 It would have been the sixth.

5 Q Okay. And then you said you were there when --

6 A We spoke to Christian. And basically Christian said
7 about the same thing. They went over to Florence, get
8 some food, look for girls. They road around a little
9 while. Then they went over to the apartment complex, saw
10 the people standing outside. Shakeem told them to put the
11 mask on. Said that Shakeem had a gun. I forgot to tell
12 you that. Shakeem did have a gun and that Shakeem held
13 the people in the residence at gunpoint while he and
14 Hakeem looked through the house for items and they took
15 cell phones and money.

16 Q Okay. Now at the time you were talking to Christian
17 Richardson and Hakeem were you aware that there had been
18 mention of a fourth subject involved?

19 A Not at the time. I wasn't aware of that at the time.

20 Q Okay. When did you become aware of that?

21 A It was later. That wasn't brought up in front of me if
22 I'm not mistaken.

23 Q Okay. Beg the Court's indulgence. And other than
24 going over to Darlington with Investigator Barley
25 initially were you involved in the rest of the

SW - T. CARROWAY - DIRECT

1 investigation of this matter?

2 A Other than that, no.

3 Q Okay. All right, would you please answer any questions
4 that Mr. McLaurin may have for you?

5 **CROSS-EXAMINATION**

6 BY MR. MCLAURIN:

7 Q Officer Carroway, you indicated I think you've been an
8 investigator for 20 years now; is that correct?

9 A About six, but I've been a police officer --

10 Q I mean, I'm sorry.

11 A I been in law enforcement about 20 years.

12 Q Okay. What did you do before investigation?

13 A Well, numerous things. I just got back from the war
14 actually.

15 Q Okay.

16 A Yeah. So numerous things. I've been SRO. I've been
17 narcotics and regular street officer as well.

18 Q And through the years you've dealt with a lot of
19 victims; have you not?

20 A Yes, I have.

21 Q And is it important to take a written statement from a
22 victim at the time the incident happened?

23 A Yes, I would say it would be.

24 Q And why is that important?

25 A 'Cause everything is fresh in their mind at the time.

SW - T. CARROWAY - CROSS

1 Q And so when you talk with the victim and you ask them
2 to give a statement you tell them to give as much detail
3 as they can in the statement. Is that a fair statement?

4 A That's true.

5 Q And particularly descriptions of individuals, potential
6 defendants; is that correct?

7 A That's correct.

8 Q And let me ask you also, if you have a description of a
9 particular defendant how do you go about trying to see if
10 a victim can identify that particular defendant? Put a
11 different way, is the investigator to do that?

12 A We set up photo lineups. We also have mug shot books.
13 We let them look through the mug shot books and see if
14 they can pick them out of the mug shots.

15 Q And is that pretty standard procedure to do that?

16 A Well, everyone does things a little differently, but
17 yeah. That's what I do.

18 Q Is that the best training to do it that way?

19 A Well, that's one of the training that we go through,
20 yes, sir.

21 Q Is there any other way to figure out who a defendant is
22 without doing it that way?

23 A Yeah, we go around, we ask questions. We talk to
24 people in the neighborhood and see if they seen something,
25 or you know, eyewitness accounts are better than anything.

SW - T. CARROWAY - CROSS

- 1 Q Right. But I'm talking about if you've got a
2 description how do you go from that description of the
3 defendant to —
- 4 A We'll do that. We'll let them look through the books.
- 5 Q Yes, sir. Now did you participate in any
6 fingerprinting or anything like that at the scene?
- 7 A No, sir.
- 8 Q You know if that was done?
- 9 A I didn't go to the scene.
- 10 Q Okay. For some reason, I'm sorry, I thought you went
11 to the scene. You didn't go out there —
- 12 A No.
- 13 Q —to the apartment complex at all?
- 14 A No.
- 15 Q When did you first become involved?
- 16 A Later on that afternoon once it was assigned to
17 Investigator Barley. That afternoon when we went to
18 Timrod Park.
- 19 Q Okay. And it was during that time that you were able
20 to identify a potential defendant through a nickname; is
21 that what you testified to?
- 22 A Right.
- 23 Q Is that correct? Did you overhear that conversation
24 or?
- 25 A No. We were all standing up talking and that's just —

SW - T. CARROWAY - CROSS

- 1 we went out; they were just talking. We were standing in
2 the parking lot talking, and I was standing beside
3 Investigator Barley while he was sitting there talking to
4 the victims.
- 5 Q Oh, Investigator Barley was talking to the victims?
6 A Right.
- 7 Q Okay. No mention of Lewis Williams during any of your
8 investigation; is that correct?
9 A Not -- no.
- 10 Q And you were able to go over and find these Hakeem
11 Costa and Shakeem Williams; is that correct?
12 A No, that's not correct.
- 13 Q Excuse me, Hakeem Costa and Christian Richardson, I'm
14 sorry, over in Darlington ---
15 A Right.
- 16 Q ---correct? Do you know how old those boys are?
17 A Seventeen I think.
- 18 Q Okay. And Hakeem you think is 17 and Christian?
19 A Hakeem should be 17 now if I'm not mistaken, and
20 Christian is either 17 or just turned 18.
- 21 Q Hakeem, he wasn't 16 at the time?
22 A Yes, he was.
- 23 Q Okay. And when you went over there to speak to Hakeem
24 was his mother present?
25 A No, she wasn't.

SW - T. CARROWAY - CROSS

1 Q How do you know where he lived?

2 A I'm familiar with him. I was his football coach and

3 ---

4 Q And who did he live with over there?

5 A He lived with his mother.

6 Q She wasn't there?

7 A No, she wasn't.

8 Q So you spoke with him and read him the Miranda rights;
9 is that correct?

10 A Sure did.

11 Q Which basically just tell us real briefly what that is.

12 You don't have to say -- just summarize it. It's not --

13 A It's just advising potential suspect of their rights to
14 speak to us or not to speak us or have a fair -- basically
15 it. They have the right to remain silent, that type
16 thing.

17 Q And you told those to Hakeem; is that correct?

18 A No, I didn't, Investigator Barley did.

19 Q But you were present when that was done?

20 A Yes, sir.

21 Q And Hakeem understood that?

22 A Yes, he did. Yes, he did.

23 Q And then you sat down with Hakeem and he told you what
24 his version of what happened; is that correct?

25 A Not then. As I said, he touched on it a little bit,

SW - T. CARROWAY - CROSS

1 but we realized we had the guys we were looking for and we
2 decided to bring them over to the police department and
3 talk to them further.

4 Q Okay. But he did tell you who participated at that
5 moment?

6 A Not at that moment he didn't tell us -- well, yeah, he
7 did say -- he mentioned three names. He mentioned himself
8 Christian, and Shakeem.

9 Q And you ended up finding Christian Richardson in the
10 house?

11 A Yeah, he was there. He came up. Investigator Barley
12 read all of them rights at the same time he came up when
13 we first went in. That's when Investigator Weatherford
14 went to the bedroom and brought him up front, and that's
15 when he read both of them rights at the same time.

16 Q Was he hiding in the back?

17 A No, he wasn't hiding. He was just in the bedroom. He
18 wasn't hiding.

19 Q Do they live near each other, do you know?

20 A Yes, I think -- actually, there was -- Christian's
21 grandmother stayed near Hakeem, and he was just over
22 with -- he was spending time with Hakeem. They were good
23 friends.

24 Q Good friends is your understanding.

25 A Good friends.

SW - T. CARROWAY - CROSS

1 Q And did you ask Christian Richardson at that time about
2 who participated or what happened?

3 A No, we didn't.

4 Q You just asked Hakeem?

5 A That's right.

6 Q Is that correct?

7 A That's correct.

8 Q Then you transported them over to Florence; is that
9 correct?

10 A That's correct.

11 Q And you took their statement again, this time kind of
12 formally I guess; is that correct?

13 A That's correct.

14 Q What did you do this time when you gave this statement?
15 Did you get them to sign anything?

16 A I didn't. I'd have to --

17 Q Were you present when they signed the stuff?

18 A I was -- I was there. I'm pretty sure they did sign a
19 waiver of rights.

20 Q Tell me what a waiver of rights is.

21 A It's still advising basically the same thing, their
22 right to counsel to make sure they understand their rights
23 as suspects, they have the right to remain silent, same
24 type thing.

25 Q And do you think they understood that when you talked

SW - T. CARROWAY - CROSS

1 to them?

2 A Yes, I do.

3 Q And then they ended up giving a statement; is that
4 correct?

5 A That's correct.

6 Q Which you were present?

7 A Yes, I was.

8 Q And once again they indicated -- who did they say was
9 involved at that time?

10 A At that time they said it was Hakeem, Christian.

11 Hakeem Richardson -- I'm sorry. Hakeem Costa, Shakeem
12 Williams, and Christian Richardson.

13 Q And did they tell you how they ended up over in the
14 south Florence area over at Walmart?

15 A They said they drove over.

16 Q But why did they go over there?

17 A Well, were looking for girls and looking for -- some
18 girls told them they lived over in that apartment complex
19 and they went looking.

20 Q They had met or were talking to some girls over at the
21 Skateland. Is that your understanding?

22 A And they -- yeah, that's my understanding. And the
23 girls told them that they lived over at the apartments
24 across the street from Super-Walmart on south Irby Street.

25 Q Did they know those girls? Do you know?

SW - T. CARROWAY - CROSS

- 1 A I have no idea.
- 2 Q Did they say that one way or the other?
- 3 A No, they didn't.
- 4 Q Did they tell you that what they were wearing and what
5 their roles were in the crime?
- 6 A I don't remember what they said they were wearing, but
7 their role was they went in while Shakeem held the victims
8 at gunpoint. They went in and they took items from the
9 house, took cell phones, money.
- 10 Q Did they tell you -- do you remember what they said
11 they took?
- 12 A That was it. Said -- I remember them saying they took
13 cell phones and money.
- 14 Q Let me ask you this. When you went over to Darlington
15 and you went in Hakeem's house he didn't know you were
16 coming obviously; is that correct?
- 17 A No, he didn't.
- 18 Q Okay. And did you guys search the apartment?
- 19 A No, we didn't.
- 20 Q The house?
- 21 A No, we didn't.
- 22 Q Did they tell you where any of the items that they
23 stole was located?
- 24 A Not that I remember. I remember Hakeem did say one of
25 the cell phones was at his house, but he couldn't find it.

SW - T. CARROWAY - CROSS

1 I remember that much.

2 Q Did they tell you about any other items?

3 A No, they didn't.

4 Q Anything about the watches?

5 A I don't recall.

6 Q Did they have any questions of you or anybody at the
7 end of their statements?

8 A No, they didn't.

9 Q Thank you. That's all the questions I have.

10 THE COURT: Redirect.

11 **REDIRECT EXAMINATION**

12 BY MS. PARR:

13 Q What was their demeanor when they were giving the
14 statements?

15 A Excuse me?

16 Q What were their demeanor?

17 A They appeared to be nervous. They appeared to be
18 frightened.

19 Q Okay. Did they talk freely or?

20 A Yeah, they were -- they spoke freely, yes, they did.

21 Q Okay, all right. And did they volunteer much
22 information or just respond to what was given?

23 A They actually -- we were actually -- Investigator
24 Barley was asking them questions. They were more
25 responsive, responding to questions.

SW - T. CARROWAY - REDIRECT

1 Q Okay. And so they didn't give a lot of free responses?

2 A Right.

3 MR. MCLAURIN: Objection, Your Honor.

4 THE COURT: Yeah, leading counsel. Sustain the
5 objection.

6 BY MS. PARR:

7 Q And what type of answers did they give?

8 A They were short.

9 MR. MCLAURIN: Objection, Your Honor, to the
10 form of that question. I mean, I —

11 MS. PARR: Your Honor, that's an open-ended
12 question I asked.

13 THE COURT: It is. It's not leading so if he
14 understands it.

15 MR. MCLAURIN: Well, that's what my...

16 THE COURT: That type of questions don't always
17 have certitude.

18 MR. MCLAURIN: Yes, sir.

19 THE COURT: Proceed.

20 BY MS. PARR:

21 Q What type of questions did you ask?

22 A Just basic questions as to who was with you, what were
23 your intentions, what happened. Basically what happened,
24 just tell us what happened. But we came up and asked
25 questions because they, you know, their answers were so

SW - T. CARROWAY - REDIRECT

1 short, you know, it was just they didn't know how to
2 answer the questions at that time.

3 MS. PARR: Okay. Nothing further, Your Honor.

4 THE COURT: Recross.

5 **RECROSS-EXAMINATION**

6 BY MR. MCLAURIN:

7 Q When you ask a potential defendant questions like that
8 you're thorough in your questions, right?

9 A Yes, I am.

10 Q And you make sure you get all the information out,
11 correct?

12 A We try our best.

13 Q Okay. And now Hakeem Costa, do you know how many pages
14 his statement was?

15 A No, I don't.

16 Q Let me show you a copy. This is Florence Police
17 Department, statement of Hakeem Costa. How many pages is
18 that statement?

19 A It says 13.

20 Q That's a thorough examination of somebody; isn't it?

21 A Yes, it is.

22 Q I don't have anything further. Thank you.

23 THE COURT: Redirect.

24 MS. PARR: Nothing further for this officer,
25 Your Honor.

SW - T. CARROWAY - RECROSS

1 THE COURT: You may step down.

2 And it's break time, jurors. We'll run till about 5 or
3 5:30 and stop for the evening. Break time.

4 (WHEREUPON, a recess was taken from the proceedings at
5 3:36 p.m.)

6 MS. PARR: Your Honor, I wanted to see if we
7 could do a matter before they come out.

8 THE COURT: Yes.

9 MS. PARR: Your Honor, yesterday I was asked to
10 go back to the Department of Juvenile Justice in regards
11 to a criminal record.

12 THE COURT: Yes.

13 MS. PARR: I did get a letter from the
14 Department of Juvenile Justice, and I'll show Defense
15 counsel and then I'll pass it to the Court.

16 (Pause while Mr. McLaurin reviews letter.)

17 THE COURT: All right. Does that resolve this
18 issue?

19 MR. MCLAURIN: If I can just get a copy of that
20 for my file that will be sufficient for me.

21 THE COURT: Okay, thanks.

22 Okay. Bring the jury out.

23 (WHEREUPON, the jury was returned to the courtroom at
24 approximately 3:51 p.m., and the following proceedings
25 commenced in open court.)

1 **THE COURT:** This is Juror 106, Ms. Martha
2 Presley.

3 Ms. Presley, you related to the clerk of court that you
4 now recognize the defendant's mother in the courtroom. Is
5 that correct?

6 **JUROR PRESLEY:** I think so, yes, sir.

7 **THE COURT:** In regard to your recognition of the
8 defendant's mother are you comfortable in saying to the
9 Court that you can and will give the State and the
10 defendant a fair and impartial trial?

11 **THE JUROR:** Yes, I will, Your Honor.

12 **THE COURT:** And you don't have any kind of
13 feeling that would keep you from giving a fair verdict?

14 **THE JUROR:** No, sir, none.

15 **THE COURT:** Thank you so much. And thank you
16 for responding.

17 **THE JUROR:** You're welcome.

18 **THE COURT:** Thank you very much. All right.

19 **MS. PARR:** Your Honor. The State calls
20 Officer – Sergeant Weatherford.

21 **DEPUTY CLERK OF COURT:** Stop right there. Place
22 your left hand on the Bible, raise your right hand.

23 **WHEREUPON,**

24 **BENJAMIN WEATHERFORD,**
25 having been duly sworn by the Deputy Clerk of Court,

SW - B. WEATHERFORD - DIRECT

1 testified as follows:

2 DEPUTY CLERK OF COURT: Please be seated. State
3 your full name for the record.

4 THE WITNESS: Benjamin Weatherford.

5 **DIRECT EXAMINATION**

6 BY MS. PARR:

7 Q And Sergeant Weatherford, where are you employed?

8 A Currently at the Darlington County Sheriff's Office.

9 Q And how long have you been with the Darlington County
10 Sheriff's Office?

11 A I left Darlington City Police Department in January and
12 joined the Sheriff's Office.

13 Q Okay. And what year was that?

14 A 2009, January 9th — or 6th to be exact, of this year.

15 Q And how long have you been in law enforcement?

16 A About four-and-a-half years.

17 Q And have you had special training for your job?

18 A Yes, ma'am, several different types. I was a gang
19 investigator at Darlington City as well as violent crimes
20 investigator. In January I was promoted to sergeant at
21 the Sheriff's Office and I do regular investigations as
22 well as gang investigations.

23 Q And are you a certified law enforcement officer for the
24 State of South Carolina?

25 A Yes, ma'am, I am.

SW - B. WEATHERFORD - DIRECT

1 Q Now on June 6th, 2008, did you have an occasion to be
2 brought on a case that happened, home invasion case, that
3 happened in the City of Florence?

4 A Yes, ma'am.

5 Q Okay. And who were you brought in to this case by?

6 A Investigator Barley and Carroway from Florence City.

7 Q Okay. And please tell us how you were brought into it?

8 A On that date they went to my lead investigator, which
9 was Danny Watts at the time, asking him for help on a
10 case. Instructed him to talk with me about several names
11 they had to see if I was -- knew them or aware of them.

12 Q Okay. And so they came to Darlington city?

13 A Yes, ma'am. They came to Darlington city at that time.

14 Q Okay. And then what did you do upon meeting them?

15 A They advised me of the situation of the case. They
16 asked me if I knew several different names in which I did,
17 which I knew them throughout my investigations. And the
18 part they had me in police department investigations I was
19 doing I was aware of who they were.

20 Q Okay. And then at that time what did -- what did you
21 do?

22 A I advised them who the nicknames, what their real names
23 were. I then took them to the addresses of where these
24 subjects lived.

25 Q Okay. And now as you were leaving the police

SW - B. WEATHERFORD - DIRECT

1 department did you have an occasion to run into someone?

2 A Yes, ma'am. Ricardo Richardson, he asked me -- they
3 advised me, they said that we need to talk with him. I'll
4 find him 'cause I know him. And as we were pulling out
5 the police department here he come walking down the
6 sidewalk so I stopped him, let them have a little chat
7 with him.

8 Q Now after they talked to Ricardo what did you do?

9 A They finished up with him. We proceeded on down to
10 Ottoman Apartments.

11 Q And whose apartment was that?

12 A Costa, Hakeem Costa.

13 Q Okay.

14 A His nickname, Hawk, as they kept referring him to me.
15 I knew his nickname through my investigations. I knew
16 where his address was.

17 Q Okay. And so you went to Hakeem Costa's home; is that
18 correct?

19 A Yes, ma'am.

20 Q Okay. And then when you got there please tell us what
21 you found.

22 A Hakeem came to the door. We went in. He agreed to
23 talk. We checked --

24 Q And how far did he live from the police department?

25 A It's maybe a half mile. Apartments are right behind

SW - B. WEATHERFORD - DIRECT

1 the police just -- there's a little creek that runs back
2 there. It's just over it.

3 Q Okay.

4 A Um --

5 Q Go on, I'm sorry.

6 A We got there. We were -- started talking. He said his
7 friend was in the bedroom. And I stood in the bedroom
8 while the Florence investigators talked with Mr. Costa.

9 Q And when at any time did you go in the room where they
10 were talking to Hakeem Costa?

11 A I stood in the bedroom while they talked to him, and
12 then I, with the other subject, and we came back out. I
13 didn't ever stand there while they talked to him.

14 Q Okay. Now where was Christian Richardson while they
15 were talking to Hakeem?

16 A When we first got there he was in Hakeem's bedroom
17 asleep on the floor.

18 Q Okay. And then did you wake him up, or what happened
19 when you got there?

20 A The officer -- there was several of us there together.
21 We woke him up and asked him to sit up and talk to us so.

22 Q Now were they separated?

23 A Yes, ma'am. They had Mr. Costa in the front in the
24 living room and we were actually in his bedroom with the
25 door closed.

SW - B. WEATHERFORD - DIRECT

1 Q Okay. Now were you a part of any invest-- any
2 interrogation of any subject?

3 A No, ma'am.

4 Q Okay. Now were you -- did you do any other work on
5 this case other than assist them with the identity of
6 these persons they were looking for?

7 A That's all I did is assist them.

8 Q Okay. All right, would you please answer any questions
9 Mr. McLaurin may have for you.

10 CROSS-EXAMINATION

11 BY MR. MCLAURIN:

12 Q You do investigations with Darlington County; is that
13 correct?

14 A Yes, sir.

15 Q How long have you been doing that?

16 A I've been with the county since January 6 of this year.

17 Q And when you question a defendant, Officer Weatherford,
18 how important is it to have a written statement or a
19 recorded statement of what they have to say? Is that
20 important?

21 A Yes, sir.

22 Q Okay. Why is that important?

23 A For the future of the case to make sure they don't
24 change their statements later.

25 Q And what would be the concern if they change their

SW - B. WEATHERFORD - CROSS

1 statements?

2 A Maybe they lie.

3 Q That's all the questions I have.

4 THE COURT: Redirect.

5 MS. PARR: Nothing further for this witness.

6 THE COURT: Thank you, sir.

7 Next witness please.

8 MS. PARR: Your Honor, the next witness we would
9 have is Michael Robinson and we just need to get her.

10 THE COURT: Okay.

11 DEPUTY CLERK OF COURT: If you would, ma'am,
12 come to the witness stand. Place your left hand on the
13 Bible and raise your right.

14 WHEREUPON,

15 MICHAEL THOMAS ROBINSON,
16 having been duly sworn by the Deputy Clerk of Court,
17 testified as follows:

18 THE DEPUTY CLERK OF COURT: Please be seated.
19 State your full name for the record.

20 THE WITNESS: My name is Michael Thomas
21 Robinson.

22 DIRECT EXAMINATION

23 BY MS. PARR:

24 Q Investigator Robinson, where are you employed?

25 A With the Florence City Police Department.

SW - M. ROBINSON - DIRECT

1 Q And how long have you been with the Florence City?

2 A Since 1999.

3 Q Okay. And what do you do for the Florence City Police
4 Department?

5 A I work in the investigations division. I'm a criminal
6 detective.

7 Q Okay. And have you had any special training for your
8 job?

9 A Yes, ma'am.

10 Q Okay. Are you a certified law enforcement officer?

11 A Yes, ma'am, I am.

12 Q Now on May -- I mean, on Wednesday, July 9th, 2008, did
13 you have an occasion to have some involvement in regards
14 to a home invasion case that had occurred?

15 A Yes, ma'am, I did.

16 Q Okay. And how did you become involved in this
17 particular case?

18 A I was at the Florence County Law Enforcement Center
19 with Investigator Barley.

20 Q Okay. And why were you at the detention center?

21 A We went there to interview a defendant in a home
22 invasion.

23 Q Okay. And what was that defendant's name?

24 A I think it was Mr. Richardson.

25 Q And would that have been Christian Richardson?

SW - M. ROBINSON - DIRECT

1 A Yes, ma'am.

2 Q And so you went there to interview him; is that
3 correct?

4 A Yes, ma'am. I went there to -- I was with Investigator
5 Barley. Investigator Barley was the one conducting the
6 interview. I was merely a witness to the interview.

7 Q Would you please tell the Court what you witnessed.

8 A Well, Mr. Barley gave Mr. Richardson his waiver. He
9 read him his waiver of rights and Mr. Richardson signed
10 his waiver of rights. And I was under the impression that
11 he'd already spoken with him in the past so this was a
12 follow up interview. I was under the impression it was a
13 followup interview. And he read him his Miranda rights
14 and then was asking to make sure that he understood who
15 the actual co-defendants were.

16 Q Okay. And then what if -- was said?

17 A Well, he indicated that Lewis Williams was also
18 involved in the home invasion.

19 Q And you say he indicated what? Who indicated that?

20 A Mr. Richardson did.

21 Q And what specifically did Mr. Richardson say?

22 A He said that Mr. Lewis was involved but.

23 Q Okay. And did he indicate why he didn't indi-- do you
24 recall him saying why he didn't reveal that information
25 earlier?

SW - M. ROBINSON - DIRECT

1 A I think they were afraid of Mr. Williams.

2 Q Okay. And what if anything else do you recall that he
3 said?

4 A I remember -- I remember the use of a fear with Mr.
5 Richardson. Mr. Richardson was a, you know, even
6 concerned but that's -- I remember the fear and I remember
7 him saying, you know, naming Mr. Williams as, you know, as
8 being with him.

9 Q Okay, all right. Did he -- do you recall him
10 indicating who provided the gun for Shakeem Williams in
11 this robbery?

12 A I'm not aware of that. I don't -- I mean, Investigator
13 Barley may remember more than I do. He was, you know, he
14 was in the, you know, the main interviewer. I was merely
15 there as...

16 Q Okay. And you said you were there on July 9th, 2008
17 when he came?

18 A I was. Yes, I was.

19 Q All right. And did you ask Mr. Richardson any
20 questions?

21 A I don't remember asking him anything.

22 Q Would you please answer any questions Mr. McLaurin may
23 have for you.

24 A Thank you.

25 **CROSS-EXAMINATION**

SW - M. ROBINSON - CROSS

1 BY MR. MCLAURIN:

2 Q Officer Robinson, what's the typical way that you
3 record and memorialize a statement when you take it?

4 A Well, there are a couple of ways. They can be oral,
5 written, or digital. Those are the typical ways.

6 Q And why do you do it that way?

7 A That's — it's just done that way for memory purposes
8 and recalling data purposes.

9 Q Okay. And do you happen to know whether this
10 particular interview was recorded?

11 A I can't remember. I apologize, but I can't remember.
12 I remember very basic details.

13 Q Have you reviewed anything in preparation for your
14 testimony?

15 A Yes, sir, I reviewed the statement, the supplemental
16 report written by Investigator Barley.

17 Q And when you do an interview like this can you tell me
18 what the difference between a leading question and an
19 open-ended question is?

20 A Well, that's pretty much an open-ended question. An
21 open-ended question, I'm —

22 Q I mean, you're an investigator, right?

23 A Sure.

24 Q Okay. And do you know the difference between asking

25 —

SW - M. ROBINSON - CROSS

1 information; is that correct?

2 A Reading his report, and my memory, I don't remember how
3 he asked the question but I do know what the supplemental
4 report says.

5 Q And it indicates a leading question, right?

6 A Possibly.

7 Q He suggested Lewis Williams' name to Christian
8 Richardson, correct?

9 A I apologize, but it was my understanding that was the
10 second interview where his name had already been
11 mentioned.

12 Q So your understanding was his name had already been
13 mentioned?

14 A Yes, sir.

15 MR. MCLAURIN: Okay. I don't have anything
16 further.

17 THE COURT: Redirect.

18 **REDIRECT EXAMINATION**

19 BY MS. PARR:

20 Q Investigator Robinson, do you recall anything else that
21 Richardson said?

22 A No, ma'am, I don't think I do. It was —

23 Q Nothing further, Your Honor.

24 THE COURT: Anything further, Counsel?

25 MR. MCLAURIN: Nothing further, Your Honor.

SW - M. ROBINSON - REDIRECT

1 THE COURT: Thank you.

2 THE WITNESS: Thank you, Your Honor.

3 THE COURT: Next witness please.

4 MS. PARR: Your Honor, at this time may we

5 approach the Bench.

6 THE COURT: Sure.

7 (WHEREUPON, counsel approached the Bench for an

8 off-the-record discussion.)

9 MS. PARR: At this time we call Christian

10 Richardson.

11 DEPUTY CLERK OF COURT: If you will go to the

12 witness stand. Place your left hand on the Bible, raise

13 your right.

14 WHEREUPON,

15 **CHRISTIAN RAYNARD RICHARDSON,**

16 having been duly sworn by the Deputy Clerk of Court,

17 DEPUTY CLERK OF COURT: Be seated right there in

18 the witness chair. State your full name for the record.

19 THE WITNESS: Christian Raynard Richardson.

20 **DIRECT EXAMINATION**

21 BY MS. PARR:

22 Q Mr. Richardson, how old are you?

23 A Eighteen.

24 Q And what's your birthday?

25 A [REDACTED], 1990.

SW - C. RICHARDSON - DIRECT

1 Q And Mr. Richardson, what grade are you in or were you
2 in at Darlington High School?

3 A Tenth grade.

4 Q Okay. And would that have been last year?

5 A Yes, ma'am.

6 Q Okay. And what did you do at Darlington High School?
7 What activities were you involved in?

8 A Football and baseball.

9 Q And did you play for Darlington High School, both those
10 sports?

11 A Yes, ma'am.

12 Q Now are you nervous today?

13 A Yes, ma'am.

14 Q Now do you have a speech impediment?

15 A Yes, ma'am.

16 Q And how long have you had that speech impediment?

17 A Ever since I was little.

18 Q Now did you have any special assistance with that?

19 A Yes, ma'am.

20 Q Okay. And where did you have that assistance?

21 A In school.

22 Q Now going back to June of last year, June of 2008, do
23 you recall when school ended that year, last year?

24 A Yes, ma'am.

25 Q Okay. And what grade had you just completed?

SW - C. RICHARDSON - DIRECT

1 A Tenth.

2 Q Okay. And so where were you going to go when school
3 started in the fall? What grade were you going to?

4 A The 11th.

5 Q Now at the end of school what, if anything, happened?
6 What day -- or let me rephrase. Do you recall what was
7 the date of the last day of school?

8 A No, ma'am.

9 Q Now on June 5th, 2008, did you have an occasion to
10 become involved or a incident that occurred here in
11 Florence?

12 A No, ma'am.

13 Q Were you involved in -- did you come to Florence on
14 June 5th that night?

15 A Yes, ma'am.

16 Q Okay. And earlier that day please tell us where you
17 were.

18 A I was at Hakeem house?

19 Q Okay. And who is Hakeem?

20 A A friend of mine.

21 Q Okay, where does Hakeem live?

22 A In Darlington.

23 Q Okay. Where in Darlington did he live there from where
24 you were staying?

25 A Down the street.

SW - C. RICHARDSON - DIRECT

- 1 Q Okay. Now on that day did you all have school that
2 day?
- 3 A No, ma'am.
- 4 Q Okay. And why didn't you have school that day?
- 5 A School was out.
- 6 Q Okay. Now was that right before graduation?
- 7 A Yes, ma'am.
- 8 Q Now on that day you said you went to Hakeem's house; is
9 that correct?
- 10 A Yes, ma'am.
- 11 Q Where did you -- where were you staying?
- 12 A I stay with my grandma.
- 13 Q Okay. And what's your grandma's name?
- 14 A Ernestine Hayes.
- 15 Q And what street did she live on?
- 16 A Wells Street.
- 17 Q And who is your mom?
- 18 A Carma Hayes.
- 19 Q And where does your mother live?
- 20 A In Florence.
- 21 Q Now on this particular day you said -- were you at your
22 grandma's house or your mom's?
- 23 A My grandma's.
- 24 Q And what did you do all day that day?
- 25 A I was Hakeem house playing video games all day.

SW - C. RICHARDSON - DIRECT

- 1 Q About what time did you go to Hakeem's house?
- 2 A Around 5:00.
- 3 Q And how did you get to Hakeem's house?
- 4 A I walked.
- 5 Q All right. And what happened while you were at
- 6 Hakeem's house?
- 7 A We was playing the videos games to night time. Then
- 8 Hakeem say he got a phone call for Shakeem and ---
- 9 Q He got a phone call for who?
- 10 A Shakeem.
- 11 Q And who is Shakeem?
- 12 A His cousin.
- 13 Q Okay. And what is his last name, do you know?
- 14 A Williams.
- 15 Q Okay. And how old is -- did you know how old Shakeem
- 16 was?
- 17 A I believe 19.
- 18 Q Okay. So he got a call from Shakeem and then what
- 19 happened?
- 20 A He was asking him he was wanting to go to Florence and
- 21 I was like, yes.
- 22 Q Okay.
- 23 A Then so Hakeem come to pick us up, come to pick us up.
- 24 Q Okay. And he picked you up. What did he pick you up
- 25 in?

SW - C. RICHARDSON - DIRECT

- 1 A In a Chrysler.
- 2 Q Okay. And what — do you recall what color?
- 3 A Gold.
- 4 Q Okay. And whose Chrysler was that?
- 5 A His mother's.
- 6 Q Okay. And do you recall what time he picked you all
- 7 up?
- 8 A About 10 or 11.
- 9 Q And where did you go once you were picked up?
- 10 A We went to go get Lewis.
- 11 Q Now who was driving?
- 12 A Shakeem.
- 13 Q Now you said you went to pick Lewis up. Who is Lewis?
- 14 A Shakeem brother.
- 15 Q And do you know how old Lewis is?
- 16 A I believe 26, 27.
- 17 Q Okay. So he's a bit older than you all; is that
- 18 correct?
- 19 A Yes, ma'am.
- 20 Q Now what — do you know where — you recall where you
- 21 picked him up from?
- 22 A At his grandmother house.
- 23 Q Okay. And is that in Darlington?
- 24 A Yes, ma'am.
- 25 Q Now who was driving when you all went to pick Lewis up?

SW - C. RICHARDSON - DIRECT

- 1 A Lewis.
- 2 Q No, who was driving to get Lewis?
- 3 A Shakeem.
- 4 Q And once you got to Lewis what happened?
- 5 A They switched driver's sides; they switched seats.
- 6 Q Okay. And when you say he switched, they switched
- 7 seats, who started driving at that time?
- 8 A Lewis.
- 9 Q Okay. Now where were you in the car?
- 10 A In the back seat.
- 11 Q Okay. And who else was in the back seat with you?
- 12 A Hakeem.
- 13 Q Okay. Now what relations, if any, is Hakeem to Lewis
- 14 and Shakeem?
- 15 A Their cousin.
- 16 Q And when after Lewis got in the car where did you all
- 17 go or what did y'all do?
- 18 A Went to Florence to get something to eat.
- 19 Q Okay. And then where did you go?
- 20 A We was about to drive out -- we was about to drive to
- 21 my house till I figure out I ain't had my key.
- 22 Q Okay. When you say drive to your house what house are
- 23 you referring to?
- 24 A My Florence house, my mother house.
- 25 Q Okay. And then -- and then what happened.

SW - C. RICHARDSON - DIRECT

1 A I figure I ain't had my key and I was telling that we
2 can go to my momma job so we can get the key so we go back
3 to my house.

4 Q Now where does your mom work?

5 A At the Marriott.

6 Q Where is the Marriott located?

7 A In Florence.

8 Q Okay. Now is this the Marriott over by the Civic
9 Center?

10 A Yes, ma'am.

11 Q And did you all go to your mom's?

12 A No, ma'am.

13 Q And where did y'all end up going?

14 A To the skating rink.

15 Q And where is the skating rink located?

16 A In west Florence.

17 Q Pardon me?

18 A In west Florence.

19 Q In west Florence, okay. Now where in west Florence?

20 Do you know what it's close to?

21 A Sams Club.

22 Q Okay. And do you recall what time you got to the
23 skating rink?

24 A Twelve.

25 Q Okay. And so -- and when you got to the skating rink

SW - C. RICHARDSON - DIRECT

- 1 what did y'all do?
- 2 A Was eating in the car and Hakeem got out talking to
- 3 some girls.
- 4 Q Okay. Do you know whether Hakeem knew the girls?
- 5 A No, ma'am.
- 6 Q So you don't -- you don't know?
- 7 A No, ma'am.
- 8 Q Okay. And do you have any idea how long you all would
- 9 have stayed there, at the skating rink?
- 10 A 30, 40 minutes.
- 11 Q Okay. And then what did you do after talking to the
- 12 girls?
- 13 A We decided to go back to Darlington.
- 14 Q Okay. Did you all ever go inside the skating rink?
- 15 A No, ma'am.
- 16 Q Now you said you decided to do back to Darlington but
- 17 did you in fact go to Darlington?
- 18 A No, ma'am, not at first.
- 19 Q Not at first, okay. Where did y'all go after you left
- 20 the skating rink?
- 21 A To some apartments.
- 22 Q Okay. Do you know where those apartments were located?
- 23 A No, ma'am.
- 24 Q Okay. What were some of the places that you passed
- 25 going to the apartments?

SW - C. RICHARDSON - DIRECT

- 1 A The DV8.
- 2 Q The where?
- 3 A The DV8.
- 4 Q Okay. And where is the DV8 located?
- 5 A In Florence.
- 6 Q Okay. Now was that DV8 club on Palmetto Street?
- 7 A Yes, ma'am.
- 8 Q Okay. And you recall passing any other places?
- 9 A No, ma'am.
- 10 Q And so after you ended up -- when you ended up at some
- 11 apartments tell me what happened?
- 12 A Shakeem and Lewis was planning on robbing the dude that
- 13 was outside.
- 14 Q And where was the dude?
- 15 A He was standing, standing on the sidewalk.
- 16 Q And what was he doing on the sidewalk?
- 17 A Talking on the cell phone.
- 18 Q Okay. And were there any other persons around him at
- 19 the time?
- 20 A No, ma'am.
- 21 Q Okay. Now how do you know they were planning on
- 22 robbing the guy?
- 23 A I heard them talking.
- 24 Q Okay. And did you all park?
- 25 A Yes, ma'am.

SW - C. RICHARDSON - DIRECT

1 Q And where did you park?

2 A In the other parking lot.

3 Q Okay. Were -- did you park right by where the guy was?

4 A No, ma'am.

5 Q Okay. Where did you park in relations to the guy?

6 A A couple of yards from.

7 Q Okay, all right. And the what happened once you all
8 parked?

9 A After we parked I seen Lewis get Shakeem a gun and he
10 hand Hakeem a mask and told him to go with Shakeem.

11 Q Okay. So you said you saw Lewis give Shakeem a gun?

12 A Yes, ma'am.

13 Q Where was Shakeem sitting in the car?

14 A In the passenger side.

15 Q Pardon me?

16 A In the passenger side.

17 Q Okay. In the front or the back?

18 A Front.

19 Q Okay. Now where did Lewis get the gun from?

20 A I don't know.

21 Q Okay. Did he -- did he have it on his person or in the
22 car?

23 MR. MCCLAURIN: Objection, Your Honor, he's
24 already answered the question. It's leading.

25 THE COURT: I overrule that. Proceed.

SW - C. RICHARDSON - DIRECT

1 BY MS. PARR:

2 Q Did he have the gun on his person or just in the car?

3 A In the car.

4 Q Now did you see the gun?

5 A No, ma'am.

6 Q Pardon me?

7 A No, ma'am.

8 Q You didn't see the gun?

9 A Yes, ma'am.

10 Q Okay. And can you describe the gun, what did the gun
11 look like?

12 A A small gun.

13 Q Okay. What color was it?

14 A Black.

15 Q Okay. Now do you recall what color mask he gave to
16 Shakeem?

17 A Black.

18 Q Okay. And once Shakeem got those things what did he
19 do?

20 A He got out the car.

21 Q All right. And who got out the car with him?

22 A Hakeem.

23 Q Now what, if anything, did Hakeem have?

24 A A mask.

25 Q Okay. And then where did they go, do you know?

SW - C. RICHARDSON - DIRECT

- 1 A No, ma'am.
- 2 Q Did you eventually get out the car as well?
- 3 A Yes, ma'am.
- 4 Q Okay. And at what point did you get out the car?
- 5 A A couple of minutes after that.
- 6 Q And why did you get out at that time?
- 7 A Lewis told me to get out.
- 8 Q Okay. What specifically did Lewis tell you?
- 9 A Go see what they was doing and come back.
- 10 Q Okay. And so what did you do?
- 11 A I got out. I got out and went by some cars to see what
- 12 they was doing.
- 13 Q And what were they doing?
- 14 A I seen Shakeem was talking to the guy, look like he was
- 15 talking to him.
- 16 Q Now was that the same one that was on the telephone on
- 17 the outside?
- 18 A Yes, ma'am.
- 19 Q Okay. And then what happened?
- 20 A I came back and I walked back go tell Lewis what they
- 21 was doing.
- 22 Q And then what happened?
- 23 A And he gave me a mask.
- 24 Q Okay. What color mask did he give you?
- 25 A A black one.

SW - C. RICHARDSON - DIRECT

1 Q And when you say a mask describe it. What...

2 A Ski mask.

3 Q Okay, all right. And he gave you the ski mask. Did he
4 say anything when he gave it to you?

5 A He told me go tell them to come on.

6 Q And so what did you do?

7 A I got it — I got — as I was going to the house, as I
8 was going to get them I seen them walk inside the house.
9 And then I went inside the house. As I was went inside
10 the house I seen two females on the couch and three males
11 standing up, and I went straight to the back room to tell
12 Hakeem to come on.

13 Q Now did you have the mask? Did you put the mask n?

14 A Yes, ma'am.

15 Q Okay. Now you said you saw two females and three
16 males?

17 A Yes, ma'am.

18 Q And where were they?

19 A The two females was on the couch and the three males
20 was standing up.

21 Q Okay. And who was in the living room in that room with
22 them?

23 A Shakeem.

24 Q Okay. And what was Shakeem doing?

25 A He was holding them at gunpoint.

SW - C. RICHARDSON - DIRECT

- 1 Q Now you say you went into the back of the house?
- 2 A Yes, ma'am.
- 3 Q Okay. And what did you when you got to the back of the
- 4 house?
- 5 A I tell Hakeem to come on.
- 6 Q And what else did you do?
- 7 A And I grabbed some watches.
- 8 Q Okay. So you grabbed — where did you grab the watches
- 9 from?
- 10 A Out the dresser.
- 11 Q Okay. What about, did you take anything else?
- 12 A No, ma'am.
- 13 Q Were you aware that some moneys and cell phones had
- 14 been taken as well?
- 15 A Yes, ma'am.
- 16 Q Did you have any of those items?
- 17 A No, ma'am.
- 18 Q And what was Hakeem doing?
- 19 A He grab a purse.
- 20 Q And how many bedrooms did you go in?
- 21 A One of them?
- 22 Q Which one?
- 23 A One of them.
- 24 Q Okay. Do you recall which bedroom you went in?
- 25 A Went straight to the back room.

SW - C. RICHARDSON - DIRECT

1 Q I'm gonna show you some photographs. I'm gonna see
2 if -- you tell me if you can identify them. I'm gonna
3 show you what's been entered into evidence as State's
4 Exhibit Number 2. Can you identify? Does that look
5 familiar?

6 A Yes, ma'am.

7 Q Okay. Mr. Richardson, I'm gonna give you this. I'm
8 gonna show this and if you would just point, you know,
9 with that. Are you familiar with this? Do you recognize
10 this photograph?

11 A Yes, ma'am.

12 Q Okay. If you'd talk nice and loud for me. You said
13 you do recognize it?

14 A Yes, ma'am.

15 Q And what is that a picture of?

16 A Ma'am? Ask the question again.

17 Q What is that a picture of?

18 A The apartment.

19 Q Okay. Is that the apartment you all went to that
20 night?

21 A Yes, ma'am.

22 Q Okay. Now do you recall where you parked in relations
23 to that apartment?

24 A No, ma'am.

25 Q Now I'm gonna show you State's Exhibit Number 3, the

SW - C. RICHARDSON - DIRECT

- 1 next one. Do you recognize this?
- 2 A Yes, ma'am.
- 3 Q And what is that?
- 4 A The apartment.
- 5 Q Okay. Now was that the apartment that you all went in
- 6 that night?
- 7 A Yes, ma'am.
- 8 Q And State's Exhibit Number 5. Now do you recall that
- 9 one?
- 10 A Yes, ma'am.
- 11 Q Okay. And what is that a picture of?
- 12 A The couches.
- 13 Q Okay. And who was on those couches when on the night
- 14 of this incident?
- 15 A The two females.
- 16 Q Okay. Do you recall which couch they were on when you
- 17 first got there?
- 18 A That one right there.
- 19 Q Okay. And who else was in the room?
- 20 A Two, three males.
- 21 Q Okay. And do you recognize State's Exhibit Number 6?
- 22 A Yes, ma'am.
- 23 Q And what is that?
- 24 A A hallway.
- 25 Q Okay. Now when you came in where did you go?

SW - C. RICHARDSON - DIRECT

1 A Straight to the back room right there.

2 Q Okay. And what did you do when you got to the back
3 room?

4 A I went to tell Hakeem to come on.

5 Q Okay. Now when you were back there did you go in any
6 bedroom?

7 A No, ma'am.

8 Q You didn't go into any of the bedrooms?

9 A Yes, ma'am. I went to the last one.

10 Q Okay. Do you recall which bedroom you went to?

11 A To the back room.

12 Q Okay. Now go to State's Exhibit Number 9. Now do you
13 recall this room?

14 A No, ma'am.

15 Q Okay. State's Exhibit Number 10. Do you recall that
16 bedroom?

17 A No, ma'am.

18 Q Okay. Do you recall which bedroom you got the watches
19 from?

20 A They was in the back room.

21 Q Okay. But you don't remember which one of them?

22 A No, ma'am.

23 Q Okay. Now where were the watches?

24 A On the dresser.

25 Q On the dresser? Okay. Now were you all looking for

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- 1 X-Box?
- 2 A No, ma'am.
- 3 Q You don't recall nobody asking about an X-Box?
- 4 A No, ma'am.
- 5 Q Okay. Now after you grabbed the watches tell me what
- 6 happened.
- 7 A After I grabbed the watches?
- 8 Q Uh-huh.
- 9 A We was leaving out, went to the living room, went to
- 10 the living room.
- 11 Q So you said after you grabbed the watches.
- 12 A Yes, ma'am.
- 13 Q You went to the living room?
- 14 A Yes, ma'am, I went to the —
- 15 Q And who was in the living room at that time?
- 16 A The two females and three guys and Shakeem.
- 17 Q Okay. And now where was Hakeem?
- 18 A He was with me in the living room.
- 19 Q He was what now?
- 20 A He was with me in the living room.
- 21 Q Okay. So he came out of the bedroom?
- 22 A Yes, ma'am.
- 23 Q Do you know what he took out of the bedrooms?
- 24 A A purse.
- 25 Q Okay. Now do you recall telling Officer Barley that

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- 1 you had taken some money along with some watches from?
- 2 A Yes, ma'am.
- 3 Q Okay. And do you recall where you got the money from?
- 4 A No, ma'am.
- 5 Q But did it come out of that apartment?
- 6 A Yes, sir.
- 7 Q Now how long did you all stay in the apartment to your
- 8 knowledge?
- 9 A Ten minutes.
- 10 Q Okay. Now while you all were in the apartment did
- 11 Lewis come to the door?
- 12 A Yes, ma'am.
- 13 Q Okay. And please tell us what happened when that
- 14 occurred and where were you?
- 15 A I was leaving out the door.
- 16 Q Pardon me?
- 17 A I was leaving out the door.
- 18 Q Okay. And where was Lewis?
- 19 A He was coming up. He was coming up and he seen us and
- 20 he turned around.
- 21 Q Okay. Now do you remember him actually coming in and
- 22 being pushed out by Shakeem, or were you in the living
- 23 room at that time?
- 24 A I was just coming out.
- 25 Q You were just coming out where?

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- 1 A Coming out the door.
- 2 Q Like the bedroom door?
- 3 A No, ma'am, the house door.
- 4 Q Okay, all right. And what, if anything, you recall
- 5 Lewis saying when he came up?
- 6 A He didn't say nothing.
- 7 Q Okay. You don't recall him saying anything?
- 8 A No, ma'am.
- 9 Q Now what did you have on that night?
- 10 A Some blue pants and a black shirt.
- 11 Q Okay. And then you had the black mask, is that
- 12 correct, too?
- 13 A Yes, ma'am.
- 14 Q Now do you recall what Hakeem had on?
- 15 A No, ma'am.
- 16 Q Okay. What about do you recall what Lewis had on?
- 17 A No, ma'am.
- 18 Q Now after you left the apartment, after you all left
- 19 the apartment where did y'all go?
- 20 A We went to get some gas.
- 21 Q Okay. And do you recall where you got the gas from?
- 22 A It was right by the apartment.
- 23 Q Okay. And what was the name of the gas station, do you
- 24 know?
- 25 A No, ma'am.

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- 1 Q Okay. And who -- how did you all get the gas?
- 2 A How did we get it?
- 3 Q Uh-huh.
- 4 A Credit card.
- 5 Q And whose credit card did y'all use?
- 6 A I don't know.
- 7 Q Who actually put -- who actually put the gas in the
- 8 car?
- 9 A Lewis.
- 10 Q Now at the time who was driving?
- 11 A Lewis.
- 12 Q Now when you got into the car to leave the apartment
- 13 where did you get -- where were you seated in the car?
- 14 A In the back seat.
- 15 Q And where was Hakeem seated?
- 16 A In the back seat.
- 17 Q Okay. And where was Shakeem seated?
- 18 A In the front seat.
- 19 Q Now who pumped the gas at the station?
- 20 A Lewis.
- 21 Q And then after you all got the gas where did y'all go?
- 22 A Back to Darlington.
- 23 Q And then -- and after you got back to Darlington where
- 24 did you go once you got into Darlington?
- 25 A We dropped Lewis off.

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- 1 Q Okay. And where did you take Lewis?
- 2 A To his grandma house.
- 3 Q And then who drove?
- 4 A Shakeem.
- 5 Q And where did y'all go?
- 6 A To Hakeem house.
- 7 Q All right. And when you got to Hakeem's house where
- 8 did everybody go?
- 9 A I went to Hakeem house, then Shakeem left.
- 10 Q Shakeem left?
- 11 A Yes, ma'am.
- 12 Q Now after you all dropped Lewis off where was everybody
- 13 seated in the car?
- 14 A I was in the back seat. Hakeem was in the front.
- 15 Shakeem was in the front.
- 16 Q And Shakeem was doing what?
- 17 A He was in the front.
- 18 Q Okay. And now do you recall what time you got back to
- 19 Shakeem, I mean, to Hakeem's house?
- 20 A No, ma'am.
- 21 Q All right. Now where did you -- where did you go after
- 22 you got to Shakeem, I mean, to Hakeem's house?
- 23 A Straight to Hakeem house.
- 24 Q Okay. So you spent the night there that night?
- 25 A Yes, ma'am.

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- 1 Q Now what time did you get up?
- 2 A About 11.
- 3 Q Okay. 11 when?
- 4 A In the morning.
- 5 Q Okay. Now while you all were together do you recall
- 6 y'all talking to some of the victims on their cell phones?
- 7 A No, ma'am.
- 8 Q So you didn't talk to anyone?
- 9 A No, ma'am.
- 10 Q Okay. But did that occur to your knowledge?
- 11 A No, ma'am.
- 12 Q Okay. Now you said that you stayed over there that
- 13 night and you got up about 11 that morning?
- 14 A Yes, ma'am.
- 15 Q And what did you do when you got up?
- 16 A I walked in my grandma house.
- 17 Q And how far does your grandma live?
- 18 A Up the road.
- 19 Q Okay. Now and that was later that day which was
- 20 June 5th; is that correct?
- 21 A Yes, ma'am.
- 22 Q Now on the following day, June 6th, 2008, did you have
- 23 an occasion to see Investigator Barley and Investigator
- 24 Carroway along with Weatherford in Darlington?
- 25 A Yes, ma'am.

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- 1 Q Now where did you see them?
- 2 A At Hakeem house.
- 3 Q And do you recall what time of day that was you saw him
- 4 there?
- 5 A Seven in the morning.
- 6 Q You saw him in the morning?
- 7 A Yes, ma'am.
- 8 Q Okay. And when you -- when they came where were you in
- 9 Hakeem's house?
- 10 A In the room, in the bedroom?
- 11 Q So you were in the bedroom, okay. And what happened
- 12 when they got there?
- 13 A They was talking. They was talking to Hakeem.
- 14 Q Okay. And did they keep you in the bedroom while they
- 15 were talking to Hakeem?
- 16 A Yes, ma'am.
- 17 Q All right. And then did they talk with you as well?
- 18 A No, ma'am.
- 19 Q They didn't talk to you at the -- while you were at
- 20 Hakeem's house?
- 21 A No, ma'am.
- 22 Q But did they end up -- did they take you to Florence?
- 23 A Yes, ma'am.
- 24 Q Pardon me?
- 25 A Yes, ma'am.

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1 Q Okay. And where did they take you to Florence?

2 A To the court -- to the investigator room.

3 Q Okay. Now at that time were you given your Miranda
4 warnings?

5 A Yes, ma'am.

6 Q Okay. Do you recall being given your -- given your
7 Miranda warnings where they told you that you had the
8 right to have an attorney and things of that nature and if
9 you couldn't afford an attorney one would be provided to
10 you?

11 A Yes, ma'am.

12 Q Okay. Now did they also have you sign a waiver of
13 rights form on June 6th, 2008, when you got -- came up to
14 investigations?

15 A Yes, ma'am.

16 Q Okay. Now was that done by Investigator Barley?

17 A Yes, ma'am.

18 Q Okay. Now after you signed that form did you give a
19 taped statement to Investigator Barley?

20 A Yes, ma'am.

21 Q Now when you gave that statement and you told what
22 happened I believe he just asked you the questions; is
23 that correct?

24 A Yes, ma'am.

25 Q Okay. And at that time you told them that Shakeem was

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1 involved; is that correct?

2 A Yes, ma'am.

3 Q Okay. But you didn't mention Lewis Williams, did you?

4 A No, ma'am.

5 Q Why didn't you mention Lewis at that time?

6 A I was scared.

7 Q Now why were you scared?

8 A I didn't know if he was trying to harm me.

9 Q Well, why do you think he is going to try to harm you?

10 A Because he in a gang.

11 MR. MCLAURIN: Objection, Your Honor, renew my
12 objection.

13 THE COURT: It's overruled until State versus
14 Price.

15 BY MS. PARR:

16 Q All right. So you were afraid 'cause you thought he
17 was in a gang?

18 A Yes, ma'am.

19 Q Now had he indicated anything to you that if you told
20 you -- he would harm you?

21 A No, ma'am.

22 Q Okay. But now why did you think that would be the
23 case?

24 A That how I felt.

25 Q Pardon me?

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1 A That how I felt.

2 Q That's how you felt? Okay. So on June 6th when you
3 gave that statement you told -- you told them about
4 Shakeem but you did not tell them about Lewis; is that
5 correct?

6 A Yes, ma'am.

7 Q Okay. But now on July 9th, 2008, did you recall
8 talking to -- talking to Investigator Barley again along
9 with Investigator Robinson at the Florence County
10 Detention Center?

11 A Yes, ma'am.

12 Q Okay. Now on that particular day what did you tell --
13 who did you tell Investigator Barley was also involved in
14 this?

15 A Lewis.

16 Q And how is it -- why did you tell that he was involved
17 in it at that time?

18 A 'Cause he bring his name up.

19 Q Who brought his name up?

20 A Detective Barley.

21 Q Okay. And so that's what you told?

22 A Yes, ma'am.

23 Q And what did you tell Investigator Barley that day?

24 A That he was with us.

25 Q Okay. And did you tell on that day that he was the one

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- 1 that was driving?
- 2 A Yes, ma'am.
- 3 Q And at that time did you also tell them about the gun?
- 4 A Yes, ma'am.
- 5 Q Now what else did you tell him on that particular day?
- 6 A (Pause.)
- 7 Q Do you recall?
- 8 A No, ma'am.
- 9 Q Now when you all came to Florence that day did you have
- 10 any idea what was going on?
- 11 A No, ma'am.
- 12 Q Okay. What did you think you were going to Florence
- 13 for?
- 14 A Just to ride with them.
- 15 Q Okay. Had robbery been discussed prior to getting to
- 16 Florence?
- 17 A No, ma'am.
- 18 Q Now at any point after June 6th after you all had been
- 19 arrested, have you discussed this with Hakeem?
- 20 A No, ma'am.
- 21 Q Okay. And had you -- have you been around Hakeem since
- 22 then?
- 23 A No, ma'am.
- 24 Q Okay. And you have been incarcerated, is that correct,
- 25 down at the detention center?

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1 A Yes, ma'am.

2 Q And where were you housed in relation, or do you know
3 where Hakeem was housed?

4 A No, ma'am.

5 Q Pardon me?

6 A No, ma'am.

7 Q Okay. Now since that time did you have an occasion to
8 give a statement to Investigator Barley on May 20th, 2009,
9 of this year?

10 A Yeah.

11 Q You need to answer yes or no.

12 A Yes, ma'am.

13 Q Okay. Now where was that statement given?

14 A Where?

15 Q Where? Where were you?

16 A At the jailhouse, detention center.

17 Q Okay. I mean, and actually was that like May 14th,
18 2008? I mean, I'm sorry, May 14th, 2009?

19 A Yes, ma'am.

20 Q Okay. And when you gave that statement did you sign
21 another waiver of rights form?

22 A Yes, ma'am.

23 Q Okay. Was your attorney also there at that time?

24 A Yes, ma'am.

25 Q Now Mr. Richardson, you signed a plea agreement form,

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- 1 is that correct, in regards to this matter?
- 2 A Yes, ma'am.
- 3 Q Okay. And at that time that agreement was signed with
- 4 your attorney; is that correct?
- 5 A Yes, ma'am.
- 6 Q And you, at that time, did you agree to testify today?
- 7 A Yes, ma'am.
- 8 Q And in exchange to your testimony did you agree to
- 9 plead guilty to strong armed robbery and burglary second;
- 10 is that correct?
- 11 A Yes, ma'am.
- 12 Q Now you were also indicted for the same charges as the
- 13 defendant, is that correct, or do you know -- let me
- 14 rephrase that. Were you -- are you indicted for amend
- 15 robbery and burglary first?
- 16 A Yes, ma'am.
- 17 Q Now as part of your plea agreement did you agree to
- 18 provide complete and truthful information in regards to
- 19 this case?
- 20 A Yes, ma'am.
- 21 Q And did you also agree to testify truthfully and
- 22 completely in this matter?
- 23 A Yes, ma'am.
- 24 Q Now isn't it true that as part of the agreement any
- 25 criminal activity by you after the date of this incident

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1 is not exempted by this agreement, is that correct, if
2 there in fact had been any other incident; is that
3 correct?

4 A Yes, ma'am.

5 Q Now isn't it true that an criminal information that may
6 have developed later could be used against you?

7 A Yes, ma'am.

8 MS. PARR: Beg the Court's indulgence.

9 BY MS. PARR:

10 Q Now you didn't -- you didn't have any plea negotiation
11 with your attorney in regards to this matter until May of
12 this year, May of 2000 (sic); is that correct?

13 A Yes, ma'am.

14 Q Now prior to that time did Investigator Barley ever
15 offer you a deal at the jail while you were in jail?

16 MR. MCLAURIN: Objection, Your Honor, leading.

17 THE COURT: I sustain that objection, Counsel.

18 That is leading.

19 BY MS. PARR:

20 Q What, if anything, prior to this time Investigator
21 Barley tell you about any plea offer?

22 A Nothing.

23 Q Now were you -- how long have you known Lewis?

24 A About a few years.

25 Q About how many years?

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1 A A year or two.

2 Q And how did you meet Lewis?

3 A By his brother.

4 Q And how long have you known Shakeem Lewis?

5 A Since high school.

6 Q Okay. Now but was he in the same grade as you or was
7 he older?

8 A Older.

9 Q And how did you meet Shakeem?

10 A By Hakeem.

11 MS. PARR: Beg the Court's indulgence a moment.

12 THE COURT: All right.

13 BY MS. PARR:

14 Q Mr. Richardson, do you know what happened to the
15 victims' things, the items that were taken, the cell phone
16 and moneys and wallets and credit cards?

17 A No, ma'am.

18 Q Okay. What did you do with the watches that you had?

19 A I threw them in a bush.

20 Q Why did you throw them away?

21 A 'Cause they was broken.

22 Q Okay. Now is your testimony here true and correct to
23 the best of your knowledge?

24 A Yes, ma'am.

25 Q But you agree that you did not tell the whole story the

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1 first time right after you were arrested?

2 A Yes, ma'am.

3 Q And why didn't you tell the truth or tell the complete
4 story?

5 A I was scared.

6 Q Now are you still afraid?

7 A No, ma'am.

8 Q You're not afraid now?

9 A Yes, ma'am.

10 Q You are afraid now?

11 A Yes, ma'am.

12 Q All right. Please answer any questions that the
13 Defense may have to you.

14 THE COURT: All right.

15 CROSS-EXAMINATION

16 BY MR. MCLAURIN:

17 Q Mr. Richardson, how old were you when this happened?

18 A Seventeen.

19 Q Seventeen years old. Never been in trouble before?

20 A No, sir.

21 Q And you were charged with burglary first; is that
22 correct?

23 A Yes, sir.

24 Q And you were charged with armed robbery; is that
25 correct?

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- 1 A Yes, sir.
- 2 Q And you were represented by a lawyer in this case?
- 3 A Yes, sir.
- 4 Q You had a good lawyer, right?
- 5 A Yes, sir.
- 6 Q Is your lawyer sitting here in the courtroom today?
- 7 A Yes, sir.
- 8 Q He's here today, correct?
- 9 A Yes, sir.
- 10 Q Were you aware of the time that you were facing for a
- 11 burglary first charge? I'm sure he told you that, right?
- 12 A Yes, sir.
- 13 Q He told you it could be a potential life sentence,
- 14 didn't he?
- 15 A Yes, sir.
- 16 Q Were you aware of the time for an amend robbery?
- 17 A Was I aware?
- 18 Q Yeah.
- 19 A Yes, sir.
- 20 Q Are you aware that these are nonparoleable offense?
- 21 You couldn't get out on parole for these offenses?
- 22 A Yes, sir.
- 23 Q That's a pretty serious situation for somebody that's
- 24 never been in trouble; isn't it?
- 25 A Yes, sir.

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- 1 Q Now you've been in jail, how long you been in jail?
- 2 A A year and some days.
- 3 Q That's not a good place to be, is it?
- 4 A No, sir.
- 5 Q You'd do anything to get out of jail, wouldn't you?
- 6 A (There was no response.)
- 7 Q Mr. Richardson?
- 8 A Yes, sir.
- 9 Q And there's absolutely no doubt in this case that
- 10 you're guilty, correct?
- 11 A Ask that question again.
- 12 Q Absolutely no doubt that you're guilty of what you're
- 13 charged with; is that not correct?
- 14 A Yes, sir.
- 15 Q And in fact, as we talked about, you gave a statement
- 16 right from the beginning admitting your guilt, correct?
- 17 A Yes, sir.
- 18 Q And your only hope in this whole case was to possibly
- 19 turn on somebody and get a deal, right?
- 20 A No, sir.
- 21 Q I'm sorry?
- 22 A No, sir.
- 23 Q That wasn't your only hope?
- 24 A No, sir.
- 25 Q Well, you were guilty of burglary first which is a life

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- 1 sentence. What other options did you have?
- 2 A None.
- 3 Q That was it; wasn't it?
- 4 A Yes, sir.
- 5 Q Then Officer Barley comes to you and says, well, how
- 6 about Lewis Williams, what you know about Lewis. He
- 7 suggested, as you indicated on your direct, he gave you
- 8 this name; didn't he?
- 9 A Yes, sir.
- 10 Q You didn't come to him and say, Officer Barley, you
- 11 know, I've had something on my heart, I just want to get
- 12 it off, I want to tell you who else was there. You didn't
- 13 do that, did you?
- 14 A No, sir.
- 15 Q He came to you.
- 16 A Yes, sir.
- 17 Q And you then entered into this proffer agreement that
- 18 they've talked about, right?
- 19 A Yes, sir.
- 20 Q Come to court and testify against Lewis we'll give you
- 21 a deal, right?
- 22 A Yes, sir.
- 23 Q Okay. And the deal was life sentence gone, disappear,
- 24 right?
- 25 A Yes, sir.

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1 THE COURT: Counsel, let's make sure we state
2 the matter with some degree of certitude or exactitude.

3 MR. MCLAURIN: Yes, sir.

4 THE COURT: The penalty for burglary first
5 degree is not less than 15 years or possible life
6 sentence.

7 MR. MCLAURIN: Yes, sir.

8 THE COURT: Not a mandatory life sentence but a
9 possibility.

10 MR. MCLAURIN: A potential.

11 THE COURT: Potential.

12 MR. MCLAURIN: Yes, sir.

13 BY MR. MCLAURIN:

14 Q So burglary first, potential life sentence, you
15 understood would be the exposure, correct?

16 A Yes, sir.

17 Q It's a long time for somebody your age; isn't it?

18 A Yes, sir.

19 Q And I was indicating you also had your armed robbery
20 charge dropped; is that correct?

21 A Yes, sir.

22 Q And that was ---

23 MS. PARR: Your Honor, I would object. It was
24 not dropped. Mr. McLaurin has the plea offer and we would
25 ask that he recite ---

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1 THE COURT: I think he probably misspoke when he
2 said dropped. It was reduced.

3 MR. MCLAURIN: Yes, sir, I apologize.

4 THE COURT: It was reduced from armed robbery to
5 common law robbery.

6 MR. MCLAURIN: I apologize. That is correct.

7 THE COURT: Yes, sir.

8 MS. PARR: Your Honor, I hate to interrupt but
9 for a housekeeping matter I've been...

10 THE COURT: Okay.

11 (WHEREUPON, counsel approached the Bench for an
12 off-the-record discussion.)

13 THE COURT: Sorry for the interruption, Counsel.

14 MR. MCLAURIN: That's okay.

15 BY MR. MCLAURIN:

16 Q Mr. Richardson, back on task here, we were talking
17 about your proffer agreement and your plea agreement.
18 Basically you've been given the opportunity to plead to a
19 youthful offender sentence; is that correct?

20 A Yes, sir.

21 Q And what is your understanding of that particular
22 sentence?

23 A Ten months.

24 Q Ten months. So you had a potential exposure of life in
25 prison and now we're talking about ten months, right?

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1 A Zero to five.

2 Q But you would only do ten months, correct?

3 A No, sir.

4 THE COURT: Well, let's clear that up. A
5 youthful offender sentence is an indeterminate sentence in
6 this state up to six years. The indeterminate part is
7 that it's up to the agency as to when they release the
8 individual. It's up to them. They don't ask any judge;
9 it's up to them. Proceed.

10 BY MR. MCLAURIN:

11 Q Well, what was your understanding? Why did you say ten
12 months? That was your understanding, correct?

13 A Yes, sir.

14 Q All to come here and testify today, correct?

15 A Yes, sir.

16 Q And let's talk about — tell me about what exactly you
17 did in this particular burglary. Tell me what you did.

18 A What I did?

19 Q What did you do? What did you do wrong?

20 A Went in the house. Took some watches.

21 Q Okay, you stole some watches, right?

22 A Yes, sir.

23 Q Your testimony is that Lewis Williams sent you to get
24 the boys and tell them to come on out, come on out, right?

25 A Yes, sir.

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- 1 Q You didn't do that though, did you?
- 2 A Yes, sir.
- 3 Q You did do that?
- 4 A Yes, sir.
- 5 Q He didn't tell you -- he didn't say go in the back
- 6 bedroom and steal watches, did he?
- 7 A No, sir.
- 8 Q And that's what you did?
- 9 A Yes, sir.
- 10 Q You went in the back bedroom, you flipped up the
- 11 mattress didn't you? Looked up under the mattress?
- 12 A No, sir.
- 13 Q You didn't do that?
- 14 A No, sir.
- 15 Q Did you go in the back bedroom and rifle through the
- 16 drawers and go through to see what you could find in the
- 17 drawers?
- 18 A No, sir?
- 19 Q You didn't do that?
- 20 A No, sir.
- 21 Q Did you pull out the clothes and throw them all over
- 22 the floor?
- 23 A No, sir.
- 24 Q You being honest today?
- 25 A Yes, sir.

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1 Q So where did you find the watches?

2 A On the dresser.

3 Q I'm sorry?

4 A It was on the dresser.

5 Q Now you were arrested over at Hakeem Costa's house,
6 right?

7 A Yes, sir.

8 Q You're his best friend?

9 A Yes, sir.

10 Q Y'all hang out a lot; don't you?

11 A Yes, sir.

12 Q How close do y'all live to each other?

13 A Up the road, real close.

14 Q A block, a half a block, what are we talking here?

15 A A block.

16 Q A block from his house. And y'all pal around a lot; is
17 that correct?

18 A Yes, sir.

19 Q So you were with him at the time that they -- the
20 police came to his house; is that correct?

21 A Yes, sir.

22 Q And your testimony is that the police kept you separate
23 from him; is that correct?

24 A Yes, sir.

25 Q Are you aware you and him gave the same version of

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1 story in the beginning?

2 A No, sir.

3 Q You don't know that?

4 A No, sir.

5 Q So even though you were separated your version of the
6 story, the first statement that was given, didn't say
7 anything or mention Lewis Williams; is that correct?

8 A Yes, sir.

9 Q Okay. And who did you meet with when you gave that
10 first statement?

11 A Detective Barley, Terrence Carraway.

12 Q And you were honest with them; weren't you?

13 A No, sir.

14 Q You weren't honest? Why would you lie to a policeman?

15 A 'Cause I was scared.

16 Q So you give them a statement. Did they ask you before
17 they gave the statement whether you were entering into the
18 statement freely and voluntarily? Nobody was forcing you
19 to give the statement. They asked you those questions,
20 right?

21 A Yes, sir.

22 Q And you indicated that you were giving it freely and
23 voluntarily; didn't you?

24 A Yes, sir.

25 Q Without threat, duress, or force, correct?

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1 A Yes, sir.

2 Q And when you gave that statement you gave a very
3 detailed statement which indicated that you, Hakeem Costa,
4 and Shakeem Williams were involved in this; is that
5 correct?

6 A Yes, sir.

7 Q Do you remember telling when you gave that first
8 statement what you actually took out of the house?

9 A Yes, sir.

10 Q What did you tell them?

11 A I took some money.

12 Q You come in here today —

13 A Some watches.

14 Q I'm sorry.

15 A Some money and some watches.

16 Q You come in here today, and I guess I'm a little
17 confused. I've asked you what you took you said watches.
18 When you gave your first statement you said watches and
19 cash though, right?

20 A Yes, sir.

21 Q So it sounds better just to say I took watches than
22 watches and cash; doesn't it?

23 A Yes, sir.

24 Q And that's what you said in your second statement is
25 that all you took were watches?

SW - C. RICHARDSON - CROSS

- 1 A Yes, sir.
- 2 Q And you said today I've taken watches and then one
- 3 point you said cash so you changed your story; hadn't you?
- 4 A Yes, sir.
- 5 Q How much cash did you take?
- 6 A I didn't take none.
- 7 Q You didn't take any?
- 8 A No, sir.
- 9 Q You just took the watches?
- 10 A Yes, sir.
- 11 Q Why would you tell the police in the very beginning
- 12 that you took 20-dollars?
- 13 A They kept asking me did I take some cash.
- 14 Q So you said you took 20?
- 15 A Yes, sir.
- 16 Q Have you talked to Hakeem at all since you've been
- 17 arrested?
- 18 A No, sir.
- 19 Q Have you told him anything about what you took out of
- 20 the house?
- 21 A No, sir.
- 22 Q Haven't had discussion with him about that?
- 23 A No, sir.
- 24 Q And your testimony is you're cooperating now with the
- 25 police, right? You've come clean?

SW - C. RICHARDSON - CROSS

- 1 A Yes, sir.
- 2 Q You've given them back the watches that you took?
- 3 A No, sir.
- 4 Q Where are the watches?
- 5 A I threw them away.
- 6 Q You know where you threw them though, right?
- 7 A Yes, sir.
- 8 Q You didn't know these people that you guys went in
9 there and robbed would want their stuff back?
- 10 A Yes, sir.
- 11 Q You didn't give it to them, did you?
- 12 A No, sir.
- 13 Q Now what was your testimony about what you were wearing
14 that night?
- 15 A Blue jeans and black shirt.
- 16 Q What were the rest of the people with you wearing?
- 17 A I don't know.
- 18 Q They weren't wearing all black?
- 19 A No, sir.
- 20 Q They weren't wearing all black?
- 21 A No, sir.
- 22 Q Now you went to the skating rink, that was one of the
23 first stops you made; is that correct?
- 24 A Say again.
- 25 Q You went to the skating rink. That was one of the

SW - C. RICHARDSON - CROSS

- 1 first stops that you guys made, correct?
- 2 A Yes, sir.
- 3 Q And what did you do at the skating rink?
- 4 A In the parking lot. Was in the parking lot. He --
- 5 Hakeem was talking to some girls.
- 6 Q And was Lewis in the car with you?
- 7 A Yes, sir.
- 8 Q Who were the girls?
- 9 A I don't know.
- 10 Q Hakeem knew the girls, right?
- 11 A Yes, sir.
- 12 Q And y'all were supposed to meet them later on over in
- 13 south Florence; is that the story?
- 14 A Yes, sir.
- 15 Q Where did they tell you to meet them?
- 16 A We was waiting on them to call back, call Hakeem back.
- 17 Q But they said over across from Super-Walmart, meet them
- 18 over there?
- 19 A Yes, sir.
- 20 Q So you've indicated you aren't sure how you ended up
- 21 over there, but that's not true now, is it,
- 22 Mr. Richardson?
- 23 A Yes, sir. I wasn't sure.
- 24 Q Well, I mean, you knew that you were going over towards
- 25 the Super-Walmart, that you were meeting some girls across

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1 the street from the Super-Walmart at some apartments,
2 right?

3 A Yes, sir.

4 Q So you did know where you were going?

5 A (There was no response.)

6 Q Aren't I correct?

7 A Yes, sir.

8 Q So when you come in here and testify today and say I
9 didn't know where we were going, that's not true?

10 A (There was no response.)

11 Q That's not true, is it?

12 A Yes, sir.

13 Q That is true?

14 A Say the question again.

15 Q When you come in here and you testify that you had no
16 idea where you were going, that's not true because you do
17 know where you were going. You were going to meet these
18 girls potentially across from the Super-Walmart there at
19 some apartments, right?

20 A No, sir.

21 Q Did you say anything to the victims?

22 A No, sir.

23 Q You didn't talk to them at all?

24 A No, sir.

25 Q Did they ask you anything?

SW - C. RICHARDSON - CROSS

- 1 A No, sir.
- 2 Q Never spoke to you?
- 3 A No, sir.
- 4 Q Never asked if they could keep their pocketbooks or
- 5 cell phone?
- 6 A No, sir.
- 7 Q And your testimony is when Lewis knocked on the door he
- 8 didn't say a word, did he, just knocked on the door,
- 9 right?
- 10 A Yes, sir.
- 11 Q Did you hear anybody else knock on a door?
- 12 A No, sir.
- 13 Q You didn't hear anybody else knock on a door? What
- 14 door did you guys leave out of?
- 15 A The side door.
- 16 Q I'm sorry?
- 17 A The side door.
- 18 Q Was that the sliding glass door? Was that the wood
- 19 door?
- 20 A Sliding glass.
- 21 Q You so guys left out the sliding glass door?
- 22 A Yes, sir.
- 23 Q And who would that have been that left out the sliding
- 24 glass door?
- 25 A Me, Shakeem, and Hakeem.

SW - C. RICHARDSON - CROSS

1 Q Okay. And when you heard the knock Lewis was knocking
2 on the sliding glass door?

3 A Yes, sir.

4 Q Did you give the police any kind of description of the
5 girls that you met in the parking lot there at the skating
6 rink parking lot? Did you give them any kind of
7 description?

8 A No, sir.

9 Q Did they ask you that question?

10 A No, sir.

11 Q You also went to Hardees; is that correct?

12 A Yes, sir.

13 Q Lewis Williams was with you there?

14 A Yes, sir.

15 Q And where did you supposedly go get gas?

16 A By the store, at the store by the apartments.

17 Q Right in front of the apartments?

18 A Yes, sir.

19 Q That wasn't Sav-way?

20 A Don't know.

21 Q You don't know. Okay. So your testimony here today is
22 that Lewis Williams handed out the masks to you guys.

23 That's your testimony?

24 A Yes, sir.

25 Q Why did he hand out the masks to y'all?

SW - C. RICHARDSON - CROSS

- 1 A To go rob the people.
- 2 Q Okay. And your testimony is that he gave you the gun;
3 is that correct?
- 4 A Yes, sir.
- 5 Q Is Lewis Williams — your testimony is he's the leader
6 of this I guess?
- 7 A No, sir.
- 8 Q Who's the leader?
- 9 A Shakeem.
- 10 Q Shakeem is the leader. Shakeem is in a gang; isn't he?
- 11 A Yes, sir.
- 12 Q You gave him up; didn't you? You told on him right
13 from the beginning; didn't you?
- 14 A Yes, sir.
- 15 Q Didn't have any hesitation about telling on somebody in
16 a gang?
- 17 A He was already mentioned.
- 18 Q Okay. Well, I mean, your testimony is that you didn't
19 say anything about Lewis 'cause you said because he was in
20 a gang. But his brother was in a gang too and you told on
21 him right from the beginning, correct?
- 22 A Yes, sir.
- 23 Q You weren't around when anybody tried to use the cell
24 phones to talk to the victims after the incident?
- 25 A No, sir.

SW - C. RICHARDSON - CROSS

1 Q You didn't hear any of those conversations?

2 A No, sir.

3 Q You didn't know any of that was going on?

4 A No, sir.

5 Q Did you ever know what became of the cell phones?

6 A No, sir.

7 Q What did Hakeem take?

8 A Purse.

9 Q A purse?

10 A Yes, sir.

11 Q And what was in the purse?

12 A Some money.

13 Q I'm sorry?

14 A Some money.

15 Q Did he take any cell phones?

16 A Yes, sir.

17 Q What was in the house? When the police came there what
18 goods were in the house that y'all stole?

19 A Nothing.

20 Q Nothing? No cell phones.

21 A No, sir.

22 Q Where were the cell phones?

23 A I don't know.

24 Q You don't know? I mean, you spent the night after you
25 did this, you went back and spent the night with Hakeem,

SW - C. RICHARDSON - CROSS

1 right?

2 A Yes, sir.

3 Q You were around him the whole time?

4 A (There was no response.)

5 Q Correct?

6 A Yes, sir.

7 Q You would have seen if he had the cell phones or
8 didn't, correct?

9 A No, sir.

10 Q You didn't see that?

11 A No, sir.

12 Q So he didn't have any cell phones?

13 A No, sir.

14 Q What did he do with the pocketbook? Where was the
15 pocketbook?

16 A In the car.

17 Q In whose car?

18 A Shakeem.

19 Q I thought you said Hakeem took a pocketbook with cash
20 in it.

21 A Yes, sir, after we got the car we left the pocketbook
22 in the car.

23 MR. MCLAURIN: Court's indulgence one moment.

24 THE COURT: All right.

25 MR. MCLAURIN: That's all we have. Thank you.

SW - C. RICHARDSON - REDIRECT

1 **THE COURT:** Redirect.

2 **REDIRECT EXAMINATION**

3 **BY MS. PARR:**

4 **Q** Mr. Richardson, you said that -- why was the -- why did
5 you tell on Shakeem earlier?

6 **A** Because he was already mentioned.

7 **Q** Okay. And who mentioned his name?

8 **A** Barley.

9 **Q** And so was his -- did he mention it to you when they
10 came to Darlington right after it happened?

11 **A** Yes, ma'am.

12 **Q** Okay. And I know Mr. McLaurin said that you gave a
13 very detailed statement back in June of 2008, June 6th; is
14 that correct?

15 **A** Yes, ma'am.

16 **Q** Okay. Now in that statement that was supposed to have
17 been detailed do you recall only answering no, sir or yes,
18 sir?

19 **A** Yes, sir.

20 **MR. MCLAURIN:** Objection, Your Honor, that's
21 leading.

22 **THE COURT:** It is, Counsel. Rephrase.

23 **BY MS. PARR:**

24 **Q** What kind of answers did you provide Investigator
25 Barley when he asked you questions?

SW - C. RICHARDSON - REDIRECT

1 A Yes and no.

2 Q And did you give any details for those yes and no
3 questions?

4 A Yes, ma'am.

5 Q Now, and why didn't you give Lewis' name?

6 A 'Cause I was scared.

7 Q Okay. And at what point did you give Lewis name?

8 A On the second statement.

9 Q And why was -- why did you give it to him at that time?

10 A Because they mentioned, mentioned his name.

11 Q Okay, all right.

12 MS. PARR: Nothing further, Your Honor.

13 THE COURT: Recross.

14 **RECROSS - EXAMINATION**

15 BY MR. MCLAURIN:

16 Q The second written statement that you gave, you gave
17 just a month ago, right?

18 A Say again.

19 Q Second written statement that you gave, I mean you just
20 gave a statement about a month ago, right?

21 A Yes, sir.

22 Q Your lawyer was present?

23 A Yes, sir.

24 Q The Solicitor's Office was present?

25 A Yes, sir.

SW - C. RICHARDSON - RECROSS

1 Q Who else was there?

2 A The detectives.

3 Q The detective?

4 A Yes, sir.

5 MR. MCLAURIN: I don't have anything further.

6 MS. PARR: One other question, Your Honor.

7 **FURTHER REDIRECT - EXAMINATION**

8 BY MS. PARR:

9 Q Now he asked you about the second written statement or
10 taped statement. That was given in May of 2009; is that
11 correct?

12 A Yes, ma'am.

13 Q Okay. But before that time in July of 2008 did you
14 give a verbal statement to Investigator Barley at the
15 detention center?

16 A Yes, ma'am.

17 Q Okay. And was that the time Lewis name was mentioned
18 to you?

19 A Yes, ma'am.

20 MS. PARR: Okay. Nothing further, Your Honor.

21 THE COURT: Recross.

22 MR. MCLAURIN: Nothing further, Your Honor.

23 THE COURT: You may step down.

24 Jurors, remember my instruction not to talk among
25 yourselves about the case at all and not to let anyone

SW - C. RICHARDSON - FURTHER REDIRECT

1 talk to you about the matter under any circumstances and
2 if that occurs you must report that to the Court. Now
3 about tomorrow, tomorrow we'll get the case to you for
4 decision. Once I give you the case for decision I'm going
5 to keep you together. And yes, that does include going
6 into the nighttime if necessary. And so plan on being
7 here tomorrow. And once again, once I give you the case
8 I'm going to keep you together then. We're not going home
9 at an early, that kind of thing, so plan on that. And
10 obviously, if any of you have a serious problem I'll use
11 one of the alternates or both of the alternates. They're
12 willing to serve. I can tell that based on their
13 expression and they will serve in your place in regard to
14 the matter. But once again, once I give you the case for
15 decision I'm going to keep you together. And please make
16 arrangements as you come tomorrow to stay if it's
17 necessary to stay late. Hope you have a good night's
18 rest. I want to start 9 tomorrow. 9:00 please. 9:00.
19 Thank you so much.

20 No one leaving now but the jury.

21 (WHEREUPON, the jury was removed from the
22 courtroom and the following proceedings commenced in open
23 court.)

24 THE COURT: Anything you need to put on the
25 record, Ms. Solicitor?

1 MS. PARR: No, Your Honor.

2 THE COURT: How about you?

3 MR. MCLAURIN: I don't have anything.

4 THE COURT: Okay. Y'all please note, 9:00 in
5 the morning.

6 (Court was adjourned and resumed on June 17, 2009.)

7 THE COURT: Bring the jury out please.

8 (WHEREUPON, the jury was returned to the courtroom at
9 approximately 9:03 a.m., and the following proceedings
10 commenced in open court.)

11 THE COURT: Good morning, jurors. Hope
12 everybody is feeling okay, everything is all right.

13 Next witness please. Your Honor.

14 MS. PARR: They went to get the witness, Hakeem
15 Costa.

16 THE DEPUTY CLERK OF COURT: Mr. Costa, please go
17 to the witness stand. If you will, sir, stop right there,
18 place your left hand on the Bible and raise your right
19 hand.

20 WHEREUPON,

21 **HAKEEM RANDY COSTA,**
22 having been duly sworn by the Deputy Clerk of Court,
23 testified as follows:

24 THE DEPUTY CLERK OF COURT: Please be seated
25 right there in the witness chair. State your full name

SW - H. COSTA - DIRECT

1 for the record.

2 THE DEFENDANT: Hakeem Randy Costa.

3 THE COURT REPORTER: Spell your name for me
4 please.

5 THE WITNESS: H-A-K-E-E-M, C-O-S-T-A.

6 BY MS. PARR:

7 Q Mr. Costa, please, where do you live or what's your
8 address?

9 A [REDACTED], [REDACTED].

10 Q We're going to need you to talk nice and loud, okay?
11 Can you repeat that again.

12 A [REDACTED].

13 Q And what's your date of birth?

14 A [REDACTED]/92.

15 Q And how old are you?

16 A Seventeen.

17 Q And so you just turned 17 in May?

18 A Yes, ma'am.

19 Q Now let's go back to June of 2008 last year. What
20 grade were you in?

21 A Tenth grade.

22 Q Okay. And had you completed your tenth grade at that
23 time?

24 A Yes, ma'am.

25 Q Okay. And then what grade were you going to?

SW - H. COSTA - DIRECT

1 A The eleventh.

2 Q What high school did you go to?

3 A Darlington High School.

4 Q And were you involved in any extracurricular activities
5 at Darlington High School?

6 A Yes, ma'am. Basketball, soccer, football, and JAG
7 program.

8 Q And what program?

9 A A JAG program.

10 Q A JAG program? Okay. So you played those sports on
11 varsity team?

12 A Yes, ma'am.

13 Q And how long did you play sports for Darlington High
14 School?

15 A Since my freshman year.

16 Q Now what is the JAG program?

17 A It's a program to -- JAG stands for jobs after
18 graduate. It help better yourself get a certificate like
19 jobs for when you graduate, something like that.

20 Q Okay. And how long were you -- how long were you
21 involved in that program?

22 A Ever since my freshman year and it continue till I
23 graduate.

24 Q Okay, all right. Now on June 4 and June 5th of 2008
25 where were you that day?

SW - H. COSTA - DIRECT

- 1 A At the house at first.
- 2 Q Okay. Now you said you were at hou-- at the house at
- 3 first. Now did you go to school that day?
- 4 A No ma'am.
- 5 Q And why didn't you go to school that day?
- 6 A Because it was the last half day at school. It didn't
- 7 really matter if you went or not. It didn't count against
- 8 the attendance.
- 9 Q Okay. And so that would have been -- that would have
- 10 been June 4th?
- 11 A Yes, ma'am.
- 12 Q Okay. And when was graduation? Do you recall?
- 13 A I think June 5th or June 6th.
- 14 Q Okay. So it was within a day or so of the last day of
- 15 school?
- 16 A Yes, ma'am.
- 17 Q So what did you do on that day June 4th, on a
- 18 Wednesday? What were you doing that day?
- 19 A On Wednesday?
- 20 Q Do you recall?
- 21 A No, ma'am.
- 22 Q Now did you see Christian Richardson that day, that
- 23 evening?
- 24 A Yes, ma'am.
- 25 Q Okay. Now please tell us where did you see Christian?

SW - H. COSTA - DIRECT

- 1 A At my house.
- 2 Q Okay. When did he come to your house?
- 3 A Around probably four or five.
- 4 Q And then when he came to your house what happened?
- 5 A He came to my house. At first he came. We sat and
- 6 watched TV, sat outside a little while, and that's it.
- 7 Q Okay. So you basically just hanging around?
- 8 A Yes, ma'am.
- 9 Q Hanging out? And then what, if anything, what
- 10 happened? Did you get any calls that evening?
- 11 A Yes, ma'am.
- 12 Q Okay. Who did you get a call from?
- 13 A My cousin Shakeem Williams.
- 14 Q All right. Do you recall what time Shakeem called you?
- 15 A Around seven.
- 16 Q And what phone did he call you on?
- 17 A My house phone.
- 18 Q And who was at home at the time?
- 19 A Just me and Christian.
- 20 Q And when Shakeem called what did he want?
- 21 A Well, he wanted — well, he all wanted to do something
- 22 for graduation. He wanted to go out.
- 23 Q Okay. Was he going to graduate?
- 24 A Yes, ma'am.
- 25 Q And you said he's your cousin. How is it that he's

SW - H. COSTA - DIRECT

- 1 your cousin? What relation? How are y'all related?
- 2 A My mother and his aunt -- my mother and my aunt
- 3 sisters.
- 4 Q Okay. So your mother and your aunt being his mother,
- 5 Shakeem's mother?
- 6 A Yes, ma'am.
- 7 Q So they're sisters. All right. And he wanted to go
- 8 out. And so what happened?
- 9 A You mean?
- 10 Q Yeah, you say he wanted to go out.
- 11 A So around about -- so me and Christian had got ready,
- 12 whatever. And around probably about 10:00 he had called
- 13 again, told us he had came by probably around ten.
- 14 Q Okay. So when he came by tell us how did he get there?
- 15 A His mother vehicle.
- 16 Q All right. And what kind of vehicle was that?
- 17 A Gold Chrysler I think.
- 18 Q Okay. And had you seen that vehicle before?
- 19 A Yes, ma'am.
- 20 Q Okay. Now was it an older model or newer model?
- 21 A A newer model.
- 22 Q Okay. Now who was with him?
- 23 A It was just him I think.
- 24 Q Okay. And so, and who was driving?
- 25 A Shakeem.

SW - H. COSTA - DIRECT

1 Q Okay. And then tell us what happened.

2 A Probably about -- so he had arrived. Then me and
3 Christian had got in the vehicle. Then we went to
4 Florence and --

5 THE COURT: Keep your voice up.

6 THE WITNESS: When we went to Florence we rode
7 around for a little while.

8 BY MS. PARR:

9 Q Now who else was with you? Were there anybody else you
10 and Shakeem, Christian, and Christian? Who was with you?

11 A Lewis.

12 Q Okay. And who was Lewis?

13 A My cousin.

14 Q Okay. And who is he related to other than you?

15 A Shakeem.

16 Q Okay. What relation is he to Shakeem?

17 A Brothers.

18 Q Now is he his younger brother or older brother?

19 A Older brother.

20 Q And so you say he was with you all?

21 A (Shakes head.)

22 Q Okay. Was he with you all when you came to Florence?

23 MR. MCLAURIN: Judge, I would ask he answer
24 verbally.

25 THE COURT: Yes, please, now you got -- don't

SW - H. COSTA - DIRECT

1 just shake your head. This is the court reporter. She
2 has to take down everything you say. Second, we all need
3 to hear and what you're saying so speak up. Don't nod
4 your head but speak up, okay.

5 THE WITNESS: Yes, sir.

6 BY MS. PARR:

7 Q Do you recall when was it that Lewis got in the car
8 with you all?

9 A I do not recall if -- he was not all with us when
10 Shakeem came?

11 Q When he first picked you up so did you all go and pick
12 him up?

13 A I think so.

14 Q All right. Do you recall where you picked him up from?

15 A No, ma'am.

16 Q Okay. Now when he got in the car tell us who was
17 driving?

18 A Shakeem was driving.

19 Q Okay. Now does Shakeem drive the whole time when you
20 all came to Florence?

21 A No, ma'am.

22 Q Okay.

23 A Shakeem was driving. Then somewhere around Lewis
24 started driving so then we was riding around so we
25 probably made a few stops, some couple of places but

SW - H. COSTA - DIRECT

- 1 then -- I don't know what time it was but around late --
2 we went to these south Florence and ride around.
- 3 Q Okay. Now before you went to south Florence did you
4 make a stop in west Florence?
- 5 A Yes, ma'am, I think around -- yes, ma'am.
- 6 Q Where did you go at west Florence?
- 7 A Skating rink.
- 8 Q Okay. And what were y'all doing at the skating rink?
- 9 A I know we didn't go inside. We just went out there and
10 met some females.
- 11 Q Okay. And what were you doing when you were outside of
12 the skating rink?
- 13 A Talking to the females.
- 14 Q Okay. Did you know the females?
- 15 A Oh, yes, ma'am.
- 16 Q Okay. And so how long did you talk to the females?
- 17 A It wasn't very long.
- 18 Q Okay. And then after you talked to the females what
19 were you supposed to do with the females?
- 20 A Go see them.
- 21 Q And where were you supposed to go see them?
- 22 A At their apartment.
- 23 Q Okay. And what apartments are those?
- 24 A Out there at south Florence somewhere.
- 25 Q Now did you know where those apartments were?

SW - H. COSTA - DIRECT

- 1 A No, ma'am.
- 2 Q Okay. So how were you going to find the apartments?
- 3 A We was gonna call back and get directions, but you
- 4 know, they never got around to it.
- 5 Q All right. So after you left the skating rink where
- 6 did you go?
- 7 A After we left the skating rink we went riding around
- 8 some more. Then we went to ride around for a little
- 9 while. Then we went out to these apartments, these other
- 10 apartments, somewhere behind a store somewhere.
- 11 Q Behind where?
- 12 A A store somewhere. These apartments where -- where we
- 13 seen the victim.
- 14 Q Okay. Off of South Irby Street?
- 15 A Yes, ma'am.
- 16 Q Okay. Are you familiar with Florence?
- 17 A A little bit.
- 18 Q Little bit. But you're from -- you live in Darlington?
- 19 A Yes, ma'am.
- 20 Q Okay. Now so you rode around and you got to apartments
- 21 off of South Irby Street; is that correct?
- 22 A Yes, ma'am.
- 23 Q All right. Do you recall what time that was?
- 24 A No, ma'am, probably late.
- 25 Q Okay. And then when you got to those apartments what

SW - H. COSTA - DIRECT

1 did y'all do?

2 A When we got to the apartments we rode out there and
3 seen this white male walking back and forth and —

4 Q What was the white male walking back, what was he
5 doing?

6 A On the cell phone.

7 Q Okay.

8 A And he -- so we was riding and so we was sitting in,
9 sitting in the car, and we was -- we rode through and so.

10 Q Go on.

11 A We all was riding -- we was riding. We got to the back
12 and we got to -- we parked in the back.

13 Q In the back of the apartments?

14 A Yeah, somewhere kind of parked, parking on —

15 THE COURT: What did you say? I can't
16 understand you.

17 THE WITNESS: We parked in the back of the
18 apartments and then we parked. And then when we parked in
19 the back. We -- the -- Shakeem had got out.

20 BY MS. PARR:

21 Q Okay. Before Shakeem got out tell us what happened.

22 A We was -- we were sitting in the car and Lewis had
23 handed Shakeem a gun and ---

24 Q What kind of gun did he hand?

25 A It was a small gun.

SW - H. COSTA - DIRECT

- 1 Q Do you know what color it was?
- 2 A Black. Black.
- 3 Q Okay.
- 4 A And so he had got out. Shakeem had got out and we had
- 5 — had Shakeem got out and we had got out.
- 6 Q Okay. Now before -- I want to go back. Now you said
- 7 that Lewis handed Shakeem a black gun. Was -- did he say
- 8 anything when he handed him the gun, do you recall?
- 9 A I don't recall, no, ma'am.
- 10 Q All right. So he handed him a gun and then what
- 11 happened?
- 12 A After Shakeem had got out then I --
- 13 Q Did he give -- did he have anything else when he got
- 14 out the car, when Shakeem got out the car?
- 15 A Who?
- 16 Q Did Shakeem have anything other than the black handgun
- 17 when he got out the car?
- 18 A He had I think he -- I didn't see him with anything
- 19 else but when he -- when he was -- when he did get out,
- 20 when he got to around the corner he had a bandanna.
- 21 Q Okay. What did he do with the bandanna?
- 22 A Put it around his face.
- 23 Q Okay. And then what happened after that?
- 24 A Shakeem had got out, then we had got out. And Shakeem
- 25 was around the corner. I had ran. I was behind Shakeem.

SW - H. COSTA - DIRECT

1 Christian was still kind of at that back. So Shakeem had
2 went up to the victim and place the gun somewhere on him.
3 I don't recall where it was. But he placed the gun on
4 somewhere.

5 Q He placed the gun on who?

6 A The victim.

7 Q Okay.

8 A So then we -- me -- I had ran up behind Shakeem and
9 searched the victim's pockets. And then another white
10 male had came out the sliding doors, some sliding doors,
11 and then Shakeem directed him to come over to him. So
12 then he came over. I searched his pockets. And then
13 Shakeem asked him what was all what they say, where they
14 live at. So the white male had told him so then we went
15 to the sliding -- we went to the sliding doors. Shakeem
16 directed them not to scream, or something, something like
17 that. And then we had went -- we went in the house. And
18 we went in the house --

19 Q Who was in the house when you got in the house?

20 A I think two females and two males that went in there at
21 first. So then we -- when Shakeem went in the house he --
22 the females are sitting on the couch. Told -- other
23 people sitting on the couch too. And I ran to the back
24 room, start searching stuff. Then so, then by the time I
25 ran to the back room Christian had came running in.

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- 1 Q Now let me ask you. Let me stop you right here. Had
2 you ever seen the gun before?
- 3 A Yes, ma'am.
- 4 Q Where did you see the gun?
- 5 A When I seen the gun it was at -- in Shakeem possession.
- 6 Q Okay.
- 7 A At my grandmother's house.
- 8 Q Okay. And where's your grandmother live?
- 9 A I don't know the apartments or nothing like that.
- 10 Q Okay, but where is that?
- 11 A Over in Darlington.
- 12 Q Okay. So and who was living with your grandmother?
- 13 A Lewis, he wasn't really living with her but he be there
14 from time to time.
- 15 Q Okay. Now so when you went in, when you went in the
16 house did you have a mask or anything on?
- 17 A Oh, yes, ma'am?
- 18 Q What did you have on?
- 19 A I had on a mask.
- 20 Q Okay. Now was it a mask or a bandanna or what?
- 21 A Oh, bandanna.
- 22 Q Do you recall what color bandanna you had?
- 23 A Purple. Purple bandanna.
- 24 Q Oh, okay. Now, and so when you went -- so you went to
25 the back of the house; is that correct?

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1 A Yes, ma'am.

2 Q And at what point did Christian come in? Do you
3 recall?

4 A As I was still in the back room he had came running in.

5 Q And what did Christian have on?

6 A Mask, ski mask.

7 Q Okay. And what did Shakeem have on?

8 A Bandanna.

9 Q Now when Christian came running in where did he go?

10 A Came to the back room where I was.

11 Q Okay. What did you all do in the back room?

12 A We was in the back room. We went through some drawers
13 and looked in the closet. And there was nothing in there
14 so we came out and went to the room that was in the
15 hallway. And then we went to the room down the hallway
16 and another white male had came out that room, and told
17 him like, I mean, went to the living room. Hakeem told
18 him to sit down, whatever. We went in that room. We went
19 in that room. We searched around through the drawers,
20 through the drawers, and I had got a cell phone and
21 Christian just got a watch.

22 Q Okay. And did someone take -- take a wallet and some
23 money as well?

24 A Oh, yes, ma'am.

25 Q Okay. And so you all went through both of the

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- 1 bedrooms; is that correct?
- 2 A Yes, ma'am.
- 3 Q And went through the drawers?
- 4 A Yes, ma'am.
- 5 Q Now do you recall looking for an X-Box?
- 6 A I seen, yes, ma'am, it was in the back room at the --
- 7 it was just a box in there.
- 8 Q Okay, all right. But did you all search for the X-Box?
- 9 A No, ma'am.
- 10 Q But you asked for it?
- 11 A Yes, ma'am.
- 12 Q All right. And so after you took the victim's wallet
- 13 and money and cell phones and watches, what did you do?
- 14 A We was in the living room for a little while, and we
- 15 was in the living room. We -- the victim was talking.
- 16 They wanted to keep their purses and IDs and things. So
- 17 then so when -- oh, so we was in the living room talking
- 18 to the -- talking to them. So then Lewis had came up to
- 19 the glass, the sliding doors, then ran -- took off. Then
- 20 we had ran out the front door I think.
- 21 Q Okay.
- 22 A Or it was the front door.
- 23 Q Okay. So Lewis came to the door?
- 24 A The sliding door.
- 25 Q Okay. And did you see Lewis?

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- 1 A Yeah. Yes, ma'am.
- 2 Q Okay. And what did Lewis have on, if you recall?
- 3 A I don't recall.
- 4 Q Now do you recall Lewis saying anything when he came to
- 5 the door?
- 6 A No, ma'am.
- 7 Q Now who took the victims' purse?
- 8 A Shakeem took them and gave them to us.
- 9 Q Shakeem took them and gave to y'all?
- 10 A Yes, ma'am.
- 11 Q And did you all look in the purse?
- 12 A Not at that moment.
- 13 Q Did you all get any credit cards and debit cards?
- 14 A Yes, ma'am.
- 15 Q Okay. And where did those cards come from?
- 16 A The purses, wallet, purses and wallet.
- 17 Q The purses and wallet? And what did you do with those?
- 18 What happened to those, the credit -- the debit cards and
- 19 the credit cards?
- 20 A They were used.
- 21 Q Okay. And who used those?
- 22 A Lewis, me, Shakeem, and Christian.
- 23 Q Okay. Now when you left the victim's apartment who
- 24 went out the door first, do you recall?
- 25 A No, ma'am.

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- 1 Q All right. So when you left what did you do?
- 2 A We ran out the door. We ran back to the vehicle.
- 3 Q Okay. And who was in the vehicle?
- 4 A Lewis.
- 5 Q All right. Now and who was -- who was driving?
- 6 A Lewis.
- 7 Q And where did you go when you all left?
- 8 A When we left we went to a gas station.
- 9 Q Do you recall which gas station?
- 10 A No, ma'am.
- 11 Q Okay. And was the gas station in Florence or in
- 12 Darlington?
- 13 A In Florence.
- 14 Q Okay. And what did you do at the gas station?
- 15 A We got to the gas station it was closed so we got gas
- 16 with the credit card at the pump.
- 17 Q Okay. And whose credit card was that?
- 18 A One of the victims.
- 19 Q All right. And who put the credit card in?
- 20 A Lewis.
- 21 Q And who pumped the gas?
- 22 A Lewis.
- 23 Q Now so after you got gas what did you do?
- 24 A Went back to Darlington.
- 25 Q All right. Now at some point that evening did the

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1 victims call their cell phones?

2 A Yes, ma'am.

3 Q And what happened with that? Who had the phones when
4 the victims called?

5 A I had -- I had got a cell phone and Hakeem had a cell
6 phone. They called the cell phone I had one time. I
7 didn't answer. Then they started calling one cell phone
8 and they start calling the phone Shakeem had and he ain't
9 answer that either. And after a while, you know, he
10 picked up, whatever. And the victims had, I mean, had him
11 on the speaker and they was asking for their phones back
12 and all of the other stuff. And then he was -- we was
13 just listening to them laughing, whatever. And then we
14 aren't really saying nothing to them but then that was it.

15 Q Okay. Now did Shakeem identify himself as Goose, do
16 you recall?

17 A No, I don't recall.

18 Q So the victims called their cell phones and they were
19 begging for their stuff back; is that correct?

20 A Yes, ma'am.

21 Q All right. And where were you all when they called?

22 A In the vehicle still.

23 Q You were where?

24 A In the car.

25 Q Okay, you were still in the car at that time. Do you

SW - H. COSTA - DIRECT

- 1 recall what time you got back to Darlington?
- 2 A It was late, probably around one.
- 3 Q Okay. Now when you got back to Darlington where did
- 4 you go?
- 5 A When we got back to Darlington we went to Wendy's and
- 6 got some food.
- 7 Q Okay.
- 8 A And—
- 9 Q And then where did you go?
- 10 A On the way home, on the way home we went to -- we had
- 11 got some -- no, on the way home the victims had called
- 12 again and that was when they was on the phone whatever,
- 13 and when we got to the house. Then me -- then they had
- 14 dropped Lewis -- they dropped me and Christian off.
- 15 Christian had spent the night with me that night.
- 16 Q Okay, who dropped you off?
- 17 A Lewis and Shakeem.
- 18 Q Okay. And so Christian spent the night with you. Do
- 19 you know -- so then you don't know where Lewis and Shakeem
- 20 went? They didn't stay at your house?
- 21 A Huh-uh.
- 22 Q Now after you were dropped off at your house what did
- 23 you and Christian do?
- 24 A Had some food and went to sleep.
- 25 Q Okay. And then what time did you all get up that day,

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1 the next day or --

2 A Later that morning.

3 Q --later that morning?

4 A Early in the morning.

5 Q Okay. And what did you do?

6 A When we had got up he had -- I had watch and Shakeem
7 had called earlier in the morning 'cause he was going to
8 graduation practice. So earlier that morning he called
9 and say he was going over so he came over early that
10 morning and we went to -- me, Hakeem, and Christian went
11 to McDonalds and got some breakfast. They came back to my
12 house -- we can't stay at my house because my mother is
13 getting the carpet cleaned.

14 Q Well, before you end up -- when you went to McDonalds
15 who paid for the food?

16 A Me with the credit card.

17 Q Okay. And whose card was that?

18 A The victim.

19 Q Okay. So you used the victim's credit or debit card at
20 McDonalds?

21 A (Shakes head.)

22 Q Who had the cards?

23 A Shakeem.

24 Q Okay. And so after you got your food, got your
25 breakfast at McDonalds on the victim's card what did --

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1 where did you go?

2 A Went back to my house but we didn't go in 'cause my
3 mother was getting the carpet cleaned. Then we went to —
4 so then we went up the street to Christian house. And so
5 we went up the street to Christian house, grandmother's
6 house. So then Chris went in the house to wash, and we
7 went to Ricardo, or Ricardo.

8 Q You went to the park?

9 A No, Ricardo, the person we had met.

10 Q Okay. So you met Ricardo. Where did you meet Ricardo?

11 A At the apartments where Chris and grandmother stay.

12 Q And what did you do when you met Ricardo?

13 A We stayed out there talking and then Ricardo had seen
14 the phone that we had got from the victim and then he had
15 wanted to buy one of the phones. He had want to buy my
16 phone. The phone I had got I told him no. He went to buy
17 Shakeem phone and Shakeem said no at first, you know, then
18 offering him some money for the phone. And so I don't
19 know if he sold it to him or not.

20 Q You don't know who sold the phone?

21 A Shakeem.

22 Q Okay. You don't know if Shakeem sold the phone. Okay,
23 so then what happened?

24 A So then he stayed up there for a little while then
25 Shakeem had to go to graduation practice. So I went with

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1 Shakeem to graduation practice. We stayed at graduation
2 practice for a little while and Shakeem told me I could
3 hold the car, the vehicle.

4 Q Hold the car?

5 A Yes, ma'am.

6 Q And whose car could you hold?

7 A His mother.

8 Q Okay. So he gave you the keys to his momma's car?

9 A Yes, ma'am.

10 Q Go on.

11 A So then I went back to where Christian live and I -- I
12 went back to Christian stay at and Ricardo was out there.
13 So I asked Ricardo where my gang was, and he say he at a
14 friend house so I went -- we went on to get the gang from
15 over there but he wasn't home. So he came back to he
16 stay, where he live at and got -- I dropped him back off
17 and got Christian and we went back up to the high school.

18 Q Okay. And then what happened?

19 A From then on we stayed at graduation practice for a
20 while till it was over and then we went back to my house.

21 Q Who went to your house?

22 A It was me and Christian. Shakeem had stayed.

23 Q So just you and Christian went back to your house?

24 A Yes, ma'am.

25 Q And then after you went -- when you all went back to

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1 your house did you all have -- did you have some visitors?

2 A Not that I recall.

3 Q Okay. Well, what happened when you went back to your
4 house?

5 A We went back to my house. He talked a little while and
6 went outside, walked around a little. That's probably
7 about it.

8 Q Okay. Now do you recall meeting Officer Barley,
9 Detective Barley?

10 A Not that day I don't think. I don't think it was that
11 day.

12 Q Okay, not that day, which was June 5th; is that
13 correct? You didn't -- what day did you -- so that was
14 the day going in from the night where you all had done the
15 robbery; is that correct?

16 MR. MCCLAURIN: Objection, Your Honor, leading.

17 THE COURT: Yeah, I sustain the objection.
18 Rephrase that question, Counsel.

19 BY MS. PARR:

20 Q Now what, if anything, did you all do the remainder of
21 that day?

22 A Pretty much just sat around and talking up.

23 Q Now then on the next day, June 6th, did you call the
24 victims that day?

25 A No, ma'am.

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1 Q Now did you -- when -- do you recall when you met
2 Investigator Brian Barley?

3 A Yes, ma'am. I don't remember the date but I remember
4 when he came.

5 Q And where did he come?

6 A To my house.

7 Q All right. And who came with him to your house?

8 A Him and Officer Carroway.

9 Q Okay. And did anybody else come that you recall?

10 A Some Darlington police.

11 Q The Darlington police? Okay. And who was at home when
12 Barley and Carroway and the Darlington police came?

13 A Just me and Chris.

14 Q And what happened while -- when they came?

15 A They came early in the morning. So when they came and
16 knock on the door. I went to the door and opened it. And
17 I seen Officer Carroway, told him he scare me. He asked
18 can he come in; I say, yeah.

19 Q Did you know Officer Carroway?

20 A Oh, yes, ma'am.

21 Q How did you know Officer Carroway?

22 A Play on his football team.

23 Q Okay. So you let them in?

24 A Yes, ma'am, they came in. We talked to him and that
25 probably about it. They asked us questions.

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- 1 Q Yes, sir. Now when you talked to Officer Car-- you
2 talked to Officer Carroway?
- 3 A Officer Carroway and Investigator Barley.
- 4 Q Okay. And where was Christian at that time?
- 5 A In the back room, in my back room.
- 6 Q So Christian was in your room. And do you recall who
7 was in the room with Christian?
- 8 A Darlington police.
- 9 Q Okay. And so Officer Barley and Carroway had you in
10 which room?
- 11 A Living room.
- 12 Q Okay. And then what happened when they had you in the
13 living room?
- 14 A They questioned me.
- 15 Q Okay. Now when they questioned you did Officer,
16 Investigator Barley, read you your Miranda warnings as you
17 recall?
- 18 A No, I don't recall.
- 19 Q But you decided to give a statement that particular
20 day; is that correct?
- 21 A Yes, ma'am.
- 22 Q All right. Now where did you go?
- 23 A They took us to this complex.
- 24 Q Okay. Here in this building?
- 25 A Yes, ma'am.

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1 Q Okay. And how did you get here?

2 A I rode with Officer Carroway.

3 Q Now did Christian ride with you?

4 A No, ma'am.

5 Q Okay. Do you know how he got here?

6 A Darlington police transported him.

7 Q Okay. Now when you came to the Florence to the
8 City-County Complex, you gave a statement to Officer
9 Barley and invest— or Investigator Barley and
10 Investigator Carroway?

11 A Yes, ma'am.

12 Q Okay. And where was that given, that statement given?

13 A I think in the office, I mean, Investigator Barley
14 office or Officer Carroway, one of them.

15 Q So you were giving it in their office?

16 A Yes, ma'am.

17 Q Okay. Now do you recall officer, Investigator Barley
18 having you sign a waiver of rights form?

19 A Yes, ma'am.

20 Q Okay. I'm going to show — is this the form that you
21 signed?

22 A Yes, ma'am.

23 Q Okay. And is that your signature?

24 A Yes, ma'am.

25 Q Okay. Now when you gave a statement, gave a statement

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- 1 on that particular day, do you recall what you told
2 Investigator Barley?
3 A Somewhat.
4 Q Okay. And at that time when you gave the statement
5 what did you tell him?
6 A That we went to Florence -- I mean, everything?
7 Q Yes, as much as you remember.
8 A That we went to Florence and went that night went to
9 the skating rink and went out to -- you know, Hakeem,
10 Hakeem got us, me and Christian, and we went to Florence
11 and we went -- went to the victim house and --
12 Q And did you tell him what kind of car you all were
13 riding in?
14 A Yes, ma'am, a gold Chrysler.
15 Q Okay. And did you tell him whose car it was?
16 A Yes, ma'am.
17 Q And whose car did you tell him it was?
18 A My aunt.
19 Q What was your aunt's name?
20 A Jean -- wait. Jean I think.
21 Q Okay. And whose mother is that?
22 A Shakeem.
23 Q All right. And what else did you tell him?
24 A That -- that we went to Florence and so we was actually
25 getting there. When we get to the house it was me,

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1 Shakeem, and Christian so then we went -- me -- me and
2 Shakeem had got out and I had got out and went up to the
3 victim and Chris had came. And so it was just us and then
4 so we seen the victim outside walking back and forth on
5 the cell phone and Shakeem went up to the victim and I was
6 running behind him. So then another male came outside and
7 Shakeem told him to come over. Searched his pockets. And
8 Shakeem asked who was all inside so asked them where they
9 stayed at first and asked who was all inside. And the
10 victim said two females, I mean -- yeah, two females and
11 that's it. So we went up to the door. Shakeem told them
12 not to make too much noise or whatever. So then we went
13 in and we went in and there was two females on the couch
14 and that was it. So I ran to the back room and I went
15 through some drawers and wasn't nothing in there and that
16 X-Box, just a box. And so we ran to the -- Christian had
17 came running in. Then we went to the room that was in the
18 hallway. Another white male came out, and we went in that
19 room. We went in that room that I had got a cell phone
20 and Christian had got a watch. So then we went back to
21 the living room, whatever. Hakeem had got some purses,
22 gave them to us. So they was asking for their purses and
23 stuff back. Asked Christian for the stuff back and that
24 he had ran out the hall and then we just ran out the house
25 and ran to the vehicle.

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1 Q Now on that first statement that you gave Officer Bar--
2 Investigator Barley on June 6th, 2008, you -- at that time
3 did you tell him there was a -- you recall a knock on the
4 door?

5 A No, ma'am.

6 Q I'm gonna -- Your Honor, may I approach the witness to
7 show?

8 THE COURT: Yes, ma'am.

9 MS. PARR: I'm referring to the statement on
10 dated June 6th, 2008, Page 7.

11 BY MS. PARR:

12 Q Mr. Costa. Read here.

13 THE COURT: You asking him to read, Counsel?

14 MS. PARR: I was going to ask him -- I'm going
15 to let him read and I'm going to ask him a question about
16 it. I mean, he's going to read to himself.

17 MR. MCLAURIN: Refresh his recollection I guess.

18 MS. PARR: Yes.

19 BY MS. PARR:

20 Q Just read the highlight.

21 (Pause while the witness reads.)

22 BY MS. PARR:

23 Q Let me know when you finish. Are you finished?

24 A (Shakes head.)

25 Q Now when you gave your statement on that day did you

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1 tell the investigator that there was someone that came to
2 the door?

3 A Yes, ma'am.

4 Q Okay. And what did you tell them about the person
5 coming to the door?

6 A It was a heavy set man, and he just came peeking at the
7 window, the sliding door and the blinds were shaking or
8 whatever.

9 Q Did you describe the skin color?

10 A I don't think so.

11 Q Now did you tell them on that particular day who that
12 heavy set person was? Did you give them a name?

13 A No, ma'am.

14 Q Okay. Why didn't you give a name?

15 A 'Cause at the time he was my cousin and if he had try
16 to, try my best to keep him out of everything or whatever.

17 Q Okay. But who was that person who came to the door?

18 A My cousin.

19 Q What was his name?

20 A Lewis.

21 Q Okay. Now and so you didn't give them that name on
22 that day?

23 A No.

24 Q Okay. Now on July 16th, 2008, do you recall meeting
25 with Investigator Barley at the detention center?

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1 A Yes, ma'am.

2 Q Okay. Now on that particular day did he have you go
3 over your rights again and have you sign another form?

4 A Yes, ma'am.

5 Q And now on that particular day did you talk with
6 Investigator Barley?

7 A Yes, ma'am.

8 Q Okay. And what did you tell Investigator Barley that
9 day?

10 A He had asked me was there a fourth person and I still
11 told him no. But then he had knew there was a fourth
12 person, and he had asked me who it was and I had told him.

13 Q Who did you tell him the fourth person was?

14 A Cousin Lewis.

15 Q Okay. And what did you tell him that day other than it
16 was your cousin Lewis?

17 A The whole thing, the whole -- told him that from -- you
18 mean from beginning of everything?

19 Q Yeah, you can just sum up what you told him.

20 A I just told him basically it was me -- I told him it
21 was me, Lewis, Shakeem, Christian. I told him Shakeem was
22 driving at first and Lewis started driving. Then we went
23 to -- out there where the victims live at. They went in
24 there where the house is and everything where he had asked
25 me where -- he had asked me who had came to the door and I

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1 said Lewis.

2 Q Now at that time did you tell him about the gun?

3 A Yes, ma'am.

4 Q Okay. And what did you tell Officer Barley,

5 Investigator Barley, about the gun that day?

6 A I told him that we was -- when we was in the car and
7 Lewis had hand Shakeem the gun and we got out. He went up
8 to the victim with the gun and Shakeem went to the victims
9 with the gun and I ran behind him basically.

10 Q Now why did you tell -- why did you identify who it was
11 on that day to Investigator Barley who the fourth person
12 was?

13 A 'Cause he had already knew who it was.

14 Q Who already knew who it was?

15 A Officer Barley.

16 Q Now why didn't you tell on Lewis before this time?

17 A Because he was like my cousin and, I mean, he my cousin
18 and everything and try to keep him out of everything.

19 Q Why were you trying to keep him out?

20 A Huh?

21 Q Why were you trying to keep him out?

22 A Little afraid.

23 Q You said you were a little afraid. And why are you
24 afraid?

25 A Huh? I mean, just because that he my cousin and

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- 1 everything and out on the streets things are different.
- 2 Q Pardon me?
- 3 A On the street things can be different.
- 4 Q What do you mean on the streets things can be
- 5 different?
- 6 A I mean, he can do anything.
- 7 Q Pardon me?
- 8 A He can do anything.
- 9 Q He can do anything like what, sir?
- 10 A Probably harm me or something, just like that.
- 11 Q And so you didn't tell because you were afraid?
- 12 A Yes, ma'am.
- 13 Q Okay. Now why did you tell on Shakeem?
- 14 A Because he already knew who he was.
- 15 Q Okay. Now Hakeem on May 20th, 2009, did you meet with
- 16 your attorney and Investigator Barley again?
- 17 A Yes, ma'am.
- 18 Q Now at that time did your attorney talk about a plea
- 19 agreement?
- 20 A Yes, ma'am.
- 21 Q And in fact, you did enter into a plea agreement with
- 22 the Solicitor's Office; is that correct?
- 23 A Yes, ma'am.
- 24 Q And do you recall what that plea agreement was?
- 25 A I really don't recall. I know it was a YOA or

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1 something else.

2 Q I'm going to show you -- defense counsel has a copy of
3 that. Do you recognize that document?

4 A (Shakes head.)

5 Q You have to answer, sir.

6 A Oh, yes, ma'am.

7 Q And is that your signature?

8 A Yes, ma'am.

9 Q Okay. Now are you charged with armed robbery, burglary
10 first, and possession of a weapon in the commission of a
11 crime of violence?

12 A Yes, ma'am.

13 Q Okay. But this plea agreement, have you agreed to
14 plead guilty to strong armed robbery which is a lesser
15 included offense of armed robbery and burglary second on
16 this charge?

17 A Yes, ma'am.

18 Q And was that an agreement of you coming to court and
19 testifying?

20 A Yes, ma'am.

21 Q Now did you also agree to come to court and testify
22 truthfully and completely about everything that had
23 occurred on that evening?

24 A Yes, ma'am.

25 Q And have you done that?

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1 A Yes, ma'am.

2 Q And did the Solicitor's Office agree to allow you to
3 plead guilty to those lesser charges of the -- of what you
4 were actually charged with and recommend a youthful
5 offender sentence?

6 A Yes, ma'am.

7 Q Now did the Solicitor's Office make any promises as to
8 what your sentence would be?

9 A No, ma'am.

10 Q Now you're aware for a youthful offender sentence you
11 can -- it's an indeterminate amount of time not to exceed
12 six years?

13 A Yes, ma'am.

14 Q And were you made aware of that from your attorney?

15 A Yes, ma'am.

16 MS. PARR: Beg the Court's indulgence a moment.

17 BY MS. PARR:

18 Q Now Mr. Acosta, or Hakeem, how old were you when this
19 event occurred, when this crime occurred?

20 A Sixteen.

21 Q Now are you nervous today?

22 A Yes, ma'am.

23 Q Now you indicated earlier that you were afraid and
24 that's why you didn't give Lewis' name. How are you
25 feeling today?

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1 A The same.

2 Q Okay. So you're still afraid?

3 A Just nervous.

4 Q Nervous, okay. All right, please answer any questions
5 Mr. McLaurin may have for you.

6 THE COURT: All right, Counsel.

7 MR. MCLAURIN: Judge, could I ask for about a
8 five minute break?

9 THE COURT: All of us, coffee time.

10 (WHEREUPON, a recess was taken from the proceedings.)

11 THE COURT: Bring the jury out.

12 (WHEREUPON, the jury was returned to the courtroom at
13 approximately 10:17 p.m., and the following proceedings
14 commenced in open court.)

15 THE COURT: All right, cross-examination.

16 MR. MCLAURIN: Yes, sir, Your Honor. May it
17 please the Court.

18 CROSS-EXAMINATION

19 BY MR. MCLAURIN:

20 Q Mr. Acosta, when they -- Officer Barley and them came
21 to your house in Darlington, they asked you about what
22 happened that particular night; did they not?

23 A Yes, sir.

24 Q And you gave a statement indicating that it was you,
25 Shakeem, and Christian involved; is that correct?

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1 A Yes, sir.

2 Q And your testimony is that Christian was in a different
3 room and separated from you during that time, is that
4 correct, while they were asking you questions?

5 A Oh, yes, sir.

6 Q Or was he? I don't know. Where was Christian?

7 A Yeah, he was in another room.

8 Q He was in another room?

9 A Yes, sir.

10 Q And he couldn't hear the questions being asked?

11 A Huh-uh.

12 Q Is that a no?

13 A Oh, no, sir.

14 Q You need to answer yes or no.

15 A Yes, sir.

16 Q You need to answer the question, okay. Okay, so he
17 asked you that and then you get transferred up here to the
18 police department; is that correct?

19 A Yes, sir.

20 Q And you give another statement; is that right?

21 A Yes, sir.

22 Q And you gave that statement freely and voluntarily,
23 right?

24 A Yes, sir.

25 Q Nobody forced you into making that statement, did they?

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1 A Huh-uh, no, sir.

2 Q The prosecutor has shown you a document entitled waiver
3 of rights form which you signed. Take a look at that
4 document. Is that the document you signed on that
5 particular day?

6 A Yes, sir.

7 MR. MCLAURIN: Your Honor, I'd like to introduce
8 this as Defendant's Exhibit Number 1.

9 THE COURT: Any objection?

10 MS. PARR: No, Your Honor.

11 THE COURT: Defendant's 1 in evidence without
12 objection.

13 (WHEREUPON, Defendant Exhibit No. 1 was marked for
14 identification and received into evidence.)

15 BY MR. MCLAURIN:

16 Q And during that statement, once again, you were asked
17 by Officer Barley, a thorough investigation of you, and
18 you gave a thorough statement and a complete statement,
19 correct?

20 A Yes, sir.

21 Q All right. And in that particular statement you also
22 indicated that you and Shakeem Williams and Christian
23 Richardson were the only ones involved, correct?

24 A Yes, sir.

25 Q Now your lawyer was asking you about that statement and

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- 1 the fact that you indicated in that statement that someone
2 came and knocked on the sliding door while y'all were in
3 the house.
- 4 A Yes, sir.
- 5 Q Do you remember that?
- 6 A Yes, sir.
- 7 Q And you described that person as a heavy weight dude,
8 heavy set, light skinned?
- 9 A Yes, sir.
- 10 Q You're not telling that Court that when you gave that
11 statement you were describing Lewis Williams there, were
12 you?
- 13 A Huh-uh.
- 14 Q That's not true, is it?
- 15 A No, sir.
- 16 Q And who did you think that was?
- 17 A Another man. No, I know it was ---
- 18 Q Why did you think it was another man?
- 19 A Why?
- 20 Q Yeah. Why did you think it was another man?
- 21 A I knew who it was, I just, I mean, told something else.
- 22 Q You knew who it was?
- 23 A Uh-huh.
- 24 Q Okay. Do you remember what else you said when you gave
25 that statement about that person who knocked on the door?

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1 A You mean description?

2 Q No, I'm talking about what else you said about that
3 person. Do you remember ---

4 A No, sir.

5 Q ---what you testified about as far as whether one of
6 the victims said something to that person?

7 A No, sir.

8 Q You don't remember that?

9 A No, sir.

10 Q I'm gonna show you the statement that you gave on that
11 particular day on Page 7 and I'm gonna refer you to this
12 particular. If you'll refresh your recollection there and
13 look at that and tell me what you indicated as far as what
14 one of the victims said to the person who came and knocked
15 on the door.

16 A (Pause.)

17 Q Have you had a chance to review it?

18 A Yes, sir.

19 Q Well, what did the victim say?

20 A Told him to leave.

21 Q Told him to leave?

22 A That what -- that what I --

23 Q The victim said that?

24 A Uh-huh.

25 Q So you would -- that was clearly one of the victim's

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- 1 friends; was it not?
- 2 A Yes, sir.
- 3 Q And that was what you thought at that time, correct?
- 4 A Yes, sir.
- 5 Q Okay. You didn't think that was Lewis Williams at all,
- 6 did you?
- 7 A Huh-uh.
- 8 Q You got to answer yes or no.
- 9 A No, sir.
- 10 Q Then in fact, you were so afraid that y'all had been
- 11 caught by a friend of theirs that you told everybody to
- 12 get out, let's run, we need to leave. Right?
- 13 A I didn't tell everybody that. We all decided.
- 14 Q Why did you decide that?
- 15 A Huh?
- 16 Q You decided that because you thought somebody had come
- 17 up on you; didn't you?
- 18 A 'Cause it was time to go.
- 19 Q I'm gonna show you your statement again on Page 8. At
- 20 the top of that statement if you'll look at that and
- 21 refresh your recollection.
- 22 A (Pause.)
- 23 Q Did you not indicate that y'all needed to leave because
- 24 the big heavy weight guy had come and he had caught y'all
- 25 and seen y'all?

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- 1 A I didn't say we need to leave.
- 2 Q What did you say?
- 3 A I didn't say anything.
- 4 Q Everybody just knew you better leave, right?
- 5 A Uh-huh.
- 6 Q You need to answer yes or no.
- 7 A Yes, sir.
- 8 Q And that was at the sliding glass door, right?
- 9 A Yes, sir.
- 10 Q Now in that first statement that you also gave you were
- 11 asked about what Christian Richardson took out of the
- 12 house. You remember that?
- 13 A Yes, sir.
- 14 Q Do you remember what you told him?
- 15 A I think I told him a watch.
- 16 Q So your testimony today is he took a watch?
- 17 A Uh-huh.
- 18 Q Is that correct?
- 19 A Yes, sir.
- 20 Q Now you and Christian Richardson, y'all have spoken
- 21 since y'all were arrested, correct?
- 22 A No, sir.
- 23 Q Haven't spoken at all?
- 24 A No, sir.
- 25 Q I'm gonna show you your statement again that you gave,

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- 1 first statement. And once again, you gave this freely and
2 voluntarily. Nobody forced you into doing this, did they?
- 3 A No, sir.
- 4 Q Okay. I show you Page 10. I want to ask you if you'll
5 refresh your recollection about what you said at that time
6 Christian took. What did you say?
- 7 A He had money and broken watch.
- 8 Q So the first interview, when you gave this statement
9 you said Christian Richardson took money and a watch; is
10 that correct?
- 11 A Yes, sir.
- 12 Q Now you're changing your testimony.
- 13 A Not really. I just said a watch. I probably couldn't
14 remember that.
- 15 Q Well, there's a difference between money and watch and
16 just a watch, right?
- 17 A Yes, sir.
- 18 Q Better for Christian if he had just taken a watch,
19 right?
- 20 A Yes, sir.
- 21 Q And yet you're telling me y'all hadn't spoken at all?
- 22 A No, sir.
- 23 Q You hadn't gotten together about your statements?
- 24 A Couldn't get together.
- 25 Q Christian didn't come to you and say you better say I

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1 took a watch?

2 A No, sir.

3 Q He didn't say that? Now when you went to the skating
4 rink that night you said you knew the girls there.

5 A Yes, sir.

6 Q Is that right? And who else knew the girls?

7 A Me and Christian and Shakeem seen them before.

8 Q Okay. So you and Christian knew those girls; is that
9 right?

10 A Yes.

11 Q From Florence?

12 A Yes, sir.

13 Q And you were talking with them; is that correct?

14 A Yes, sir.

15 Q How many of them were there?

16 A Three.

17 Q Three girls?

18 A Yes, sir.

19 Q And they're from Florence?

20 A Yes, sir.

21 Q Okay. Where do they go to school?

22 A I think one of them Wilson and the other two went to
23 South Florence.

24 Q Okay. And certainly at that time —

25 A West Florence.

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- 1 Q West Florence, okay. Certainly at that time Lewis
2 Williams was in the car with you, right?
- 3 A Yes, sir.
- 4 Q And these people would have seen Lewis Williams,
5 correct?
- 6 A Yes, sir.
- 7 Q Okay. And I'm certain that you gave their names to the
8 police department and told them about that, right?
- 9 A I told them, the females?
- 10 Q Yeah.
- 11 A No.
- 12 Q Why wouldn't —
- 13 A I didn't tell them that.
- 14 Q You come in here today saying that you're cooperating
15 and given a statement and telling the truth, why wouldn't
16 you tell them that?
- 17 A The females names?
- 18 Q Yeah.
- 19 A I told them. I told them about the females.
- 20 Q You did? You told the police officer about that?
- 21 A Uh-huh.
- 22 Q And those people, the independent people who certainly
23 could verify Lewis Williams was in the car with you,
24 right?
- 25 A Yes, sir.

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- 1 Q No doubt, right?
- 2 A Yes, sir.
- 3 Q What were you wearing that night?
- 4 A I was wearing some jeans, some black sneakers, and
- 5 blue, blue shirt.
- 6 Q You weren't wearing all black?
- 7 A No, sir.
- 8 Q Did you have a mask on that night?
- 9 A Yes, sir.
- 10 Q What did your mask look like?
- 11 A No, I didn't -- I have a bandanna.
- 12 Q You had a bandanna?
- 13 A Yes, sir.
- 14 Q So how many people had bandannas?
- 15 A Me and Shakeem.
- 16 Q So two people had bandannas and there was one ski mask;
- 17 is that; —
- 18 A Yes, sir.
- 19 Q Is that correct?
- 20 A Yes, sir.
- 21 Q Okay. And you were one of the first people with
- 22 Shakeem to go up on the first guy; is that correct?
- 23 A Yes, sir.
- 24 Q What did you say to the victim? What else did you tell
- 25 them?

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- 1 A I didn't tell them anything. Shakeem started talking
2 to the victims or whatever, and he started asking me, he
3 told me to search their pockets and I say all right.
- 4 Q I'm sorry, I didn't understand that.
- 5 A I searched their pockets after he told ---
- 6 Q I'm sorry, I still don't understand.
- 7 A I searched their pockets.
- 8 Q Okay. He told him that?
- 9 A Told me to.
- 10 Q Told you to, all right. Did you -- what did you say
11 the whole night to the victim? What did you tell the
12 victims?
- 13 A The whole night?
- 14 Q Yeah.
- 15 A They had -- when they had asked for their things back.
16 I told them no.
- 17 Q You told them they couldn't have it back?
- 18 A Yeah, they had asked me that.
- 19 Q And you told Shakeem he couldn't give anything back?
- 20 A No, I did not.
- 21 Q You didn't say that? Well, who did you say you can't
22 have your stuff back to?
- 23 A The victim.
- 24 Q The victims themselves, okay. And you went back into
25 the back bedrooms, right?

SW - H. COSTA - CROSS

- 1 A Yes, sir.
- 2 Q Okay. And what did you do back there in the back
3 bedrooms?
- 4 A Look in the closet and the drawer.
- 5 Q Did you flip the mattresses?
- 6 A No.
- 7 Q You didn't flip the mattresses?
- 8 A No, I didn't flip the mattress.
- 9 Q Did you pull all the clothes out of the drawer and
10 ransack the house?
- 11 A No, I did not ransack the house.
- 12 Q You didn't do that?
- 13 A No, sir.
- 14 Q You didn't pull the drawers out?
- 15 A No.
- 16 Q None of the clothes out?
- 17 A Pulled the drawer open and went through the drawer.
- 18 Q But you didn't pull anything out is your testimony?
- 19 A Went through it, yeah.
- 20 Q You went through it, but I mean, you didn't throw it on
21 the floor —
- 22 A No, no, sir.
- 23 Q —or anything like that? That's your testimony; is
24 that correct?
- 25 A Yes, sir.

SW - H. COSTA - CROSS

1 Q I'm gonna show you State's Exhibit Number 10. Do you
2 recognize that particular picture?

3 A Not really.

4 Q Okay. What did you take at the house?

5 A I took cell phone.

6 Q You took cell phones?

7 A A cell phone.

8 Q Did you take anything else?

9 A After we got back in the car.

10 Q You believe -- what, I'm sorry?

11 A I said, after we got back in the car. That was it.

12 Q Did you take a pocketbook?

13 A Did I take -- no, I did not take a pocketbook. I had a
14 pocketbook when we left out the house. I had one.
15 Shakeem had gave it to me.

16 Q So you took a pocketbook? I guess you had a
17 pocketbook; --

18 A Uh-huh.

19 Q --is that correct?

20 A Yes, sir.

21 Q Is that a yes? Did you take any brass knuckles?

22 A Oh, yes, sir.

23 Q Oh, you did?

24 A Yes, sir.

25 Q So let's make sure we're clear now. You tell me -- I'm

SW - H. COSTA - CROSS

1 going to ask you again. What did you take ---

2 A Cell phone and some brass knuckles.

3 Q ---from that ---

4 A Cell phone, brass knuckles.

5 Q And after the fact you used the cell phone? You used
6 the cell phone?

7 A Yes, sir.

8 Q One of the cell phones; is that correct?

9 A Yes, sir.

10 Q What did you do?

11 A I called a female I knew from Darlington.

12 Q Did you call any of the victims or did you talk with
13 any of the victims?

14 A No, I did not talk to them.

15 Q You didn't talk to them at all?

16 A No, sir.

17 Q Did you ever make arrangements to meet the victims over
18 at Timrod Park?

19 A No, I did not make arrangements.

20 Q You didn't make arrangements to do that?

21 A No, sir.

22 Q Did you tell Ricardo Richardson to make arrangements to
23 do that?

24 A No, I did not tell anybody to make arrangements.

25 Q To meet them at Timrod Park?

SW - H. COSTA - CROSS

- 1 A Yes, sir.
- 2 Q Did you tell them to email you some pictures?
- 3 A No. No, sir.
- 4 Q You didn't do that?
- 5 A No, sir.
- 6 Q Now you did run into Ricardo Richardson after the fact,
- 7 right?
- 8 A Yes, sir.
- 9 Q And did you sell him the phone?
- 10 A No, sir.
- 11 Q You didn't sell him a phone?
- 12 A No, sir.
- 13 Q Okay. Did he -- did you tell him anything about what
- 14 happened?
- 15 A Shakeem did.
- 16 Q Shakeem told him about what happened?
- 17 A Yes, sir.
- 18 Q The night before?
- 19 A Yes, sir.
- 20 Q So Ricardo Richardson knew everybody that was involved
- 21 the night before, right?
- 22 A Uh-huh, yes, sir.
- 23 Q How old were you when this happened?
- 24 A Sixteen.
- 25 Q Sixteen years old. Now you're not trying to tell this

SW - H. COSTA - CROSS

- 1 Court that you had a terrible school record, are you?
- 2 You're not trying to tell the Court that, are you?
- 3 A No, sir.
- 4 Q I mean, you had a bunch of suspensions; hadn't you?
- 5 A Not much. I had some suspensions though.
- 6 Q Okay, all right. And I guess you never been in trouble
- 7 before as far as the law goes and going to jail?
- 8 A No, no, sir.
- 9 Q And how long have you been in jail now?
- 10 A A year and a month.
- 11 Q It's not a good place, is it?
- 12 A No, sir.
- 13 Q Do anything to get out of jail?
- 14 A Yes, sir.
- 15 Q And you were telling me that Officer Barley came to you
- 16 with Lewis Williams' name; is that correct?
- 17 A Yes, sir.
- 18 Q All right. So I believe your testimony was he already
- 19 had his name so I told him ---
- 20 A Yes, sir.
- 21 Q ---about Lewis; is that correct?
- 22 A Yes, sir.
- 23 Q Of course, you didn't sign a written statement until
- 24 two or three weeks ago, right?
- 25 A Yes, sir.

SW - H. COSTA - CROSS

1 Q Where did you go to do that statement?

2 A At the detention center, the detention center in this
3 room. I don't know which room it was.

4 Q And who was present when you gave that particular
5 statement?

6 A Ms. Parr, Investigator Barley, my lawyer, and two other
7 people.

8 Q And you were charged at that particular time. And
9 really, from the beginning you've been charged with
10 burglary first; is that correct?

11 A Yes, sir.

12 Q And you understood that burglary first carried a
13 potential life sentence; did you not?

14 A No, sir.

15 Q You never have understood that?

16 A No, I understand it now.

17 Q You don't know that?

18 A I understand it now. I didn't though.

19 Q Okay. And let me ask you this now, you had a lawyer,
20 correct?

21 A Yes, sir.

22 Q You had a good lawyer; is that correct?

23 A Yes, sir.

24 Q And he worked out a deal for you; is that correct?

25 A Yes, sir.

SW - H. COSTA - CROSS

1 Q All right. And we've talked about the deal that you
2 had worked out. You had an agreement that you signed; is
3 that correct?

4 A Yes, sir.

5 Q And as part of that agreement they agreed to drop this
6 potential sentence that you had of life in prison,
7 correct?

8 A No, sir.

9 MS. PARR: Your Honor, I would object.

10 THE COURT: I want to make it clear now there is
11 no mandatory life sentence. That is not correct.

12 MR. MCLAURIN: And I --

13 THE COURT: It's not mandatory to give life. I
14 can give anything up to life including life, but I don't
15 have to give life. I just want to make that clear.

16 MR. MCLAURIN: And I said potential. I --

17 THE COURT: Well, potential is important. I
18 mean, I'm not required to give life.

19 MR. MCLAURIN: I said that.

20 THE COURT: Yeah, right, okay.

21 MR. MCLAURIN: Yes, sir.

22 THE COURT: Thanks.

23 BY MR. MCLAURIN:

24 Q So you understood it was a potential life sentence. I
25 don't want to mislead anybody. Potential life sentence,

SW - H. COSTA - CROSS

1 correct?

2 A Yes, sir.

3 Q And you understood that charge has been dropped,
4 correct?

5 MS. PARR: Your Honor, the charge has not been
6 dropped. It's been reduced. I would...

7 THE COURT: All right, tell it like it is. Give
8 it in a pristine form.

9 BY MR. MCLAURIN:

10 Q That particular count has been dismissed; is that
11 correct?

12 MS. PARR: Your Honor, it has not been
13 dismissed. That's a lesser included offense, and it's
14 been reduced. We would ask that counsel has a copy of the
15 plea agreement if -- so there won't be any
16 misunderstanding if he would just read it verbatim then we
17 would not have -- nobody would be mislead.

18 THE COURT: All right, okay.

19 BY MR. MCLAURIN:

20 Q Count three of your indictment was for burglary first;
21 is that correct?

22 A Yes, sir.

23 Q It's going to be dismissed at the conclusion of a
24 successful guilty plea, correct? You're not going to have
25 to face the penalties of that; is that correct?

SW - H. COSTA - CROSS

1 THE COURT: He's pleading to a lesser included
2 offense in that plea agreement as I understand it. Now do
3 we need to introduce the plea agreement or whatever is —

4 MS. PARR: Your Honor, the — because the charge
5 is not dismissed.

6 THE COURT: It's a lesser included offense and
7 that's what we do in regard to these kinds of
8 negotiations. So just make —

9 MS. PARR: It's just —

10 MR. MCLAURIN: I'm just reading from the
11 proffer agreement. I'll present it to him and ask him to
12 read it.

13 THE COURT: Please.

14 BY MR. MCLAURIN:

15 Q I'm gonna show you the proffer and plea agreement that
16 you entered into. Is that correct? You see the
17 agreement? I'm sorry, let me give you this, Christian's.
18 I'm gonna show you the proffer and plea agreement you
19 entered into in this case. You recognize this document?

20 A Yes, sir.

21 Q And is this the agreement you entered into and signed?

22 A Yes, sir.

23 Q And you see paragraph one there?

24 A Yes, sir.

25 Q What does the last sentence of paragraph one say?

SW - H. COSTA - CROSS

- 1 A Count three will be dismissed at the conclusion of a
2 successful plea of guilty.
- 3 Q So it says count three will be dismissed at the
4 conclusion of a successful plea of guilty; does it not?
- 5 A Uh-huh.
- 6 Q And you were entering a plea of YOA, correct?
- 7 A Yes, sir.
- 8 Q And what is your understanding of the time that you
9 were going to get out of this case?
- 10 A Not more than six years.
- 11 Q Not more than six years. Has there been any indication
12 to you that you would get ten months?
- 13 A No, sir.
- 14 Q Nobody said that to you?
- 15 A No, sir.
- 16 Q You and Christian are best friends, correct?
- 17 A Yes, sir.
- 18 Q Y'all live near each other?
- 19 A Yes, sir.
- 20 Q How far do you two guys live from each other?
- 21 A About three minutes.
- 22 Q About three minutes? Let me ask you this. When you
23 took the cell phones did you return any of the cell
24 phones?
- 25 A No, sir.

SW - H. COSTA - CROSS

1 Q When the police came to your house that particular day
2 and asked you questions, did you have a cell phone?

3 A I couldn't find it.

4 Q You couldn't find it? You looked for it and couldn't
5 find it?

6 A Yes, sir.

7 Q Did you return any of the items, the pocketbook,
8 anything?

9 A No, sir.

10 Q Did y'all go to the Hardees before you went out that
11 particular evening?

12 A I think so. I don't recall.

13 Q You think so. You don't know? You don't remember
14 that?

15 A No, sir.

16 Q And your testimony is that when you gave the second
17 statement that Lewis Williams came to the sliding glass
18 door, correct?

19 A Yes, sir.

20 Q And he didn't say anything, correct?

21 A No, sir.

22 Q Your testimony also was that all of you used the credit
23 cards, correct?

24 A Yes, sir.

25 Q You used it?

SW - H. COSTA - CROSS

1 A No, I didn't slide anything, but I mean, ate off it and
2 everything.

3 Q Okay, Christian used the credit card?

4 A No -- not directly hisself. We ate off of it.

5 Q What did Christian do when you went to the back of the
6 house?

7 A We went in the closet. He came around -- when he came
8 back in with me he went in the closet.

9 Q So he looked through the closet?

10 A Yeah, he went through the closet.

11 Q Looked through some drawers too?

12 A Uh-huh.

13 Q Is that a yes?

14 A Yes, sir.

15 MR. MCLAURIN: Court's indulgence.

16 THE COURT: Yes, sir.

17 MR. MCLAURIN: That's all the questions I have.

18 Thank you.

19 THE COURT: Redirect.

20 MS. PARR: Yes, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MS. PARR:

23 Q Shakeem, let's clear up a few things. You have been
24 indicted on a three count indictment; is that correct?

25 A Yes, sir -- yes, ma'am.

SW - H. COSTA - REDIRECT

1 Q Count one is armed robbery?

2 A Yes, ma'am.

3 Q And is count two burglary first?

4 A Yes, ma'am.

5 Q And is count three possession of a weapon during the
6 commission of a crime of violence?

7 A Yes, ma'am.

8 Q Okay. Now Mr. McLaurin asked you to read about count
9 three, one of the counts being dismissed; is that correct?

10 A Yes, ma'am.

11 Q Okay. And so isn't it true the count that's being
12 dismissed is the possession of weapon during the
13 commission of a crime of violence?

14 A Yes, ma'am.

15 Q Now have you ever been promised that the robbery charge
16 or the burglary charge would be dismissed?

17 A No, ma'am.

18 Q And in fact, you are pleading guilty to the lesser
19 included offenses of the robbery and the burglary charge;
20 is that correct?

21 A Yes, ma'am.

22 Q And has there ever been anything said otherwise in
23 regards to that?

24 A No, ma'am.

25 Q Now you indicated -- there was conversation or

SW - H. COSTA - REDIRECT

1 questioning by Mr. McLaurin about the heavy set guy that
2 came to the door. Do you know who the heavy set guy was
3 that came to the door?

4 A Yes, ma'am.

5 Q And who was that?

6 A Lewis.

7 Q Okay. And was there ever any question in your mind as
8 to who that was?

9 A No.

10 MR. MCCLAURIN: Objection, leading.

11 THE COURT: I overrule that. It is a little
12 suggestive but de minimis.

13 BY MS. PARR:

14 Q All right. Why did you all leave at the time, at the
15 time that you all did, or run out the apartment at the
16 time when you did?

17 A Lewis came to the window. It was just time to go.

18 Q Okay. Now --

19 THE COURT: Just one second, counsel. I got a
20 call from one of the young judges.

21 (Pause.)

22 THE COURT: Thank you.

23 BY MS. PARR:

24 Q Now where did you get your bandanna from?

25 A Out the back seat of the car.

SW - H. COSTA - REDIRECT

1 Q Okay. And who put that bandanna there?

2 A I don't know who put it there.

3 Q Okay. Now, and where did the gun come from?

4 A Lewis.

5 MS. PARR: Nothing further, Your Honor.

6 THE COURT: Recross.

7 MR. MCCLAURIN: I don't have anything further,
8 Judge.

9 THE COURT: You may step down.

10 MS. PARR: Your Honor.

11 THE COURT: Next — yes, ma'am.

12 MS. PARR: I was going to say the next witness
13 so —

14 THE COURT: All right please.

15 MS. PARR: —they can go get Sergeant Hennigan.
16 Your Honor, we would ask that Mr. Acosta be able to leave
17 the courtroom as well as his attorney.

18 THE COURT: Thank you.

19 THE DEPUTY CLERK OF COURT: If you will, ma'am,
20 go to the witness stand. Place your left hand on the
21 Bible. Raise your right hand.

22 WHEREUPON,

23 **TERESA B. HENNIGAN,**

24 having been duly sworn by the Deputy Clerk of Court,
25 testified as follows:

SW - T. HENNIGAN - DIRECT

1 **THE DEPUTY CLERK OF COURT:** Please be seated.
2 State your full name for the record.

3 **THE WITNESS:** Teresa B. Hennigan.

4 **DIRECT EXAMINATION**

5 **BY MS. PARR:**

6 Q Sergeant Hennigan, where are you employed?

7 A Florence County Detention Center.

8 Q And what do you do for the Florence County Detention
9 Center?

10 A Training sergeant.

11 Q And are you familiar with where inmates are housed?

12 A Yes, ma'am.

13 Q Okay. And how long have you been with the Florence
14 County Detention Center or the Sheriff's Department?

15 A Since November of '92.

16 Q Now are you familiar with Hakeem Costa and Christian
17 Richardson in regards to them being inmates at the
18 Florence County Detention Center?

19 A Yes, ma'am.

20 Q And please tell us where each one of these individuals
21 are housed.

22 A Okay. I need to refer to the housing history report.
23 Which inmate would you like me to refer to first?

24 Q Okay. You can start -- it doesn't matter. Either one.
25 Just give the names for the record.

SW - T. HENNIGAN - DIRECT

1 A Christian Richardson was booked into the detention
2 center on 6/6 of '08 and was housed in booking until he
3 was dressed out on 6/6 of '08 and was sent to C-pod in
4 room C-213. He stayed there until 6/9 of '08 when he was
5 classified into A-pod and was placed in A-pod 216. On 8/8
6 of 2008 he was removed from A-pod and placed into max seg.
7 And then on 8/27 of '08 he was removed from max seg and
8 placed back into regular housing into B-pod room 121. He
9 has basically remained in B-pod until 6/1 of 2009.

10 Q And where is he now?

11 A He is currently being housed in B-pod room 201. And
12 Mr. Hakeem Costa, he came in on 6/6 of '08 and he was
13 housed in our passive waiting holding area.

14 Q And what is that?

15 A It's just a holding cell that we basically keep him
16 separated from the adults. On 6/7 of '08 he was placed in
17 the juvenile section where we would house juveniles that
18 are going to be charged as an adult in the JA cell. He
19 remained back in the juvenile section until 5/5 of 2009
20 where he was transferred to C-pod room 208 and he has
21 remained there until today's date.

22 Q Okay. Now at any time has Richardson and Acosta been
23 housed together?

24 A No, ma'am. The closest proximity they would have had
25 to each other is when they first came into the detention

SW - T. HENNIGAN - DIRECT

1 center on 6/6 of '08, but their housing has been separate
2 since them -- since they've come to the detention center.

3 Q Okay. And when you say they -- okay, they have been
4 housed separately. Would they have had any occasion to
5 be together?

6 A No, ma'am. We would keep the -- well, keep them
7 basically separate at all times. If they -- they ate in
8 their housing unit. Recreation would be there in the
9 housing unit so they would not have been pulled out
10 together.

11 Q And to your knowledge are they still -- have been kept
12 complete and separate from each other?

13 A Yes, ma'am.

14 Q Okay.

15 MS. PARR: Beg the Court's indulgence.

16 BY MS. PARR:

17 Q And would they have had any way to communicate with
18 each other?

19 A Not through the detention center, no, ma'am.

20 Q Please answer any questions Mr. McLaurin may have for
21 you.

22 A Yes, ma'am.

23 **CROSS-EXAMINATION**

24 BY MR. MCLAURIN:

25 Q It's Hennigan; is that right?

SW - T. HENNIGAN - CROSS

1 A That's correct.

2 Q Okay. How long have you been there at the detention
3 center?

4 A Over 16 years.

5 Q Okay. And you're not telling me that these inmates
6 don't pass notes regularly back and forth, are you?

7 A Well, they would have been a separate housing facility
8 so it's -- it wouldn't be as easy as if in the same
9 housing unit and just try to slip a note under the door.
10 They would have to go from one section of the jail to a
11 completely different section of the jail.

12 Q That happens regularly though, notes are passed between
13 inmates. Is that not a fair statement?

14 A Yes, in the same housing unit I would be under that
15 impression.

16 Q How about when inmates get moved around from different
17 units and notes are passed from a inmate coming, let's
18 just say, from an A-pod to a B-pod. That happens also,
19 correct?

20 A It could be possible.

21 Q And certainly these boys have visitors, right?

22 A Yes, sir.

23 Q Do you know the visitor list?

24 A No, I did not bring a visitor list with me.

25 Q So if family or whoever visited them they would have an

SW - T. HENNIGAN - CROSS

1 opportunity to communicate with their family; is that
2 correct?

3 A That's correct.

4 MR. MCLAURIN: I don't have anything further.

5 THE COURT: Redirect.

6 **REDIRECT EXAMINATION**

7 BY MS. PARR:

8 Q To your knowledge have anything been confiscated from
9 either of these in regards to notes being passed?

10 A No, ma'am, they have not.

11 MS. PARR: Nothing further, Your Honor, and we
12 would ask she be released to return to...

13 THE COURT: Anything further on recross?

14 MR. MCLAURIN: I don't have anything.

15 THE COURT: Okay, thank you.

16 THE WITNESS: Thank you.

17 MS. PARR: Your Honor, at this time we would
18 call Investigator Brian Barley to the stand.

19 THE DEPUTY CLERK OF COURT: If you will, sir,
20 place your left hand on the Bible, raise your right hand.

21 WHEREUPON,

22 **BRIAN BARLEY,**

23 having been duly sworn by the Deputy Clerk of Court,
24 testified as follows:

25 THE DEPUTY CLERK OF COURT: Please be seated and

SW - T. HENNIGAN - REDIRECT

1 state your full name for the record.

2 THE WITNESS: Brian Barley.

3 BY MS. PARR:

4 Q Investigator Barley, where are you employed?

5 A I work for the City of Florence, Florence Police
6 Department.

7 Q And how long have you been with the Florence Police
8 Department?

9 A I've been with the Florence Police Department for
10 approximately eight years.

11 Q Okay. And how long have you been in investigations?

12 A I have been in investigations for approximately a
13 year-and-a-half.

14 Q Now have you had any special training for your job?

15 A Yes. I graduated from the South Carolina Criminal
16 Justice Academy, and I have completed a 40 hour basic
17 detective class last year in February.

18 Q Okay. Now have you been doing continual criminal
19 updates as well?

20 A Yes, I have. We have continuous training that we have
21 to keep our accreditation.

22 Q And are you a certified law enforcement officer?

23 A Yes, I am.

24 Q And do you have any prior law enforcement experience
25 prior to coming to Florence Police Department?

SW - B. BARLEY - DIRECT

1 A I worked in Florence from 2000 till approximately 2002,
2 and I also worked for the Myrtle Beach Police Department
3 for approximately a year and then I came back to the
4 Florence Police Department where I also worked as a
5 traffic officer and motor officer.

6 Q Now Investigator Barley, did you have an occasion to
7 become involved in a home invasion case that occurred on
8 June 5th, 2008?

9 A Yes, I did. On Wednesday, June 4th, I was the duty
10 investigator. I worked a 3 to 11 shift and I worked
11 on-call from 11:00 at night till the next morning 8:00 in
12 the morning. At approximately 1:30 in the morning I was
13 woken up, notified by Corporal Walters that there was a
14 home invasion at [REDACTED] apartment [REDACTED]. At that
15 point I responded to the scene approximately 20 minutes
16 later, and I spoke with Corporal Walters, Officer
17 Carpenter, and all five victims. Immediately when I
18 arrived I spoke briefly with the officers on scene, got an
19 idea what happened. Then I went into the apartment to
20 kind of take a look inside. There was nobody in the
21 apartment when I got there. Everybody was already
22 outside. I believe the officer secured the scene so that
23 there was any evidence we needed to collect we could
24 collect it; it wouldn't be contaminated. When I went
25 inside I saw it was a little messy in the living room.

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1 area, which I believe the kids who were living there told
2 me that that was pretty much theirs for the most part.
3 But in the bedrooms you also could see where the dresser
4 drawers having pulled out. Some of them laying on the
5 floor. There was clothes on the floor. You could tell
6 somebody had gone through the bedrooms looking for
7 something. I mean, you could tell that ransacked. At
8 that point I notified our crime scene officer, one of our
9 crime scene officers who was working that night with me,
10 and that was crime scene technician Shannon Hill. Hill
11 arrived about 20 minutes, 25 minutes later. He also was
12 sleeping at 1:30 in the morning obviously. When he
13 arrived he photographed the scene, inside the apartment
14 and outside the apartment, and while he was there he
15 dusted for the fingerprints in the bedrooms and where the
16 dressers and drawers were taken out. Now he was unable to
17 locate any identifiable prints that he collected to be
18 sent away so no prints were taken from the scene. I also
19 spoke with the victims that night briefly.

20 Q Before you go there —

21 A Okay.

22 Q --were you all able to find any other pieces of
23 evidence at the scene?

24 A No, we didn't — we found no evidence at the scene
25 whatsoever, just the photographs that were taken.

SW - B. BARLEY - DIRECT

1 Q Okay.

2 A Well, so then I spoke with each victim separately.

3 They had already given statements to Officer Carpenter and
4 they were all very upset. The females were upset; the
5 males were upset. Some were crying; some were angry.

6 Different emotions from everybody. Just depends on, you
7 know, the state of mind they were in. So they had already
8 given one statement. I talked to each one of them briefly
9 to get an idea what had happened and what was stolen, what
10 steps we needed to take next. We didn't have a direction
11 of travel so there was really no way to at that point in
12 time locate any suspects. There's no place to actually
13 physically go, you know, to find anyone. There were
14 officers in the area, several officers responded. Nothing
15 was found in that way. Once I took a brief statement from
16 each of them they all agreed to come up at 11:00 the next
17 morning to the complex to give a written statement. The
18 reason why I had to -- I did it that way was because they
19 were so upset that I thought if I gave them some time to
20 calm down they would be easier for them to come in later,
21 get some sleep, and you know, put some of it behind them
22 so they can make a written statement the next morning.
23 And that's what they did. All five victims came at 11:00.
24 They met with me at the complex in my office. They -- all
25 five of them filled out a written statement separately

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1 with their own, you know, clip board and pen. Each one, I
2 spoke with them individually, each one as they filled
3 their statements out, and just tried to insure that they
4 could put as much in the statement as they could remember.
5 Even at that time though they were still upset. A lot of
6 them were tired because they hadn't slept that night. So
7 still trying to keep them calm and trying to keep them
8 focused was still kind of difficult.

9 They made their statements, everybody was released,
10 they all went home. Then at about 3:30 that afternoon I
11 received a call from Sherelle Brooks and Jessica Waters.
12 I was in my office. They called me on my office phone.
13 Answered it. They said that they had been in contact with
14 some of the suspects. And I asked them what was going on,
15 and they explained to me that they had been calling
16 Matthew Rogers' phone and that some of the -- one of the
17 guys had been answering the phone kind of messing around
18 with them. Even told me that they could get the suspects
19 to agree to meet them someplace, that whoever they were
20 talking to which defendant was, wanted to meet them in
21 person and actually see them. I was quite surprised that,
22 you know, that they would want to do that. But I spoke
23 with my supervisor, my lieutenant, my sergeant, and we
24 were able to set up a meeting between the defendant who
25 they were talking to, or the suspect they were talking to,

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1 and the girls. The girls agreed to do it. The way we set
2 it up was Sherelle and Jessica were going to be at Timrod
3 Park at 8:00 p.m. They were at the gazebo at the far end
4 of the park towards Waters between Waters and Timrod Park
5 Drive gazebo there and they were going to be there waiting
6 on the suspects, defendants, to show up. We were in
7 unmarked cars and plain clothes. We even had somebody in
8 the woods with binoculars and we were, you know,
9 everywhere. We had the area secured. And as soon as the
10 individual showed up we were going to nab them and, you
11 know, see who it was and interrogate them then. Nobody
12 showed up in person at that time. But while the two girls
13 were in the gazebo they had a telephone. They would call
14 me. I was in a vehicle on Timrod Park Drive watching
15 them, and they were telling me that they were having more
16 telephone conversations and that they were having a
17 conversation with an individual that actually identified
18 himself as Ricardo.

19 And from talking to Ricardo they were able to relay
20 to me that this person knew two individuals, had spoken to
21 two individuals that said they had met these girls the
22 nights before. At that time I told Jessica and Sherelle
23 that if they can keep talking to him, to talk to him, not
24 put themselves in danger but to talk to him, see how much
25 information they can get from him. And by the end of

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1 their conversation when we met back at the police
2 department because no one showed up, we had a debriefing.
3 We met at the police department later that night and they
4 were still on the phone with them. They were able to get
5 a nickname, and you know, just by speaking with him they
6 portrayed that, you know, they were just trying to figure
7 out who these guys were; that they met them the night
8 before but, you know, they didn't give them their names,
9 they liked them. And so Ricardo just went along and gave
10 them the information that they wanted. Investigator
11 Carroway had come over and was also speaking with us and
12 Investigator Carroway heard them mention the nickname
13 Hawk. And at that point Investigator Carroway recognized
14 the nickname as being one of his football players from
15 Darlington High School. He said, you know, there's a guy
16 from Darlington, matches the description physically, goes
17 by Hawk. I think even he said he gave him that nickname
18 so that pointed us in that direction. At that point the
19 girls got off the phone, and I advised them, you know, if
20 they call back or if you have anymore messages call me and
21 let me know. The next morning when I got in about 8:30,
22 9:00 Investigator Carroway agreed to go with me to
23 Darlington. He's familiar with the area, has a lot of
24 contacts in Darlington; he's from Darlington. And we met
25 at the Darlington City Police Department with Investigator

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1 Weatherford and Weatherford was in charge of a gang unit
2 and had information that was able to help us locate Hakeem
3 and Shakeem Williams -- Hakeem Acosta and Shakeem
4 Williams. He gave us all the information that he could
5 regarding them; and he passed incidents or anything, any
6 aliases or any individuals they had close contact with.
7 Ricardo Richardson was then identified with Detective
8 Weatherford, and Weatherford agreed to take us to Hakeem's
9 apartment so we could speak with him. As soon as we got
10 in the car in the Darlington P.D. parking lot we were
11 getting ready to pull out and we see an individual walking
12 across the parking lot and Weatherford points out that's
13 Ricardo. So at that point we get out with Ricardo, and
14 you know, identified ourselves, told him that, you know,
15 we know you were talking to some individuals last night.
16 And Ricardo had no problem telling us that he did talk to
17 the victims last night and identified Hakeem Costa and
18 Shakeem Williams as being the individuals who had given
19 him the information that they had met the girls last night
20 and that he wanted -- Shakeem wanted Ricardo to receive
21 photographs from the girls because they didn't have a
22 picture phone; Ricardo did. So basically Ricardo's
23 involvement was only to receive photographs from the girls
24 so that Shakeem and the other defendants -- whoever wanted
25 to look at them could look at them later.

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1 Ricardo claimed he didn't know anything about the
2 home invasion or anything like that. We had no reason to
3 believe that he did. And at that point we moved on and
4 went to Hakeem's apartment. We arrived at Hakeem's
5 apartment, knocked on the door. A few minutes later
6 Hakeem answered. It looked like he had been sleeping.
7 When he came to the door he immediately recognized
8 Investigator Carroway. They spoke for a few minutes and
9 he invited us in. We got into the apartment. The rest of
10 us, myself and Weatherford, identified ourselves because
11 he had no idea who we were, and you know, briefly told him
12 what we wanted to talk to him about. We asked him if
13 there was anybody else in the apartment and he said
14 Christian. And we said where is he at, and he said he was
15 in the bedroom. Officer Weatherford went to the bedroom
16 and found Christian in the first bedroom on the left-hand
17 side. At that point I read Hakeem his Miranda rights and
18 I also read Christian his Miranda rights.

19 While I was there Weatherford had Christian in the
20 back bedroom. I -- myself and Investigator Carroway spoke
21 with Hakeem. Without going into any of the details of the
22 case that we were investigating at that time with Hakeem,
23 we asked him some general questions about his whereabouts
24 on Wednesday night. He offered us the information that he
25 was in Florence with Shakeem and Christian and that they

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1 were driving around Florence just trying to have a good
2 time. We questioned him some more at that point without
3 getting -- again, without going into all the details,
4 everything that we knew. And he offered that they did go
5 into someone's apartment and steal some items. At that
6 point we didn't question him any further and we did not
7 question Christian any further. We just basically told
8 him that we wanted to make -- have them come down to the
9 complex and make an official statement with us. Both
10 agreed to do it. Neither one had any problem with it and
11 we transported them to the complex. Hakeem rode with
12 myself and Investigator Carroway and Weatherford
13 transported Christian to the Florence/Darlington County
14 line. At that point one of our transport officers took
15 possession of Christian and transported him to the rest of
16 the way to the city-county complex. When we got to the
17 city-county complex the individuals were brought up
18 separately. Investigator Carroway and I interviewed both
19 individuals. The way we did it was we would interview
20 them in the office. Then we would go over what they were,
21 you know, doing and saying in their statements. At that
22 time both Hakeem and Christian, while we spoke to them
23 separately both were extremely nervous. Both seemed
24 basically petrified. I mean, the statements that they
25 gave were very short answered. If you didn't ask them a

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1 specific question they acted like they didn't know what
2 the answer was. So it was very hard for me to get full
3 answers out of them as far as what their -- what kind of a
4 statement they were going to make. Most of the answers
5 are yes and no, you know, were you here, yes, did you do
6 this, yes. But they wouldn't go into any details. So it
7 was like pulling teeth trying to get them to expand upon
8 what they -- what exactly they did and what all their
9 involvement was. They didn't have any problem admitting
10 to what they had done. It was just the details, you know,
11 the timing, things like that. It was almost seem like
12 things they had actually forgotten. You know, it seemed
13 like they were so nervous that they didn't know what to
14 say or how to talk. It took a while to get their
15 statements, but we did get their statements. Both gave
16 taped statements in myself and Investigator Carroway's
17 presence.

18 Q Now were they given together or separately?

19 A The statements were separate, but myself and
20 Investigator Carroway were both present in the room with
21 each one at different times. Both at that point did
22 include the presence of Shakeem Williams. You know, their
23 statements were not exact to that point; but the gist of
24 it was all pretty much consistent as far as where they
25 were, what had happened, what they had done. We had

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1 mentioned while we were in the apartment, you know, that
2 we had known that Shakeem -- that Hakeem, Christian, and
3 Shakeem were together and they admitted to that, that they
4 were all together. At that point they did not mention the
5 defendant's name. We did not mention the defendant's name
6 either. But they gave their statements. They were
7 arrested, charged, and transported to the Florence County
8 Detention Center. They were transported separately
9 because at that point Hakeem was a juvenile and by
10 our policy you can transport a juvenile and an adult.
11 They go in different places in the detention center.
12 After that, once they were transported I spoke with the
13 city court judge and got the warrants for Shakeem,
14 Christian, and Hakeem for the home invasion. After that
15 point we were still -- myself, I was the lead Investigator
16 and Mr. Carroway at that point didn't have much
17 involvement. But the fourth person really was never in
18 doubt. We just did not have enough evidence to, you know,
19 have a warrant or sign a warrant on a fourth individual.
20 I kept going back over the file speaking to as many people
21 as I could trying to cooperate with Darlington P.D., which
22 they did, and Weatherford also cooperated and any kind of
23 information he could help me as far as, you know, who
24 would be with these individuals, who would be -- who is
25 someone that, you know, would likely be there. So at that

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1 point I was still in contact with both of Christian's and
2 Hakeem's mothers because they were young. Their mothers
3 were interested in what was going on. I kept them in the
4 loop as far as what the charges were. Neither of them
5 ever denied anything or tried to lie for their sons. They
6 were pretty much cooperative with us. I spoke with
7 Christian's mother I believe the first week in July and
8 asked her if she had any problem if I went back down to
9 the detention center and spoke with him and questioned him
10 again as far as who else was there. She said she didn't
11 have any problem with that. She said that would be fine
12 with me. So on July 9th, myself and Investigator Robinson
13 went to Florence County Detention Center and interviewed
14 Christian again. Again, I read him his Miranda rights,
15 and he signed the Florence Police Department waiver of
16 rights form and he agreed to speak with me. And I told
17 Christian that -- he was still nervous. You could tell
18 just by looking at him that the same way he was then he
19 was the same way, you know, a month later. He was still
20 nervous, still appeared to be same to me. It was my
21 impression at that time that he would not have said
22 anything Shakeem had we not mentioned Shakeem's name to
23 begin with.

24 MR. MCCLAURIN: Objection, Your Honor.

25 THE COURT: I sustain the objection.

SW - B. BARLEY - DIRECT

1 THE WITNESS: Okay.

2 THE COURT: And strike that from the record. I
3 do not allow that into the record.

4 THE WITNESS: When I questioned Christian I
5 asked him directly if Lewis Williams was involved, if he
6 was there, and he said he was. And he went on to tell me
7 that Lewis was the driver and that he -- from when
8 Christian and Hakeem were in the back seat. Christian
9 stated he saw Lewis pass a small black handgun to Shakeem
10 prior to the home invasion incident. I asked him why he
11 hadn't tell us that before since he had cooperated with
12 all the other things he had done. He admitted to what he
13 had done; he just didn't admit to what Lewis had done.
14 And he said that he was scared. He said he was in fear he
15 might be harmed if he told about Lewis. At that point
16 Shakeem had also been picked up on his warrant. It was
17 also in the Florence County Detention Center. After I was
18 through interviewing Christian I interviewed Shakeem. He
19 signed a police, Florence Police Department waiver of
20 rights form, and agreed to speak with myself and
21 Investigator Robinson and he denied any part in it, said
22 he wasn't there, and basically there was no statement
23 taken.

24 The next week I spoke with Hakeem's mother, asked for
25 permission to speak with Hakeem also. He was still a

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1 juvenile, and she had been cooperating so I wanted to tell
2 her that I wanted to speak with Hakeem again before I went
3 down there. I did; she had no problem with me going. At
4 that point I went by myself, I went to speak with Hakeem
5 at the Florence County jail. He was still in the juvenile
6 section of the jail so it was only him and I in the room.
7 And at that point I asked Hakeem if there was, you know,
8 as far as the home invasion goes I told him that I knew
9 there was a fourth suspect and I wanted him to tell me who
10 it was. And when I told him that he told me that Lewis
11 Williams was the fourth suspect. He also seemed to be
12 scared. He was nervous pretty much just as much as he was
13 the day that we picked him up. He also said that he was
14 in the back seat of the vehicle with Christian and that he
15 also saw a black handgun, small black handgun being passed
16 from Lewis to Shakeem Williams before Shakeem got out of
17 the vehicle to go into the home invasion.

18 Once I took his statement -- I took verbal statement
19 from him -- at that point I was satisfied that Lewis had
20 been involved in the home invasion. Shortly after that I
21 signed warrants for burglary first and for armed robbery
22 on Lewis Williams.

23 BY MS. PARR:

24 Q And then since that time?

25 A On May 14th this year, myself, Solicitor Parr, and had

SW - B. BARLEY - DIRECT

1 met with Christian Richardson at the jail, interviewed him
2 again with his attorney present and he gave a taped
3 statement with telling that Lewis was involved and his
4 involvement in the crime, having -- handing the gun to
5 Shakeem prior to Shakeem going inside the residence. We
6 also did a taped statement with Hakeem Costa on May 20th
7 of this year with his attorney present, and he also gave a
8 statement, a taped statement, detailing Lewis's
9 involvement and both stated reason why they had not told
10 before is because they were scared.

11 MS. PARR: Beg the Court's indulgence.

12 THE COURT: Okay.

13 MS. PARR: Would you please answer any questions
14 the Defense may have for you.

15 THE WITNESS: Yes, ma'am.

16 **CROSS-EXAMINATION**

17 BY MR. MCCLAURIN:

18 Q Officer Barley, how long have you been doing
19 investigation?

20 A I've been in investigation division approximately a
21 year-and-a-half.

22 Q Okay. Before that what were you doing?

23 A I was a motorcycle officer for the traffic division.

24 Q And did you have any training to go into the
25 investigative division?

SW - B. BARLEY - CROSS

1 A I had a -- I complete 40 hour basic detective class at
2 the South Carolina Criminal Justice Academy.

3 Q So a week class.

4 A At the Criminal Justice Academy, yes, sir.

5 Q Okay. Since then you've been doing investigations?

6 A Yes, sir.

7 Q Okay. Now when you got to the scene that particular
8 evening you indicated you spoke with the victims; is that
9 correct?

10 A Yes, sir.

11 Q And you talked with him and asked him at that time what
12 happened; is that correct?

13 A Yes, sir.

14 Q Then you also spoke with them or were present when they
15 gave their written statements --

16 A Yes, sir.

17 Q --some, I guess, it was 12 hours later or so?

18 A A little less but, yes, sir.

19 Q Somewhere in there?

20 A Uh-huh.

21 Q Okay. And from those victims' statements you were not
22 able to tell anything about the identity of a fourth
23 person, correct?

24 A Not the identity, just some basic descriptions that
25 were included in the statements that they had given.

SW - B. BARLEY - CROSS

1 Q And that basic description was simply that -- I don't
2 think -- was there a basic description?

3 A There was a description of a fourth individual being at
4 the door.

5 Q Right, that's it.

6 A Yes, sir, in the written statements there was.

7 Q Okay. And you told them to tell the truth; didn't you?

8 A Yes, sir.

9 Q The victim? You told them to give all the information
10 that you -- any information they have?

11 A Absolutely.

12 Q Is that correct?

13 A Yes, sir.

14 Q And that's pretty typical for a statement; is that
15 correct?

16 A Yes, sir.

17 Q Why do you do written statements?

18 A A written statement can be done if -- you can either do
19 two: You can do taped statement or written statement.
20 The reason why I did a written statement was because there
21 were five victims. And with that many victims I would
22 thought, in my opinion, would be easiest for them be able
23 to write it down in their own words, take their time, you
24 know, no rush.

25 Q And they gave complete descriptions of the three other

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- 1 people who went in the house; is that correct?
- 2 A They gave whatever description they gave at the time
- 3 was that was complete.
- 4 Q Height, weight, color---
- 5 A They did give.
- 6 Q ---or all that type; is that correct?
- 7 A They did. They did.
- 8 Q Okay. I think hairstyle, some of them's hairstyle?
- 9 A Some of them. Yes, sir.
- 10 Q Is that correct?
- 11 A Yes, sir.
- 12 Q Okay. And at that particular time you were able to
- 13 determine that several of the victims had been drinking
- 14 that night; is that correct?
- 15 A I think only one of the victims had been drinking that
- 16 night.
- 17 Q You filled out an incident report on this particular
- 18 case; is that correct?
- 19 A A supplemental report.
- 20 Q Yes. You're aware of that report?
- 21 A Yes, sir.
- 22 Q You reviewed your file obviously in preparing for this
- 23 case, right?
- 24 A Yes, sir, yes, sir.
- 25 Q Is that correct?

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1 A Yes, sir.

2 Q And is there a particular section on that incident
3 report which reflects whether the victims were drinking or
4 not?

5 A On the actual incident report, the initial report?

6 Q On the supplemental incident report which I handed up
7 to you --

8 A This is actually --

9 Q --to refresh your recollection.

10 A Yes, sir. This is part of the initial incident report.
11 I did not fill this report out.

12 Q But you reviewed it and aware of it, correct?

13 A I have it. I looked at it, yes, sir.

14 Q And it was part of your official records, correct?

15 A Yes, sir.

16 Q Okay. And what does it say as far as whether the
17 victims had been drinking that particular evening?

18 A This report has an indication where it says victim
19 using alcohol and, or victim number three, Matthew Rogers,
20 the box yes is checked.

21 Q Hold on now.

22 A And --

23 Q Yes is checked that he was drinking that night?

24 A Yes, sir.

25 Q Matthew Rogers?

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1 A Yes, sir. And for Corey Byrd the box yes is checked.

2 Q That he was drinking alcohol?

3 A Yes, sir. Can I look at the rest of it?

4 Q Yeah, yeah.

5 A For Sherelle Brooks they have the unknown box checked.

6 And that's all. That's all I see. I'm sorry, Waters,

7 Jessica Waters, the unknown box is checked.

8 Q And is there another one there? Should be five of
9 them.

10 A Those are -- the other ones are subject boxes. These
11 are the subjects. I don't think there's anything else.

12 Q I'm gonna show you now the first page of that that
13 shows victim actually number one, Barry Poston. What does
14 it indicate about him as far as whether he was drinking
15 alcohol?

16 A It's got the yes box checked.

17 Q That he was drinking alcohol?

18 A Yes, sir.

19 Q Okay. And as far as Sherelle Brooks, there's three
20 boxes you could check. You could check yes, no, or
21 unknown; is that correct?

22 A Yes, yes, sir.

23 Q And the no box was not checked for her?

24 A It's the unknown box that's checked.

25 Q Unknown which means what?

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1 A Unknown.

2 Q Okay.

3 A I didn't fill the report out, sir. I don't...

4 Q Okay. What do you do in your investigations to
5 determine whether the victims had been drinking alcohol?
6 What do you do?

7 A As far as the investigation that night, I -- when I
8 spoke with the victims none of them seemed to be overly
9 intoxicated so in my mind it had nothing to do with it.

10 Q Well, I'm just asking you when people check those
11 boxes, when you check those boxes what do you do to
12 determine that? You interview the people?

13 A Sure.

14 Q And ask them that question?

15 A I don't know about -- I don't know what Officer
16 Carpenter asked them.

17 Q I'm not asking -- I'm talking about what you do.

18 A I didn't fill that report out. I'm sure she --

19 Q I understand that. I'm talking about in general what
20 do you do?

21 A I'm sure from speaking with them is where she got her
22 information from or talking to them or inferred it. I
23 don't know.

24 MS. PARR: Your Honor, I think it's asked and
25 answered. I think he's saying he doesn't know what she

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1 did.

2 THE COURT: Well, he's finished the answer.

3 BY MR. MCLAURIN:

4 Q Have you ever done a photo lineup, Officer Barley?

5 A I have requested. Our photo lineups are done by crime
6 scene officers.

7 Q Okay. Are you aware of that process?

8 A Yes.

9 Q What do you do when you do a photo lineup?

10 A If you request a photo lineup for an individual that
11 you think is gonna be identified as your suspect you give
12 the crime scene investigators a photo of the individual,
13 usually a Department of Motor Vehicle's photo. And crime
14 scene will pull together five other photographs that look
15 similar to that individual and produce a six pack lineup
16 of six pictures so that you can show a potential victim so
17 that they can pick out the suspect.

18 Q Why do you put five other individuals with that?

19 A You do that so that it's fair basically. You want five
20 individuals that look similar so that the victim picking
21 out the person has to pick out the person. That way you
22 know that the person they're picking out that they know
23 that's the person. You don't want any mistake of
24 identity.

25 Q How about any -- is there any part of suggestiveness?

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1 I mean, you don't want to suggest who the person is; is
2 that correct?

3 A No, we do not suggest anything.

4 Q And that's important, correct?

5 A Absolutely.

6 Q And why is that important?

7 A Well, I don't want to give any inkling to the victim as
8 far as who I think the person is. I want them to pick the
9 person out. If it's not the person then you go on and you
10 find the person.

11 Q And none of that was done in this particular case?

12 A No lineups were given at all in this case.

13 Q So from your -- I mean, you did a thorough
14 investigation by talking with the victims, correct?

15 A Yes, sir.

16 Q And that's an important part of your case; isn't it?

17 A Sure.

18 Q Getting as much information as you can from your
19 victim; is that correct?

20 A Sure is.

21 Q Particularly in a case like this when you don't have
22 any other physical evidence?

23 A Sure.

24 Q Okay. And let's talk about the physical evidence real
25 quick. You said y'all did a fingerprint analysis of the

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- 1 apartment I guess.
- 2 A Yes, sir.
- 3 Q Okay. And nothing was determined?
- 4 A No useable prints were found.
- 5 Q Do you know what areas were done?
- 6 A I was present while the investigator -- or crime scene
- 7 tech Hill did in the bedrooms.
- 8 Q Do you know if any of the other?
- 9 A I cannot testify to that. I was not inside the entire
- 10 time.
- 11 Q Would a good area for potential fingerprints be up on
- 12 a -- if it was a sliding glass door that'd be a great area
- 13 to try to find some fingerprints; wouldn't it?
- 14 A Sure, if you knew the person had touched the door.
- 15 Q How about handles of doors?
- 16 A Handles of doors are not necessarily good at all.
- 17 Q And as you've indicated no -- absolutely no evidence
- 18 there at the scene?
- 19 A No, sir, just photographs that were taken.
- 20 Q And were you told of any other witnesses that could
- 21 potentially identify Lewis Williams as being involved in
- 22 this case?
- 23 A I was not.
- 24 Q You interviewed, as we talked about, Hakeem Costa and
- 25 Christian Richardson, correct?

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1 A Yes, sir.

2 Q You did a thorough interview with them?

3 A Best I could, yes, sir.

4 Q Okay. And were you -- you were aware that they met
5 some girls at the skating rink?

6 A Yes, sir.

7 Q Did they tell you that they knew those girls?

8 A I don't recall but I know that we were never given any
9 names.

10 Q Did you followup on that particular lead as whether
11 they knew them and --

12 A Well --

13 Q That would be a good witness; wouldn't it?

14 A If you could provide a name; otherwise, you would never
15 be able to find them.

16 Q But somebody like these girls who were at this skating
17 rink, they could provide an independent verification that
18 Lewis Williams was in the car that night, right?

19 A Possibly.

20 Q Did you ever go and determine if there was any video
21 tape -- there's been some testimony about gas stations and
22 using credit cards. Did you ever go to any of these?

23 A I verified at the gas station the credit card was used
24 but there was no video.

25 Q How about any of the convenience or the fast food

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1 stores?

2 A I was not aware of that at that time, the McDonalds,
3 that that was, the card was used.

4 Q Okay. Have you -- when did you become aware of that?

5 A It wasn't until after the fact.

6 Q Well, when?

7 A I -- months later. I couldn't tell you exactly when.

8 Q Months after it?

9 A Yes, sir.

10 Q Did you ever followup on that particular --

11 A There was no video.

12 Q So you did followup?

13 A Yes.

14 Q Where did you go?

15 A To -- I checked with the McDonalds in Darlington.

16 Q So your testimony is that they went to McDonalds in
17 Darlington?

18 A That's what I was told.

19 Q Did you check with the Hardees?

20 A No, sir.

21 Q Just so I'm clear, as far as the evidence goes, you
22 never recovered, I guess, any of the stolen items?

23 A No, sir.

24 Q And what were -- what was your understanding of what
25 Hakeem Costa took and Christian Richardson? Do you have

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1 an understanding of that?

2 A As far as each one? There were several statements made
3 by each defendant and some of the statements that, you
4 know, what items they had taken weren't always exact so...

5 Q Well, that's an important part of a case; isn't it? I
6 mean, you got victims who have been victimized by their
7 goods being taken. It's important to try to figure out?

8 A Sure.

9 Q Isn't that important?

10 A Yes.

11 Q And as you said on this important point consistently,
12 even here as they testified today these boys have been
13 inconsistent on what they took or didn't take.

14 A Yes. As far as my statement, statements I've taken
15 from them, there's been some inconsistencies as far as the
16 details.

17 Q I mean, that would be important if you've got somebody
18 who you want to come in here and present as a witness to
19 say they're cooperative, that's important to know whether
20 they've been truthful throughout this process, right?

21 A True.

22 Q Did y'all ever execute any warrants in this case to
23 look at any houses?

24 A No, sir, no warrants were obtained.

25 Q Did you -- when you went over to Darlington to Hakeem

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1 Costa's house did you search their house at that time?

2 A We didn't search their house but when I asked Hakeem
3 about any items that they had in their apartment he could
4 not locate.

5 Q And your testimony is when you went over to their house
6 in Darlington and you first -- you first spoke with
7 Hakeem, right?

8 A Yes, sir.

9 Q Okay. And you really didn't tell him about what you
10 were investigating about?

11 A We didn't give him any details about the incident.

12 Q You just asked him what did he do the night before,
13 correct?

14 A We asked him about his whereabouts.

15 Q The night before?

16 A Yes, sir.

17 Q And who he was with, correct?

18 A Yes, sir.

19 Q These statements that you took about a month after they
20 were in jail, you didn't record any of those?

21 A No, sir.

22 Q You didn't get any of them in writing?

23 A No, sir.

24 Q That's an important part of investigation, isn't it, to
25 memorialize what you do when you go for an interview,

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1 correct?

2 A I documented my interview.

3 Q In your notes?

4 A Yes, sir.

5 Q Well, why did you record or have the rest of them in
6 writing if that's not important?

7 A I didn't say it wasn't important. I just, at that
8 particular time I did a verbal interview.

9 Q Well, is it important or not?

10 A Every interview is important.

11 Q I'm talking to record it in writing.

12 A Sure it's important.

13 Q And to have it audio recorded, correct?

14 A If that's what you want to do that particular time,
15 yes.

16 Q Why is that important?

17 A So you can show it at a later date.

18 Q And when you approached Christian Richardson at that
19 particular time you had already spoken with his mother?

20 A Yes.

21 Q And what did you tell his mother?

22 A That I wanted to interview him again.

23 Q Okay. Why did you tell her you wanted to interview him
24 again?

25 A Because I wanted to let her know I was going back down

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1 to the jail.

2 Q Did you tell her what you were going to interview him
3 about?

4 A I told her that we believed there was a fourth
5 individual.

6 Q And that's the same thing you did with Hakeem Costa's
7 mother, correct?

8 A Yes, sir.

9 Q You told them you wanted to interview them about a
10 fourth individual, correct?

11 A Yes, sir.

12 Q And that was about a week before you actually took the
13 statement?

14 A Yes, sir.

15 Q Correct?

16 A Yes, sir.

17 Q Then you go and talk with Christian Richardson and you
18 asked Christian if Lewis Williams was involved, correct?

19 A Yes, sir.

20 Q And did you tell Hakeem Costa that you wanted to know
21 about Lewis Williams?

22 A Yes, sir.

23 Q You said -- did you speak with Ricardo Richardson?

24 A I did.

25 Q And you spoke with him at the park-- is that the

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1 parking lot situation —

2 A Yes.

3 Q —over in Darlington?

4 A Yes, sir.

5 Q Is that right?

6 A Yes, sir.

7 Q And that's when he told you the names of — let's see,
8 Christian Richardson and Hakeem Costa?

9 A No, he said Hakeem and Shakeem.

10 Q Hakeem and Shakeem?

11 A Yes, sir, they're cousins.

12 Q Okay. He didn't give you any other names at that
13 point?

14 A No, he did not.

15 Q And that's when you followed up and went over to
16 Hakeem's house?

17 A Yes, sir.

18 Q Thank you, sir.

19 THE COURT: Redirect.

20 MS. PARR: Yes, Your Honor.

21 **REDIRECT EXAMINATION**

22 BY MS. PARR:

23 Q Officer Barley, why was no lineup done in this case?

24 A I only do a lineup in cases where I know a victim
25 has -- tells me that they're one hundred percent sure they

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1 can identify an individual. If not, I don't.

2 Q And why did you not followup on the females that were
3 at the skating rink?

4 A It was unnecessary at the time. When you have two
5 defendants telling you what had happened admitting to what
6 they had done. And on the other hand, we had no names so
7 maybe hundreds of females that could have been there
8 there'd be no way for us to know who they were talking
9 about.

10 Q And you did not search the house in Darlington, did
11 you?

12 A No, we did not.

13 Q And why didn't you search the house?

14 A 'Cause at that point when we came across -- we were
15 convinced about the fourth individual that the amount of
16 time that had passed would have been in our minds anything
17 that would have been in that house would have been gone,
18 therefore, was not going to be something that we thought
19 would be prudent to go back search a house that long
20 after. Most times the items or evidence is discarded.

21 Q Now every time you -- every step of the way in
22 investigation how did you document?

23 A Through notes.

24 Q Okay. And then what did you do with those notes?

25 A Put it as a supplemental in the case file.

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1 Q And is that your normal practice?

2 A Yes.

3 Q And on -- is it unusual for you to talk with or get
4 multiple statements from defendants?

5 A No, it's not. Most -- actually most of our interviews
6 and that such are documented through our notes.

7 Q Okay. And why is it not unusual for you to go back and
8 interview the same subject more than one time?

9 A A lot of times you'll find that when you interview
10 someone who committed a crime you can interview them as
11 soon as the crime happened, you can catch them while they
12 did the crime. The first interview, most of the time you
13 find they're going to leave things out. So a lot of times
14 if you're convinced that even if you think they did give
15 you everything, a lot of times we'll go back and interview
16 them again and give them an opportunity to add, put
17 anything, add anything that they've missed just so that
18 they're, you know, cooperating a hundred percent.

19 Q Okay. Now in this particular case after you got the
20 first interview did you stop your investigation?

21 A No, I did not.

22 Q Okay. And why didn't you? Why did you continue on
23 with investigation?

24 A Because we still had the information from the original
25 statements that there was going to be a fourth individual

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1 involved.

2 Q All right. Please answer any recross.

3 MR. MCLAURIN: I don't have anything, Judge.

4 THE COURT: Okay, thank you. You may step down.

5 Next witness please.

6 MS. PARR: Your Honor, the State would rest at
7 this time.

8 THE COURT: The State rests. Jurors, I need to
9 take up matters of law now; I'm required to do that. If
10 it takes very long I'll call you back out and send you to
11 lunch, but let me see how long it takes and let's try to
12 make some progress in the case. So please, if you will,
13 be patient with me. Please go to your jury room now.

14 (WHEREUPON, the jury was removed from the
15 courtroom at 11:37 a.m., and the following proceedings
16 commenced in open court.)

17 THE COURT: Motions, Counsel.

18 MR. MCLAURIN: Yes, sir, Your Honor. We ask the
19 Court to consider a directed verdict in this case, Your
20 Honor. We think that there's not been substantial proof
21 enough for this matter to go before a jury. We've got the
22 statements and the inconsistent statements of the two
23 co-defendants who by the officer's own admission have gave
24 inconsistent testimony throughout up until even when they
25 got on the stand today so we think that testimony

1 certainly is not credible enough particularly in light of
2 the fact that substantial and great deal that they got in
3 this particular case was the time that they were facing.
4 As to the victims, you heard the officers' own testimony
5 that they were not able at that particular time to give
6 any identity as to who the fourth perpetrator was so we
7 feel like their testimony is also not substantial enough
8 for this matter to go forward to the jury.

9 THE COURT: State want to be heard?

10 MS. PARR: Your Honor, we believe that there
11 have been sufficient evidence placed before the Court for
12 this jury and the Court, for this matter to go to the jury
13 to make a determination based upon the evidence that's
14 been presented, and we would ask that the Court not direct
15 a directed verdict on the charges that he has been
16 indicted.

17 THE COURT: Order: The Defendant moves for a
18 directed verdict. Rule 19 of the South Carolina Rules of
19 Criminal Procedure articulates the presentation of a
20 motion for a directed verdict. A raft of cases are extant
21 in regard to a motion for a directed verdict. When ruling
22 on a motion for a directed verdict the trial court is
23 concerned with the existence or nonexistence of evidence,
24 not its weight. State versus Brannon, 379 S.C. 487; 666
25 S.E. 2d 272; State versus Williams, 303 S.C. 274, 400

1 S.C.2d 131; State versus Kelsey, 331 S.C. 50, 502 S.C. 2d
2 63.

3 If there is any direct evidence or any substantial
4 circumstantial evidence reasonably tending to prove the
5 guilt of the accused, then the case is properly submitted
6 to the jury. The case of State versus Mitchell 341 S.C.
7 406, 535 S.C. 2d 126, and State versus Lollis, 343 S.C.
8 580; 541 S.C. 2d 254 inculcate the Bench and the Bar in
9 regard to the applicability of circumstantial evidence
10 when ruling on a motion for directed verdict.

11 In the case at bar the principle of the hand-of-one
12 hand-of-all is efficacious. That principle is explained
13 with certitude in State versus Dickman, 340 S.C. 293, 534
14 S.C. 2d 268; State versus Foust, tried in this very
15 courtroom, 325 S.C. 12, 479 S.C. 2d 50; State versus
16 Austin, 299 S.C. 456; State versus Franklin, 299 S.C. 133;
17 and State versus Ziegler, 364 S.C. 94, 610 S.C. 2d 859.
18 Ziegler was penned by an appellate court judge from the
19 Pee Dee region.

20 Encapsulating the evidentiary record with exactitude
21 and applying the precedent, the Court comes to the
22 conclusion that the motion must be denied and it is so
23 ordered. All rights are reserved and protected for
24 purposes of appellate review.

25 Counsel for Defense, is the defendant going to take the

1 stand?

2 MR. MCLAURIN: Judge, I would ask the Court if
3 we could consider taking our lunch break. I know it's a
4 little bit early to have me -- give me an opportunity. I
5 do not think he is. I think we may have one witness as a
6 potential alibi, but I just want to confirm that up if the
7 Court would indulge that.

8 THE COURT: Bring the jury out, Ms. Bailiff.
9 (WHEREUPON, the jury was returned to the courtroom at
10 approximately 11:44 a.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: Jurors, there's additional matters
13 of law that I need to consider at this time, and I'm going
14 to send you to lunch. It's a little early for lunch, but
15 in order to provide some degree of continuation of the
16 presentation we'll send you to lunch now. Please remember
17 my instructions not to discuss the case among yourselves.
18 Do not have any conversations about the trial testimony at
19 this point, and if any person attempts to talk to you
20 please report that matter directly to the Court. Can you
21 be back at 1:00 everybody? 1:00. It's a quarter to 12
22 now approximately. 1:00, is that okay? Please be back in
23 the jury room at one. Come to the door; We'll take you on
24 into the jury room. No one leaving now but the jury.
25 Have a nice lunch. 1:00.

1 (WHEREUPON, the jury was removed from the
2 courtroom at 11:46 a.m., and the following proceedings
3 commenced in open court.)

4 THE COURT: Counsel, during the lunch lacuna
5 please talk to the defendant in detail. When we come back
6 from lunch I will actually put the defendant on the stand
7 and examine him under oath in regard to the Fifth
8 Amendment privileges.

9 MR. MCLAURIN: Yes, sir.

10 THE COURT: You well know that that is mandated
11 by Brown versus State, State versus Orr, and State versus
12 Torrence. Anything we need to put on the record beyond
13 that at this point?

14 MR. MCLAURIN: Not that I can think of. I
15 assume we'll just get together on some jury instructions
16 right after that I guess after we —

17 THE COURT: Let's talk about that at this point.
18 The jury instructions will consist — obviously, if the
19 defendant does not take the stand I will give a detailed
20 instruction as to defendant not testifying, and I have
21 that ready and it will come from Anderson's book on jury
22 instructions, Page 9. In terms of armed robbery I will
23 begin with my own instructions from Page 60 and will
24 proceed through the jury charge in that regard. What do
25 you lawyers say about a lesser charge of strong armed

1 robbery in this case? What is the position of the State?

2 MS. PARR: Your Honor, we do not think that's
3 applicable in this case and we would ask that not be
4 given.

5 THE COURT: What about that, Counsel? That
6 probably is stretching the record in regard to a lesser
7 included offense in that regard.

8 MR. MCLAURIN: Judge, I would ask the Court to
9 consider that, giving that particular charge.

10 THE COURT: The reason I have some degree of
11 reticence in that regard is that you either take the
12 presentation or you disavow it. The presentation at this
13 point by every witness that was involved there's a gun was
14 used. I think I'm limited in regard to the armed robbery.

15 MR. MCLAURIN: Yes, sir.

16 THE COURT: All right. Burglary first I will
17 use the Anderson charge beginning on Page 71. What about
18 burglary in the second degree? I have some hesitance in
19 that regard. Just simply present burglary in the first?
20 What says the State?

21 MS. PARR: Your Honor, I think that's the charge
22 actually on the burglary first charge. I mean, it's clear
23 it's armed with a deadly weapon and we have that here. It
24 happened in the nighttime. We had that here so I don't
25 see where burglary second, I mean, would be appropriate,

1 and we would ask that it'd be easier —

2 THE COURT: Yeah, that it not be?

3 MS. PARR: Yeah, that it not be.

4 THE COURT: What says the Defendant in that
5 regard?

6 MR. MCLAURIN: We would once again request that
7 be charged; we understand.

8 THE COURT: Thank you. And then possession of a
9 firearm during the commission of a violent crime. I will
10 go to Page 191 and charge that in detail. I will give the
11 hand-of-one hand-of-all beginning on Page 250 in my book
12 and continuing in regard to 251. I will give the charge
13 in regard to identification, Page 451. And depending on
14 what you put up, Counsel, if you put up an alibi witness
15 I'll give you a charge on alibi, Page 481.

16 MR. MCLAURIN: Yes, sir.

17 THE COURT: But at this point that would not be
18 applicable.

19 MR. MCLAURIN: The identification, I'm not
20 looking at that particular charge. I mean, that just goes
21 through the witnesses' capacity to identify people, I
22 mean, and describe you know, okay.

23 THE COURT: Yeah, it has that kind of —

24 MR. MCLAURIN: Yes, sir.

25 THE COURT: —language. You may consider the

1 opportunity of a witness had to observe the alleged
2 offender at the time of the offense and to thereafter make
3 an identification. It is for the jury to determine the
4 accuracy of the identification of the defendant.

5 MR. MCLAURIN: Yes, sir.

6 THE COURT: That charge?

7 MR. MCLAURIN: Yes.

8 THE COURT: I'll definitely give that. Once
9 again the alibi is dependent upon any further
10 presentation.

11 MR. MCLAURIN: Correct.

12 THE COURT: So that's what I intend to give.
13 Obviously the basic charge insofar as this matter is
14 concerned is simplistic. Insofar as the burden of proof I
15 will go with the reasonable doubt charge. That's in
16 Manning, State versus Manning. And that is, a reasonable
17 doubt is a kind of doubt that would cause a reasonable
18 person to hesitate to act. That's the Manning charge, and
19 that's what I will give. And the general charge
20 concerning the credibility of witnesses. I'll give a
21 circumstantial evidence charge out of State versus
22 Grippon, G-R-I-P-P-O-N, 327 S.C. 679, 489 S.C. 2d 462.
23 And I believe that's it. State?

24 MR. MCLAURIN: You got anything else?

25 MS. PARR: I don't have anything else.

1 MR. MCLAURIN: Judge, I would hand up two
2 charges that I would ask that the Court consider. These
3 charges surround plea agreements and accomplices called by
4 the government. I would hand up that up to the Court to
5 ask the Court to consider those particular charges in this
6 situation.

7 THE COURT: What do you say, Ms. Solicitor, in
8 regard to Defendant's request one and Defendant's request
9 two?

10 MS. PARR: Your Honor, first of all, neither one
11 of these opinions are, these opinions are from our
12 circuit. And also, Your Honor, this argues the facts
13 before the jury. Your Honor, I think it will be covered
14 with the general instructions that the Court already
15 gives, and we would ask that these instructions not be
16 given.

17 THE COURT: I'm going to consider that during
18 the lunch respite. Counsel, I would ask you from the
19 defendant, are these actual quotes or is there some degree
20 of presentation that is not included in the case? Is it a
21 exact quote from the case is my question? Is this an
22 exact —

23 MR. MCLAURIN: Judge, I got these out of a Horne
24 jury instruction book from a CLE actually that I went to
25 so I had assumed they would be direct quotes, but I really

1 in all candor I can't say that for sure.

2 THE COURT: I probably will give some
3 presentation in regard to plea agreements and accomplices.
4 I'm not sure I will swallow hook line and sink of the
5 federal writing in that regard. I'm not really impressed
6 by the federal writing. I'd rather use State charges.

7 MR. MCLAURIN: Yes, sir.

8 THE COURT: All right, anything else?

9 MS. PARR: Your Honor, for logistic purposes, in
10 the event that the Defense does not put up test-- put up
11 any other evidence other than I think they entered one
12 piece of evidence in we would go -- my question is would
13 we go to closings immediately after when we run and...

14 THE COURT: Well, I'll probably give you a short
15 break. I've got to take up the defendant's position under
16 State versus Orr, the Fifth Amendment issue. I've got to
17 do that on the record under oath.

18 And are you rather sure that you will present a
19 witness, Counsel, or not?

20 MR. MCLAURIN: Yes, sir, I'm rather sure.

21 THE COURT: Okay. I'm going to close up the
22 evidence and get that done, probably take a recess then,
23 and draw this jury with the next case.

24 MS. PARR: And one other question, Your Honor, I
25 would like to reiterate the Court order of sequestration.

1 I don't know whether any of those witnesses have been in
2 the courtroom today. I've seen some people come in who
3 are not -- who are being sequestered yesterday.

4 MR. MCLAURIN: There is one in there that we had
5 intended on calling. There's one in here.

6 THE COURT: Well, Counsel, I'm surprised because
7 you made the motion for sequestration and I put it into
8 effect equanimity and it applied to State and Defense.

9 MR. MCLAURIN: I understand, Your Honor, and
10 that's my error. I really didn't realize she had worked
11 her way into the courtroom.

12 MS. PARR: She's been in here for the whole
13 entire time this morning.

14 THE COURT: Well, I'll just deal with the
15 matters as they come up. If you present it I'll rule on
16 it. I'm not going to make a ruling at this time.
17 Nothing -- there's nothing before me other than what might
18 or might not happen. All right, have a nice lunch
19 everybody.

20 (WHEREUPON, a lunch break was taken.).

21 THE COURT: All right, Counsel, in regard to our
22 discussion on the record in reference to the proposed
23 charges emanating from the defendant, the charges are not
24 in haec verba from those federal cases. And of much more
25 import, in regard to this Court, is precedent emanating

1 Fifth Amendment that you do not have to testify in this
2 case. And if you do not testify it will not be used
3 against you. And if you do not testify I will instruct
4 the jury that it cannot be used against you and for them
5 not to even discuss it in the jury room. Do you
6 understand that?

7 A Yes, Your Honor.

8 Q You also have the absolute right to testify and you
9 have that constitutional right to testify in this case.
10 You understand that?

11 A Yes, Your Honor.

12 Q If you elect to take the stand and testify you must
13 answer all the questions that I rule are proper questions.
14 You understand that?

15 A Yes, Your Honor.

16 Q I would not allow you to take the Fifth Amendment if
17 you take the stand. You understand that?

18 A Yes, Your Honor.

19 Q Have you talked to your lawyer in detail about
20 testifying or not testifying?

21 A Not testifying.

22 Q Sir?

23 A Not testifying.

24 Q You have not done that yet?

25 A You saying that —

1 Q Sir?

2 A You saying like did I --

3 Q Have you talked to your lawyer about the right of
4 testifying or not testifying?

5 A Oh, yes, Your Honor.

6 Q I thought so. And in regard to your conferences with
7 your lawyer are you satisfied with your conferences with
8 him about this issue?

9 A Yes, Your Honor.

10 Q Did you ask him any questions you had on your mind
11 about this issue?

12 A Yes, Your Honor.

13 Q And you have made a decision in this case? Have you
14 decided to testify or not testify?

15 A Not testify.

16 Q That's your decision, not to testify?

17 A Yes, Your Honor.

18 Q Is your decision not to testify a free and voluntary
19 decision on your part?

20 A Yes, Your Honor.

21 Q Has anyone put any pressure on you in any way to cause
22 you not to testify?

23 A No, Your Honor.

24 Q That's a personal decision that you've made in this
25 case?

1 A Yes, Your Honor.

2 Q Are you satisfied with that decision?

3 A Yes, Your Honor.

4 Q Would you like to ask me any questions about that
5 decision?

6 A No, Your Honor.

7 Q You understand it completely?

8 A Yes, Your Honor.

9 Q And you are satisfied with that?

10 A Yes, Your Honor.

11 Q And so your final decision is not to testify?

12 A Yes, Your Honor.

13 Q Is that correct?

14 A Yes, Your Honor.

15 Q Thank you, please go back around.

16 THE COURT: Order: The Fifth Amendment to the
17 United States Constitution provides, "No person shall be
18 compelled in any criminal case to be a witness against
19 himself." The decision to testify or not is a perilous
20 one. If a defendant does not testify he foregoes the
21 opportunity to tell the jury his version of the events.
22 On the other hand, if a defendant chooses to testify he
23 subjects himself to cross-examination including possible
24 impeachment. Pursuant to State versus Gunter, 286 S.C.
25 556, 335 S.C. 2d 542; State versus Orr, 304 S.C. 185, 403

1 S.C. 2d 623; and State versus Torrence 308 S.C. 45, 406
2 S.C. 2d 315. I have held a hearing by taking the
3 testimony of the defendant in regard to his decision to
4 testify or not. Based on the colloquy inter sese, Court
5 and defendant, I conclude that the defendant fully and
6 completely understands his Fifth Amendment privilege.
7 Further, I conclude that the defendant has made a decision
8 not to testify in this case. I conclude that the decision
9 not to testify by the defendant is a free and voluntary
10 decision on his part. Pursuant to the decision made by
11 the defendant in this case I will instruct the jury with
12 exactitude concerning this particular issue in this case,
13 and it is so ordered.

14 All right, Counsel, witnesses for Defense?

15 MR. MCLAURIN: Yes, sir, Your Honor. We would
16 like to call Rosa Williams who is a previously disclosed
17 alibi witness; and of course, we had that issue about the
18 sequestration so I don't know if the Court wants me to
19 address that at this time.

20 THE COURT: Yeah, I want you to address why did
21 you not tell her about the sequestration order?

22 MR. MCLAURIN: Your Honor, we had talked about
23 it yesterday. At this point today I had not spoken to her
24 about, you know, one man show of trying to do the best I
25 can. I was not aware that she was in the courtroom. She

1 was in the courtroom though I think most of the morning.
2 I spoke with her earlier about that. I will tell the
3 Court that what she would have discerned from being in the
4 courtroom had absolutely no impact on her testimony. She
5 is an alibi witness, has nothing to do with the ins and
6 out facts of what went on that particular evening so it
7 would absolutely be no prejudice by her being in the
8 courtroom and learning of some key element or facts that
9 she may be testifying about. So like I said, I disclosed
10 this particular alibi witness. The State had an
11 opportunity if they wanted to to interview this witness.
12 So I would ask the Court particularly in light of the
13 potential punishment and sentence that's hanging over
14 Mr. Williams' head to allow this particular witness to
15 testify from our defense perspective we think it's a
16 crucial witness. And like I said, I just do not think
17 there was any prejudice by her being in the courtroom, and
18 I take full responsibility for it though, Your Honor.

19 THE COURT: All right, Ms. Solicitor.

20 MS. PARR: Your Honor, the State would ask that
21 this witness not be allowed to testify. Your Honor, the
22 Court went over this order explicitly on yesterday when it
23 was brought to the Court's attention that the defendant
24 was communicating with another potential witness. And the
25 Court made it perfectly clear this witness had been in the

1 courtroom earlier on Monday when the Court ordered
2 sequestration when she was here with the other ladies that
3 were here on the defendant's behalf. Your Honor, I --

4 THE COURT: Are you saying that she was in the
5 courtroom when I made the order of sequestration?

6 MS. PARR: Yes, Your Honor, she was, this
7 morning -- I mean, on Monday, on Monday.

8 THE COURT: Well, if I determine that she was I
9 may hold her in contempt. Hum, I'm not going to beg
10 people to comply with the orders of the Court. But I run
11 an egalitarian court. The egalitarian aspect of my court
12 requires that I review this matter with a discretionary
13 approach. Fortunately, for people who have been on the
14 Bench for a while and who are not newcomers to the
15 system -- and I'm not saying I'm old, Ms. Court Reporter
16 -- but having been around the block, there are two cases
17 directly on point. And fortunately for me, the good Lord
18 has blessed me to retain a lot of that precedent
19 identification. The two cases on point directly, State
20 versus Lee, 255 S.C. 309, 178 S.E. 652, and State versus
21 Cabbagestalk, 281 S.C. 35, 314 S.C. 2d 10. Those two
22 cases articulate the rule as follows. "When a
23 sequestration order is in effect the trial judge has the
24 discretion to allow a witness who has appeared in the
25 courtroom to testify even in the face of the sequestration

1 order. The decision whether to waive," W-A-I-V-E, "a
2 sequestration order for witnesses present during the trial
3 rest in the sound discretion of the trial judge."

4 In this case I conclude that the witness will be
5 allowed to testify. I'm not happy with the violation of
6 the order. It causes me a feeling of dislike for the fact
7 that the Court's order has been violated; but on the other
8 hand, they're major implications in regard to this
9 defendant so the witness will be allowed to testify.

10 Bring the jury out.

11 (WHEREUPON, the jury was returned to the courtroom at
12 approximately 1:15 p.m., and the following proceedings
13 commenced in open court.)

14 THE COURT: I hope you had a nice lunch, jurors.
15 I did not waste your 15 minutes. I've been dealing with
16 some matters here that required me to make some rulings in
17 your absence and I have done that. I promise you I was on
18 the Bench at 1:00.

19 All right, Counsel, you're recognized.

20 MR. MCLAURIN: Yes, sir, Your Honor. We would
21 call Rosa Williams to the stand.

22 THE DEPUTY CLERK OF COURT: If you will, ma'am,
23 place your left hand on the Bible raise your right.

24 WHEREUPON,

25 ROSA WILLIAMS,

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1 having been duly sworn by the Deputy Clerk of Court,
2 testified as follows:

3 THE DEPUTY CLERK OF COURT: Please be seated.

4 THE WITNESS: Thank you. May I say something to
5 you first please? I didn't know ---

6 THE COURT: I don't want to you say it in front
7 of the jury because ---

8 THE WITNESS: Okay, I'm sorry.

9 THE COURT: You and I -- you and I will talk
10 about that later.

11 THE WITNESS: Okay, I'm sorry.

12 MR. MCLAURIN: Please state your full name for
13 the record.

14 THE WITNESS: My name is Rosa Williams.

15 MR. MCLAURIN: If it please the Court.

16 **DIRECT EXAMINATION**

17 BY MR. MCLAURIN:

18 Q Ms. Williams, where do you currently reside?

19 A I live in Darlington at [REDACTED].

20 Q And how long have you lived at that particular address?

21 A Thirteen years.

22 Q And are you originally from that area?

23 A I'm originally from New York, but I've been here 13
24 years.

25 Q Okay. And your -- I think it's your nephew would be

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- 1 Lewis Williams; is that correct?
- 2 A Yes. Lewis is my nephew and so is Shakeem.
- 3 Q Shakeem who?
- 4 A Hakeem?
- 5 Q No.
- 6 A Cosco —
- 7 Q Shakeem Williams?
- 8 A Yeah, all three of them -- all three of them are my
- 9 nephew.
- 10 Q Okay. And tell us how you are related to Shakeem,
- 11 Hakeem, and Lewis Williams.
- 12 A I'm their aunt.
- 13 Q Okay. And so Shakeem Williams' mother would be your
- 14 sister?
- 15 A Yes.
- 16 Q Is that correct?
- 17 A Yes.
- 18 Q Okay. And are you employed?
- 19 A Not at the moment. I was a nurse assistant but now I
- 20 have got sick so right now I'm on SSI.
- 21 Q Okay. And do you help — who is your mother?
- 22 A My mother is Katherine Williams.
- 23 Q Okay. That would be Shakeem and Hakeem and Lewis'
- 24 grandmother; is that correct?
- 25 A Correct.

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1 Q Okay. And where does she live?

2 A She lived on Winston (ph) Square 17-A, Winston Square
3 in Darlington.

4 Q And how long she live at that residence, do you know?

5 A Longer than I have.

6 Q And do you have an opportunity to be over at her house?

7 A Yeah. She's a senior citizen. She's 74. I come over
8 there to clean up, cook, and take care of her, clean the
9 house, and all the above, fix her medicine.

10 Q Did you have an opportunity to be over at that house
11 around June 4th, 2008?

12 A Yes, I was.

13 Q Tell me the circumstances that of that day and where
14 you were that particular day.

15 A Well, that day I came over and Lewis was there and
16 my -- so was my mother. And we stayed there and watched
17 TV. And -- all their activities. He fixed dinner for me
18 and we just all sit around talking and having a good time.

19 Q What time did you get over at your mother's house that
20 particular day?

21 A I came 6:00. Then I left about 12 p.m.

22 Q All right. And during that particular time where was
23 Lewis Williams?

24 A He was there too.

25 Q And what were y'all -- tell me what Lewis Williams was

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1 doing during that period of time.

2 A Well, he was going in and out as normal. He's no —
3 'cause he don't like to keep still. He was going in and
4 out, and wherever he go he wouldn't go far or to the
5 laundry for my mother, for my mother, or either go
6 shopping for her and come right back.

7 Q Okay. Did y'all have an opportunity to watch a movie
8 that evening?

9 A Yes, we did watch movies.

10 Q What time did you watch a movie?

11 A Well, the movies — good movies come on cable just
12 about all times.

13 Q What time that particular evening were you watching a
14 movie?

15 A About six.

16 Q Okay. And who was watching the movie with you?

17 A Lewis and my grand — and my mother, I'm sorry.

18 Q What time did you watch the movie?

19 A Until about 12 at night.

20 Q And was Lewis there with you?

21 A Yes.

22 Q Do you have any idea that evening where Shakeem
23 Williams was?

24 A I have no idea.

25 Q How about Hakeem Costa?

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1 A I have no idea.

2 Q And so what time did you leave the house again?

3 A 12:00.

4 Q And when you left the house where was Lewis Williams?

5 A He was there laying on the chair.

6 Q I don't have anything further. Thank you.

7 A Thank you.

8 THE COURT: Cross exam.

9 CROSS - EXAMINATION

10 BY MS. PARR:

11 Q Ms. Williams, what is your date of birth?

12 A [REDACTED].

13 Q And how old are you?

14 A 53. I'll be 54 October the first.

15 Q Okay. And are you married?

16 A I was married for 30 years but I'm not now.

17 Q Okay. Now are you saying -- how long have been
18 disabled?

19 A Oh, about I'd say about ten years now.

20 Q Okay.

21 A Or longer.

22 Q - All right. You say you receive SSI?

23 A Yes.

24 Q Okay. What do you receive SSI for?

25 A Well, I have high blood pressure and I have a lot of

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- 1 other ailments that I don't wish to say at this point.
- 2 Q But are you on psychiatric medication?
- 3 A Sometime, not all the time.
- 4 Q Okay. I know you do not wish to disclose but it's
- 5 important.
- 6 A Yes.
- 7 Q What's the name of your diagnosis?
- 8 A My diagnosis like?
- 9 Q For your psychiatric medication?
- 10 A Sometime I get depressed because my husband left me
- 11 with my three children and he left me homeless and all of
- 12 the above, so sometime I get depressed and I talk to my
- 13 counselors about it.
- 14 Q And what type of -- and what's the name of your
- 15 medication?
- 16 A Sometime Zoloft.
- 17 Q Zoloft?
- 18 A Yes.
- 19 Q And what's the other one?
- 20 A Well, that's about it.
- 21 Q And how often do you go for treatment?
- 22 A Oh, I haven't been in about a year now.
- 23 Q Okay. But you still have this medication; is that
- 24 correct?
- 25 A Yeah, I have it, but I don't use it. You know, I just

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1 sometime when I'm feeling depressed or whatever. I guess
2 everybody go through that.

3 Q Okay. Now you say that on -- tell me, what were you
4 doing on June 4th of this year, 2009?

5 A June 4th of this year?

6 Q Uh-huh.

7 A Well, I probably was in the house 'cause I go to the
8 gym all the time and I go jogging. And I, you know, stay
9 at home take and care of my, you know, and take care of
10 myself.

11 Q Okay. So June 4th, 2009, okay. Can you tell us for
12 sure what you were doing that day?

13 A Yes.

14 Q Okay. Tell us for sure your actions that particular
15 day June 4, roughly 12 days ago.

16 A Twelve days ago I was at the gym. I exercise, I walk
17 around Darlington High School, and I come back home and
18 relax.

19 Q Okay.

20 A Try to stay out of the drama --

21 Q Okay.

22 A --of people.

23 Q All right. And so what time did you get back home?

24 A I got home about 12. I get home -- sometime 10. It
25 depend how fast I walk.

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- 1 Q Okay. And did you do anything else that day?
- 2 A No, once I'm in the house I'm in the house.
- 3 Q And now who takes care of your mother now?
- 4 A Well, most of the time, sometime -- I have eight
- 5 sisters. We take turns.
- 6 Q Okay.
- 7 A I still go over there.
- 8 Q Okay. Now I thought -- correct me if I'm wrong, but I
- 9 thought on direct examination you told Mr. McLaurin that
- 10 you always go over to your mom's house to take care of her
- 11 to give her medications and all the things of that nature.
- 12 A Yeah, that was then. That was then.
- 13 Q Okay.
- 14 A But I don't have transportation now 'cause I have a car
- 15 and walking over there is bad for my health. At that time
- 16 I had transportation.
- 17 Q Okay.
- 18 A If I can get around.
- 19 Q Okay.
- 20 A So I'm here today; it's about five miles.
- 21 Q Now how long have you known this case was pending?
- 22 A Oh, for quite a while.
- 23 Q Okay. And would it be fair to say almost a year you
- 24 knew about it?
- 25 A Yes.

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1 Q Okay. But and during that year you had heard that
2 Lewis was implicated in this; is that correct?

3 A Yes.

4 Q Okay. And a year ago when you knew about it that he
5 was there you're saying that you were with him that
6 evening; is that correct?

7 A Correct.

8 Q But did you ever think to go to the police department
9 and tell them that you were with him that night and it
10 couldn't have happened?

11 A See, the police didn't, they didn't come to me about
12 this situation, you know.

13 Q That's not my question. My question is, did you go to
14 them and tell them, no, my nephew was me that night.

15 A No, 'cause I didn't had to. Like I said, they didn't
16 come to my with that situation.

17 Q Okay. But did you not think it was important enough if
18 it was — if you were so certain that he was with you on
19 that evening and this would help him that you should have
20 gone to them and told them?

21 A Well, I agree, yes, but I wasn't going to leave my
22 mother alone.

23 Q Okay. Now you said you went to your mother but, and
24 you were going to your mother like 6 p.m. in the
25 afternoon.

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- 1 A Uh-huh, yeah, I had transportation then. Like I told
2 you I had a car then.
- 3 Q Okay. But you were not with your mother 24/7; is that
4 correct?
- 5 A No, I don't be with her 24/7.
- 6 Q So you agree there would have been ample time to have
7 gone to the police department and let them know that the
8 defendant was with you that night?
- 9 A Yeah, it would have been possible.
- 10 Q Okay.
- 11 A But I didn't know, but I didn't know this thing was —
12 I didn't know this was going on. Like I told you, I have
13 a lot of nephews and I didn't know who was doing what.
- 14 Q Just answer my question.
- 15 A Yes, ma'am.
- 16 Q But you knew she was she was charged with this crime;
17 is that not correct?
- 18 A Correct.
- 19 Q Okay. And here it is the eleventh hour that you've
20 come forward and say, no, he was with me; is that not
21 correct?
- 22 A Correct.
- 23 Q Now you remember a year ago so clearly that you all
24 were watching a movie and that you got there at 6:00 that
25 day?

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- 1 A Uh-huh.
- 2 Q And that you left at midnight that day?
- 3 A Right.
- 4 Q And do you keep a diary?
- 5 A No, I don't keep a diary but I have a diary about me
- 6 and my family.
- 7 Q Okay. Well, did you write this -- are you telling
- 8 this Court that you wrote down your, the fact that you
- 9 went to your mama that day?
- 10 A No, like I said, I don't have a diary of that but I
- 11 have a diary of myself.
- 12 Q Okay.
- 13 A But I have that in my head 'cause that's something you
- 14 would know naturally.
- 15 Q Okay. You would know naturally a year ago that you
- 16 went to your mama's from 6 to 12 midnight and that you
- 17 watched a movie and that Shakeem -- that the defendant
- 18 Lewis Williams was there the whole time?
- 19 A Yeah, 'cause he always be there. You know, he come in
- 20 and out. He always be there.
- 21 Q He always be there?
- 22 A Yes.
- 23 Q Okay. But you're not there all the time; is that not
- 24 correct?
- 25 A I'm there all the time.

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- 1 Q Ma'am, you don't live there, do you?
- 2 A No, I don't live there but you might —
- 3 Q And you didn't live there at that time either, did you?
- 4 A Well, that's my mother house. I can come there
- 5 whenever I feel like.
- 6 Q Ma'am, I understand that. My question to you was, did
- 7 you stay with your mother 24 hours a day?
- 8 A No, I didn't, no. I left at 12:30 Miss —
- 9 Q That particular night so you say.
- 10 A Yes, that particular night. Any other night I would
- 11 stay.
- 12 Q Pardon me?
- 13 A Any other night I would stay with her.
- 14 Q Okay. And are you saying that you stayed with her
- 15 every night until 12?
- 16 A No, not every night sometimes. Sometimes.
- 17 Q Okay.
- 18 A Uh-huh.
- 19 Q And did you go there every day?
- 20 A Yeah, when I had my car, yes. Yes.
- 21 Q But you didn't stay there the whole day when you went
- 22 there, did you?
- 23 A No, I didn't stay the whole day.
- 24 Q Okay. And you didn't think to tell them before today
- 25 that he was with you watching the movie that night, right?

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1 A No, ma'am.

2 Q And in fact, didn't back in maybe the end of April,
3 sometime in May, you went to Officer Barley but you still
4 didn't tell him that he was with you that night; is that
5 not correct?

6 A I didn't speak to him.

7 Q But you went to his office; is that correct?

8 A I went to his office, yeah, but I didn't speak to him.

9 Q Okay. While you were there, since you had come all the
10 way to Florence and sitting in the investigator's office,
11 knowing this case was getting ready to go to trial, you
12 didn't think it was important to tell the officer, oh, he
13 was with me that night?

14 A No, I did not think it was going to trial 'cause I
15 didn't know it was going to trial.

16 Q Okay. But you knew when you all went to his office it
17 was about this case, is that not correct?

18 A Yes.

19 Q Okay. And he was sitting there with you and you still
20 didn't think to tell him, oh, he was with me?

21 A No, no, huh-uh.

22 Q Okay. Nothing further, Your Honor.

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION

25

DW - R. WILLIAMS - REDIRECT

1 BY MR. MCLAURIN:

2 Q Ms. Williams, you didn't have any idea when Lewis

3 Williams was going to trial on this case, did you?

4 A No, I didn't have no idea. That's what I'm trying to
5 tell her.

6 Q And do you even know when he was charged?

7 A No, I didn't know nothing about it.

8 Q You found out about the case after he was charged?

9 A Yeah, about a couple of months later.

10 MR. MCLAURIN: I don't have anything further.

11 THE COURT: Recross.

12 MS. PARR: Yes, Your Honor. Your Honor, may we
13 approach.

14 THE COURT: Sure.

15 (WHEREUPON, counsel approached the Bench for an
16 off-the-record discussion.)

17 MS. PARR:

18 MS. PARR: And nothing further, Your Honor.

19 THE COURT: All right.

20 THE WITNESS: Your Honor. Your Honor.

21 THE COURT: Yes.

22 THE WITNESS: Can I please say something to the
23 people that --

24 MS. PARR: Your Honor.

25 THE WITNESS: I should get up, but I'd like to

DW - R. WILLIAMS - REDIRECT

1 say something please.

2 THE COURT: Well, I don't want it to mess up

3 this trial. Now ---

4 THE WITNESS: No, I want to apologize to the ---

5 MS. PARR: Your Honor, we ---

6 THE WITNESS: I just want to apologize to the

7 people for what my nephew had done to them and give them

8 my sympathy.

9 THE COURT: Okay.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Very well.

12 MS. PARR: Judge, that would be it from the

13 Defense.

14 THE COURT: All right, any reply testimony?

15 MS. PARR: The State does not have any, Your

16 Honor.

17 THE COURT: All right. Jurors, I know this

18 is rather quick, but I now have to take up some other

19 matters. It won't be very long, but if you will, please

20 go to your jury room.

21 (WHEREUPON, the jury was removed from the

22 courtroom at 1:32 p.m., and the following proceedings

23 commenced in open court.)

24 THE COURT: Motions by Defense?

25 MR. MCCLAURIN: Your Honor, we would once again

1 renew our directed verdict motion based on our witness
2 that we presented. We think she provided an adequate
3 alibi and ask that the Court consider a directed verdict
4 on that point. Thank you.

5 THE COURT: The motion is respectfully denied.
6 The precedent that is extant has already been identified
7 in the prior order and I simply reaffirm the prior order
8 in denying the motion for directed verdict. All right,
9 lawyers, we now have the charge identified for you that
10 you can use that in any way you want to in your argument
11 or summation. The State going to open and close?

12 MS. PARR: Yes, Your Honor.

13 THE COURT: Open and close?

14 MS. PARR: Yes, Your Honor. The State would
15 open on the law and then just close on the facts, and we
16 would do the last closing.

17 THE COURT: Give me some idea about how long the
18 argument will be for the State. It won't exceed an hour,
19 will it?

20 MS. PARR: Oh, no.

21 THE COURT: Okay. Well, Billy Graham can't do
22 it; I won't.

23 MR. MCLAURIN: I'd say 20 minutes, something
24 like that.

25 THE COURT: All right. Yes, ma'am.

1 MS. PARR: Your Honor, roughly that same amount
2 of time. No more than 30 minutes. Your Honor, but before
3 we do closing may I have an opportunity to go to the
4 bathroom.

5 THE COURT: Certainly. We'll just take a short
6 recess.

7 (WHEREUPON, a recess was taken from the proceedings.)

8 THE COURT: Bring the jury out.

9 (WHEREUPON, the jury was returned to the courtroom at
10 approximately 2:13 p.m., and the following proceedings
11 commenced in open court.)

12 THE COURT: Ms. Solicitor, you're recognized.

13 MS. PARR: Ladies and gentlemen, thank you for
14 the attention you have paid in this case for the last
15 couple of days. At this time I'm given an opportunity to
16 open on the law and is what I'm gonna do right at this
17 time is tell you some of what I think Judge Anderson will
18 charge you at the close of this case. I'm not going to go
19 over all of the charges because you will have that
20 opportunity to hear the complete charge when Your Honor
21 gives it to you. But I'm going to highlight the charges
22 that I think I should say. I think it's really important.
23 I really want you to pay attention to because all of the
24 charges are important. But I'm just going to highlight a
25 few of them. The judge will give you a number of charges,

1 one regarding the defendant's decision not to testify. He
2 will also give you charges on the credibility of the
3 witnesses and believability of the witnesses. He will
4 give you a charge on circumstantial evidence and on alibi
5 as well as many more, but he will also give you a charge
6 on the substantive law of this case. And the substantive
7 law is the crimes that actually were committed on the
8 charge. The defendant is charged with armed robbery. And
9 armed robbery is defined in our code of law section
10 16-11-330 as that armed robbery is defined as a robbery
11 committed while armed with a pistol, dirk, slingshot,
12 metal knuckles, razor, or other deadly weapon or while
13 allegedly either by action or words that the defendant had
14 such weapon when he is committing in the commission of a
15 robbery.

16 Now to convict someone of robbery the State must prove
17 that the defendant committed a robbery while armed and
18 also while taking something from someone. The judge will
19 also define larceny for you, and I'm not going to go into
20 that. The defendant is also charged with burglary first.
21 Burglary first is defined or is indicated or shown in
22 section 16-11-313 -- I'm sorry, 16-11-311(a) of the South
23 Carolina Code of Law, and it provides that a person is
24 guilty of burglary in the first degree if the person
25 enters a dwelling without consent and with the intent to

1 commit a crime in the dwelling either when in effecting
2 that entry into the dwelling or in immediate flight
3 thereafter he is armed with a deadly weapon or causes
4 physical injury to a person or uses or threatens the use
5 of a dangerous instrument or displays what is or appears
6 to be a knife, a pistol, revolver, or any other type of
7 firearm. Or two, that the burglary is committed by a
8 person with a prior record of two or more convictions for
9 burglary or house breaking or a combination thereof. Or
10 three, that the entering or remaining occurred in the
11 nighttime.

12 The defendant is also charged with possession of a
13 wep— a firearm during the commission of or attempt to
14 commit a crime of violence. If a person is in possession
15 of a firearm or visibly displays what appears to be a
16 firearm during the commission of a violent crime and is
17 convicted of committing or attempting to commit a violent
18 crime the defendant can be found guilty of that particular
19 charge. The judge will tell you that in order to convict
20 the defendant of this particular charge you have to find
21 that he was guilty of either the burglary first or the
22 armed robbery which are considered violent offenses in the
23 State of South Carolina. Now the State – the judge will
24 also charge you on what is known as the hand-of-one is the
25 hand-of- all. Under the hand-of-one the hand-of-all

1 theory one who joins with another to accomplish an illegal
2 purpose is liable criminally for everything done by the
3 confederate incidental to the execution of the common
4 design and purpose. A principal in a crime is one who
5 either actually commits the crime or who is present,
6 aiding, abetting or assisting in the commission of a crime
7 when two or more persons aid, abet, and encourage each
8 other in the commission of a crime all being present each
9 is guilty as a principal. We believe that this is an
10 extremely important charge in this particular case.

11 Now the judge will also tell you about reasonable
12 doubt. The State carries the burden of proof and that
13 burden of proof is beyond a reasonable doubt. And in
14 South Carolina a reasonable doubt is considered the kind
15 of doubt that would cause a reasonable person to hesitate
16 to act. And the term reasonable doubt is – should be
17 given its plain and ordinary meaning. Now at the close of
18 Mr. McLaurin's closing argument I will come back to you
19 and present a closing in regards to the facts of this
20 matter. Thank you.

21 THE COURT: Mr. McLaurin, you're recognized.

22 MR. MCLAURIN: Yes, sir. If it please the
23 Court, Ms. Parr. Members of the jury, about a month ago I
24 had the privilege to go to San Francisco with my wife, a
25 long weekend, and we got to go out to Alcatraz which is

1 the prison that's out there in the middle of San Francisco
2 bay there in San Francisco. We got on a ferry, went over
3 there. Unbelievable place when you get there. And they
4 told us stories about people who tried to make escapes
5 from the prison there. Told a story about this fellow
6 named Frank Morris. In 1960 Frank Morris arrived there in
7 Alcatraz and with a spoon began chiseling out around a
8 vent to try to get out the back of his jail cell. There
9 was a movie about it. Clint Eastwood did it called Escape
10 from Alcatraz. And eventually one night two years later
11 he had worked the vent so he could get through. He gets
12 out the vent, climbs up the piping, goes out on the roof
13 where he's got a life raft built out of rain coats there.
14 They get on the raincoat raft, go out the San Francisco
15 bay, never to be seen again. And it reminded me of this
16 particular situation, how when people are faced with jail
17 time, they're in jail, they do anything to get out.
18 Desperate people do desperate things when they're in jail.
19 They lie, beg, bar, steal, it doesn't matter, do anything
20 to get out of jail. In fact, you heard from the
21 co-defendants Shakeem Costa and Christian Richardson from
22 this witness stand over here. They told you out of their
23 own mouth, we would do anything to get out of jail. So,
24 anything? They've lied today. That would be something.
25 Then after that you heard how when they were initially

1 arrested they were in jail for about a month. Never been
2 in trouble like that before. That's a shocking thing for
3 somebody 16, 17 years old. You know, one day you're going
4 getting ready to go to graduation and next day you're in
5 jail. One day you're out at the skating rink talking to a
6 bunch of girls like juveniles young people do. Next time
7 you're in jail. You're going to school and the next thing
8 you know you're in jail. So you're sitting in jail for a
9 month and Officer Barley comes to them and throws a ham at
10 them. He doesn't say, tell me about the fourth person.
11 He just says was Lewis Williams there. He leads them; he
12 tells them. In fact, he told their parents a week earlier
13 that he was gonna talk to them about a fourth person. So
14 he planted a seed there. Certainly you'd feel more
15 comfortable if those two boys got up here on the stand and
16 told you, look, Officer Barley, I want to come clean with
17 you. I want to tell you it's been on my heart, I just
18 want to tell you that there was a fourth guy and it was
19 Lewis Williams. But that's not how it went down. They
20 were led right into this situation. Lewis Williams. And
21 then the light goes off: Oh, yeah, yeah, yeah, yeah, he
22 was there, no doubt he was there, sure, yeah, he was
23 there. So that's the response they got. The one, the one
24 pure moment in this case, the one pure moment where there
25 was no influence about convictions or time or anything

1 like that was in that moment when they were in Hakeem
2 Costa's house. They had gone over to his house. Hakeem
3 Costa and Christian Richardson had no idea that they were
4 going over there. And Officer Barley, as he testified on
5 the stand, he went in there. He didn't tell them about
6 the pending charges. He said he didn't want to do that.
7 So he just asked him open-ended questions. Nothing to be
8 fearful of. He just said what did you do last night. Who
9 were you with last night? Didn't say anything, you're
10 under arrest, we're charging you. He asked those
11 questions. That is a pure moment. There was no outside
12 influence at that particular moment. No reason to be
13 fearful for Hakeem Costa and Christian Richardson. None
14 whatsoever. And what was the response that you got? You
15 got Shakeem Williams, Hakeem Costa, and Christian
16 Richardson. That was the response. And while the State
17 has made a big deal about the fact they were in separate
18 rooms at that time and they rode separately, I think it's
19 better for our situation because these two boys didn't
20 have time to get together to talk. They were separated
21 and they gave the same exact story, same exact story, this
22 is the three that were involved. So that, ladies and
23 gentlemen, is the moment that you know that Lewis Williams
24 was not there because there was no outside influence in
25 this particular case.

1 Now these young boys, that particular evening they
2 thought in their immature minds that they didn't -- what
3 we did really wasn't that bad, I mean, we didn't shoot
4 anybody, we didn't -- all we took were credit cards, cell
5 phones, cash, purses, what we did really wasn't that bad.
6 Then you hear them where they called back and forth with
7 the victims. That's not something that a 28 year old man
8 does. That's something that juveniles do. They didn't
9 think they'd done anything that bad. But then it fell on
10 them like a ton of bricks. They found out what kind of
11 time they were facing, what they were up against. Serious
12 situation. They gave two statements that first day. That
13 morning they gave a statement when they were at Hakeem
14 Costa's house. We talked about that. Then they go to the
15 police station and they say the exact same thing in a
16 written statement tape recorded like you should do it so
17 you can memorialize it. And you heard every one of these
18 officers -- I asked all of them, how important is it to
19 get things in writing and how important is it to do it
20 very close in time to when the event happened. Every one
21 of them, when it's freshest in your mind that's when you
22 can rely on it the most. And at that moment it was
23 freshest in their mind at that particular time. So these
24 boys found out what kind of trouble they're in and all of
25 a sudden the story changes. And I want you to know now

1 these young men are the bad guys. They come to you and
2 told you what they did. They've confessed to you. In
3 fact, they were in so much trouble they had a potential
4 life sentence. They went into somebody's house. And the
5 victims say they were all dressed in black. You heard
6 both these boys say, we don't know, we had no idea where
7 we were going that night, we didn't know this was going
8 down. The victims there said they were dressed in black
9 with masks on. They go in. They cuss at them, threaten
10 to kill them, say you better fucking do like I say, I'm
11 gonna kill you. That's what the witness says; that's what
12 the victim says. So they take them in the house. Each
13 one of them participates. One is holding the gun.
14 Shakeem and Hakeem Costa -- or excuse me, Hakeem Costa and
15 Christian Richardson go to the back. Now I couldn't get
16 any one of them to hardly admit to anything about what
17 they did. I asked each one of them, did you go back there
18 and ransack the place and tear it up like the pictures
19 you're gonna have. You're gonna have these pictures back
20 there with you. You're gonna be able to look at them and
21 see, see the condition they left in the place. I mean, I
22 showed Hakeem Costa this picture, is this how you left it?
23 Oh, no, no, I didn't leave it like that. But you know
24 that's not the truth. If you're gonna cooperate --
25 (Juror's cell phone rings.)

1 THE JUROR: Oh, my God. I apologize. I had no
2 idea my phone was in my bag.

3 THE COURT: All right, give her the phone.

4 (PHONE IS HANDED TO BAILIFF.)

5 MS. PARR: If you are going to cooperate you
6 should be truthful about everything. You shouldn't hold
7 back the truth. That's how you know they're manipulating
8 the system. It work the system to their advantage. So
9 they're the bad guys. They're the ones who went back
10 there, flipped up mattresses, went through the house. And
11 the judge is gonna tell you in the end about the law in
12 the case and I've already explained to you about
13 reasonable doubt. You're required as you go through the
14 testimony to try to see if there's any other logical
15 explanation for the situation. You're required to second
16 guess the proof. You're the guardian for someone like my
17 client Lewis Williams to protect him in the system and to
18 hold the State to their burden of proof. You've seen all
19 the people that they've had helping them out over there.
20 They've got a lot of resources. You're our protector in
21 that sense so we ask as you go through it that you
22 continuously think about and evaluate that reasonable
23 doubt.

24 You also heard us talk about a big kind of legal word
25 proffer agreement. That was an agreement that was entered

1 into that basically said that you had a potential, a
2 potential life sentence and what we're gonna allow you to
3 plead to is a youthful offender act. Could be potentially
4 up to six years. That's a tremendous break for a young
5 person. That's a tremendous pressure for a young person
6 to come in here and be presented with a name of Lewis
7 Williams knowing that you could get that kind of break?
8 That's a lot of motive. That's a lot of doubt as to
9 whether you would actually tell the truth in that
10 situation. Then you have Christian Richardson say he was
11 gonna get ten months out of this. Ten months for people
12 that you know did something wrong. People that you know
13 went in and threatened these victims. Shameful for
14 somebody to be allowed to plead to something like that.
15 There's a lot of reasons for them not to give the correct
16 version of their story. So did they come clean in this
17 particular case? Did they tell the truth? Well, where
18 are the items that they admit that they took? You know,
19 if you thought if you were gonna really be honest and come
20 in here and testify and tell the truth and do those type
21 things that you would have returned items. You would have
22 said, yeah, I'll give them watches back, I'll find the
23 cell phones, I'll give them back. Instead, they're out
24 trying to sell cell phones to people. And you heard this
25 Ricardo Richardson name come up. And according to Hakeem

1 Costa, when he got on the stand he told this fellow
2 Ricardo Richardson everything that went down that night.
3 He told them about everything. He told them about who was
4 involved. Members of the jury, that's an important part
5 of this case because what did Ricardo Richardson tell the
6 police, two people were involved. He told them Shakeem
7 Williams and Hakeem Costa. Nowhere did you hear Lewis
8 Williams' name mentioned. And according to the
9 defendants, the co-defendants, this is who we told the
10 truth to. We told Ricardo Richardson everything; yet, he
11 only said those two names. So if Lewis Williams is this
12 big leader of this group, why didn't he end up with any of
13 the stuff? They didn't find anything. They didn't have
14 any proof that he had any of the items. And if, you know,
15 the thing that keeps going in my head, if he's this
16 tremendous, this leader, and they all testified that Lewis
17 Williams handed them masks, handed them the gun, I mean,
18 that's their second version of the story. He did -- he
19 handed them out and then called -- I think one of them
20 testified he called one of them back and told them to put
21 on the mask. They're all dressed in black; they go in
22 there. Why in the world if he's this leader, why would he
23 go up to the door without a mask on in a white shirt.
24 That doesn't make sense; that's not logical.
25 Members of the jury, when you come here today you bring

1 your common sense with you, your experiences from life.
2 And that doesn't add up for somebody to do that. That
3 just doesn't add a up. That adds up to be — I think one
4 of them testified, one of the victims said that whoever
5 did that was a dumb ass. That's what he said. I mean,
6 that just wasn't somebody who's this big leader like the
7 co-defendants have led you to believe. So they've
8 indicated to you that their motivation for lying in their
9 first statement was fearful. Well, the second Lewis
10 Williams' name was dangled out there for them. The second
11 it was dangled out there, they jumped all over it. That
12 doesn't sound like somebody who's fearful. And from the
13 beginning they gave up Shakeem Williams' name and he's
14 supposedly somebody to be fearful of. Didn't have any
15 hesitation doing that. There was no fear ever indicated.
16 If you were fearful and the police came to you and offered
17 you Lewis Williams' name, you may would say, let — I just
18 need to think about this, let me get back with you about
19 this, let me think about it some. You wouldn't jump all
20 over it like they did. Oh, yes, yeah, it's Lewis William,
21 no doubt about it.

22 The other critical point that even Officer Barley said
23 as these boys weren't forthright about what they took. In
24 the very first statements that Hakeem and Christian gave
25 Christian indicates that he took cash and a watch. That's

1 what he took. In fact, they asked him and he said
2 20-dollars is what I took. Second statement all of a
3 sudden it's just a watch. That shows you one thing, he's
4 thinking about, okay, how can I help myself out, how can I
5 make myself look better. I mean, there's no motivation
6 for lieing between those two things. And then you have
7 Hakeem Costa who in his first statement says the same
8 thing. He took watches and cash. Okay. And this is how
9 you know they communicate. Hakeem Costa in the second
10 statement says, just took, just took the watches, that's
11 it. Testifies on the stand, just took the watches. They
12 got together on the testimony. They were able to
13 communicate. They knew each other; they were best
14 friends. They had visitors; they had family coming. So
15 to me that tells you how they got together, talked about
16 it, were able to put their story together.

17 So one thing that you also need to think about is what
18 evidence was presented and then obviously what evidence
19 was not presented. There were no fingerprints that were
20 presented to you. There was not one thing that could
21 identify Lewis Williams as being there at that house. No
22 gun. You didn't see any gun. No mask. No cell phone
23 records. No video tape. And members of the jury, one of
24 the most important people that could have been here that
25 could have exonerated Lewis Williams were these girls that

1 were in the skating rink parking lot. Hakeem Costa said
2 he knew the girls. He says he told the police the girls.
3 Police say we didn't know anything about that. These
4 would have been the type witnesses that are important in
5 criminal cases, particularly when you've got to prove your
6 case beyond a reasonable doubt. When you've got to prove
7 that burden of proof you need independent witnesses not
8 involved in it, not having time hanging over their head.
9 You need those type witnesses when you do a case like
10 this. So those girls could have verified, yeah, he was in
11 the car. Just give me somebody that could verify that
12 he's in the car except for the two co-defendants.

13 And then you have the testimony of Rosa Williams who
14 tells you where Lewis Williams was that particular
15 evening. She got on the stand. She's his aunt. She's
16 also Hakeem Costa's aunt. So she tells you where he was
17 that night. He was over at grandmamas house. They were
18 watching movies. She gave him an alibi. She told you
19 that he was not there at that scene by saying that. She
20 proved it to you. They have to prove beyond a reasonable
21 doubt that he was at the scene. And you know, they may
22 try to come to you and say, well, that's his aunt, how
23 can -- she would be biased. Well, she didn't give that
24 same story about his brother Shakeem Williams. She didn't
25 say Shakeem Williams was there too. She didn't give the

1 story about Hakeem Costa, her other nephew. She didn't
2 know where they were. If she had a bias she would have
3 gotten up here and said, yeah, and I'll give you an alibi
4 on everybody, nobody was there. The police never
5 approached her about it. She had no idea when court was.
6 She's always maintained that this is what happened. So if
7 you've got a 28 year old like Lewis Williams -- and once
8 again, you think about it. Does it make sense for them to
9 be over at the skating rink at night like that talking to
10 some young girls, making phone calls to victims, going and
11 terrorizing a bunch of young college kids? That doesn't
12 make sense. You're to look at this with a critical eye as
13 you go through it and think about those type things.

14 I want to talk a little bit about the identity of Lewis
15 Williams and the judge is gonna tell you a little bit
16 about being able to identify people, victims being able to
17 identify. He's gonna give you what they call your jury
18 instruction. You heard Ms. Parr talking about jury
19 instructions, and he's gonna tell you that you're
20 obligated to make sure that that's a proper
21 identification. You're obligated to think about what was
22 the vantage point of the person who gave this
23 identification, what were circumstances surrounding it,
24 were there prior times that the person was not identified.
25 So you've got this scene that particular evening with the

1 victims there who, as I've indicated to you earlier, no
2 doubt, this shouldn't happen to anybody, absolutely no
3 doubt about it. But you've got the scene the victims are
4 there. I don't know how much drinking was going on; I
5 don't know. But there was some going on. You've seen the
6 pictures. There's beer cans there. You've got five of
7 them in a small apartment. So you've got these two men or
8 boys that come up in masks with guns in your face yelling
9 at you, cussing at you, threatening you. It's hard to
10 concentrate. You've heard how upset these victims were.
11 You've heard that continuously, crying, angry, and I don't
12 blame them. But you've heard how upset they were. Then
13 you've got all of a sudden a third person that runs in to
14 the room. It's just chaos. You've got them going back
15 there into the hallway going through the back rooms.
16 You've got the victims telling you that the lighting was
17 not good. And then you've got this person who knocks on
18 the sliding glass door. You've heard two people say that
19 person was kind of heavy set, white shirt, light skinned.
20 You've heard him say that twice. On the sliding glass
21 door now. Victims say that was one of their friends.
22 Hakeem Costs said that in the beginning. He confirmed
23 that in his first statement. In his first statement
24 Hakeem Costa says this person came to the sliding glass
25 door, heavy set, light skinned person in a white shirt,

1 came to the sliding glass door and it was one of their
2 friends. One of the people on the couch stood up and said
3 you better leave so he takes off. There's certainly doubt
4 there as to who was coming up to the doors. What doors
5 were they leaving in? There's no doubt. There was a
6 reasonable doubt there as to that situation. So you've
7 even got two of the people that were there who have
8 mistakenly identified people. You've got a story from one
9 of the victims that says I absolutely know that one of
10 those people went to West Florence with me. Do you give
11 me three years of annuals, I absolutely know I can find
12 them. I saw him; I know who it was. Then he says, well,
13 I was mistaken because I heard he was from Darlington, boy
14 from Darlington, I was mistaken on that, but I knew who it
15 was. Then you've got one of them who comes up and says
16 that the person who came to the door, the sliding glass
17 door was one of their friends. He thought it was one guy
18 but then it turns out it was somebody else. So it was
19 just a hard situation to see. You've got all of the
20 written statements that we've talked about, and I asked
21 Officer Barley about this. I asked him about it. You've
22 got all these written statements, all audio statements,
23 and at that time when it's freshest in your mind, when you
24 know what went on, they aren't able to describe any of the
25 fourth person. They aren't able to give any kind of

1 description of it. Nothing about clothes, color skin,
2 nothing about that, when the moment counted most. When
3 you record something, when, you know, when you're in front
4 of a police officer and you're writing down information
5 you want to be accurate with that particularly when you've
6 got these number of potential defendants and they describe
7 them in detail. The other ones. They say, you know,
8 light skinned, tall, what the hair looked like, what the
9 size was, they described all them in detail.

10 So I also asked Officer Barley about photo lineups and
11 the importance of a photo lineup and in a photo-line up,
12 as he said, you take who the potential defendant, is then
13 you put five other people with them that look similar to
14 him so you can see and compare and see this person so you
15 don't make a mistake. That's terrible -- that'd be
16 terrible to misidentify somebody and make a mistake
17 particularly in a high take situation like this. So
18 that's important. He said you have to do that so you
19 won't suggest who the person is. And I submit to you
20 there's nothing more suggestive as to who it is than when
21 you get in the courtroom and you sit beside me in the
22 courtroom. And I can tell you, you know, Sherelle Brooks
23 testified and she was the only one, the only one, in her
24 recorded statement who stated affirmatively I did not see
25 his face. The rest of them just really didn't describe it

1 one way or the other, but I asked her -- in fact, it was
2 twice in the recorded statement. She said, I did not see
3 his face. Then in her handwritten statement she
4 absolutely didn't describe him at all. So no wonder
5 nobody followed up with her. Because when you tell
6 somebody, when you tell an officer that on two different
7 occasions and they ask you twice about it and you say
8 affirmatively I can't see his face, then there's
9 absolutely no way you can identify. It's reasonable
10 doubt. There's certainly doubt there as to the legitimacy
11 of her identification. When you have a situation where
12 it's suggested and implicated as he's sitting here with
13 me, there's no photo lineup there. The police themselves
14 say that's important. You got to have that. You got to
15 have people to compare it to so you make sure you got a
16 true identification. Maybe it was just the pressure of
17 the moment. Maybe she was mad because I was asking
18 questions of her friends. Don't hold that against Lewis
19 the way I may have asked questions. I mean, I just don't
20 want you to do that. So the bottom line is that nobody
21 had a good look at him. Eight seconds was the testimony
22 about how long it took them to get in or how long his head
23 was in there. Eight seconds. Dark, three people going
24 around with guns, five people sitting there. It's a
25 hectic scene. And it's a hard thing to come into this

1 courtroom and say, I know for sure that was him.

2 So members of the jury, you may ask who was the fourth
3 person and there is some doubt whether there was even a
4 fourth person. It could have been the friend. I mean,
5 Sherelle Brooks said that the same person who knocked on
6 the sliding glass door knocked on the wood door, the same
7 person. That's who she says. All the other victims say
8 that was our friend who knocked on the sliding glass door.
9 The co-defendants say they ran out the sliding glass door
10 and that's where their buddy was. So it's just very
11 unclear, and you can't come to court with an unclear
12 situation into this courtroom. You can't do that when
13 reasonable doubt is the standard that should be applied to
14 the evidence. So if there was a fourth person, who was
15 it? Well, maybe it was Goose. Maybe that's who it was.
16 Nobody was ever here to identify Goose. You heard the
17 victims get on the stand and say, our leader said we
18 couldn't do it, Goose our leader said we couldn't do it.
19 Bet that's who it was. But the point of the matter is,
20 that there's doubt as to anything in this case.

21 Members of the jury, I want to thank you for the
22 opportunity to come before you today and the privilege and
23 honor of representing Mr. Lewis Williams. It's an
24 important day for him, and I appreciate the attention that
25 you've paid in this matter. You've been a wonderful

1 service to our system, and once again, as you get back
2 there in the your jury room I ask that you look over
3 things with a critical eye, that you take your time. It's
4 a serious day and it's his day in court and we certainly
5 do appropriate everything that you've done for us and will
6 continue to do for us. I'm not going to be able to come
7 back and argue anymore so I would ask -- this is my last
8 time in front of you. I would ask that you think about
9 the arguments that I've made and respond to Ms. Parr.
10 She's gonna get a chance to finish up because she has the
11 burden of proof. She has to prove everything so I ask
12 that you make those arguments in the jury room and thank
13 you for the attention that you've paid to this case.
14 We're gonna ask that you bring back a not guilty verdict
15 as to all the charges. Thank you.

16 THE COURT: Ms. Solicitor, you're recognized.

17 MS. PARR: Ladies and gentlemen, roughly one
18 year ago five individuals were at their apartment on
19 Toledo Scales Road and, yes, they're young college age
20 kids. They were hanging out. They were where they were
21 supposed to be and then the unthinkable. You think you're
22 minding your own business in your own house when you go
23 outside by your house to use your phone and someone comes
24 up and puts a gun in your back and asks for your stuff,
25 your wallet, wallet, what you have worked for, and use

1 profanity. That's what happened on June 5th of 2008.
2 Dale Barry Poston was outside minding his own business on
3 his own phone when Shakeem Williams, the brother of the
4 defendant David Williams, comes and puts a gun in his
5 back. And then Hakeem comes, Shakeem's first cousin, and
6 assists him. And when Corey Byrd just gone to check on
7 his friend, goes out to check on him, then he's also
8 robbed as well and made to go back to the apartment where
9 there are three other persons in there, Sherelle and
10 Jessica just watching television doing nothing. And then
11 Matthew Rogers, also known as Rudy, was in the — in his
12 room on the phone. All they think they're going to have
13 just a normal night and all this commotion occurs. And
14 why? Now I know the Defense says it doesn't make sense
15 for a 28 year old or one going to be 28 to have done these
16 things. Ladies and gentlemen, I just told you the basic
17 facts, the basic scenario what happened. But now let's go
18 back and look at it. Shakeem was graduating and earlier
19 that day you heard both Christian and Hakeem passed so
20 where the tenth grade school year is over they're getting
21 ready for going to 11th grade when school starts. And
22 early fall, late summer, none of that happens. Christian
23 and Hakeem were good friends. It wasn't unusual for them
24 to be together. Christian knew Shakeem because he was
25 Hakeem's cousin. But they were not friends. He goes over

1 there just hanging out watching TV. What happens? And
2 then Shakeem calls and says, you want to do something
3 because he's getting ready to graduate. Those two being
4 young guys thought they were going to find girls. That's
5 they told you that's what they were looking for girls, not
6 to rob anybody, but they were looking for girls and that's
7 what they thought they were going to see. But what
8 happens is instead is that Lewis Williams and Shakeem had
9 other ideas. But they used those young guys for their own
10 purpose. I know now Defense wants to make it seem like,
11 oh, it's that Lewis has nothing to do with it. He was
12 even beating up on his brother some, Shakeem. Now but I
13 submit to you that Shakeem, Lewis was much older than even
14 his brother 'cause Hakeem had just graduated from high
15 school, was getting ready to graduate that next day when
16 which had occurred. And he was being influenced by his
17 brother. We believe the evidence has shown that on this
18 particular evening that they were riding in Shakeem and
19 Lewis' mother's vehicle. Shakeem picked them up, and they
20 got with Lewis, then Lewis started driving. They did go.
21 They agreed they went by the skating rink, talked with
22 some girls, just hanging out, and they thought the girls
23 were going to call them so they could get directions to
24 meet them at some apartment. Both of them said the girls
25 never called. Now Mr. McLaurin wants to make it sound

1 like they really knew the girls really well. I submit to
2 you these little boys wanted to know the girls real well,
3 but the girls didn't want to know them and that's why they
4 didn't call them back. So it wasn't really names and
5 addresses or anything to provide the police officer 'cause
6 they couldn't even find the girls themselves that they
7 thought they were supposed to meet. Lewis decides that
8 they're gonna ride around Florence, and they do. Go over
9 on second -- on Irby Street over by the Super-Walmart to
10 those apartments there. And I submit to you that Barry
11 Poston was just probably just an innocent person. He just
12 happened to be there, happened to be in the wrong place at
13 the wrong time when they rode by. And when Lewis saw,
14 look, there's somebody outside right there, he's the
15 perfect target. What did he do? He didn't stop, park
16 right by him. He parked in the back and told Shakeem
17 there's someone out there to get. Didn't use those terms
18 but that's what he meant. You know, he's the older one so
19 he's not going to go in bat head when he had more to lose.
20 What's he going to do is send the young ones in and that's
21 what he did. He gave his brother, the person that
22 Mr. McLaurin wants you to think is the mature one and
23 wouldn't do any of this, I submit to you he's not the
24 mature one; he's the coward. He's the one who should be
25 ashamed. He had these three younger people, even his

1 younger brother to do what he was too coward to do
2 himself. No, instead he wants to direct and that's what
3 he did. He sat there. He provided the gun and provided
4 the bandannas and the masks. Now at first you both of the
5 them Shakeem and Christian said Christian didn't get out
6 there first. It was Shakeem's brother who was in the
7 front seat and Acosta and then Lewis sent the defendant --
8 sent Christian to see what was going on. Still being
9 coward. That's what it was, being coward. The mature
10 one. And then he is -- Christian Richardson a man to go
11 in. You heard it's not they inform said the victims never
12 said that it was Hakeem Acosta or Christian Richardson
13 doing the cussing. It was Shakeem Williams, the brother
14 of the defendant who threatened, Mr. Barry Poston. They
15 gave you the description as to which one. They all said
16 that it was Shakeem Williams who always had the gun,
17 nobody else. He was directing the traffic inside, the
18 next person in charge. He's the one that held them at
19 gunpoint. Yes, they took items from their apartment.
20 They took watches and money, wallet, and one of the lady's
21 purse. Now Mr. McLaurin want to say, well now they're
22 trying to make themselves look better. But I submit to
23 you, early on they were, Hakeem and Christian Richardson,
24 were the only ones man enough even though they were in
25 trouble and could have denied it, they never denied it.

1 They admitted their involvement, which is more than some
2 have done. They told -- they were -- when they were
3 confronted they told. Now they weren't giving anybody's
4 names up other than their own until the officer,
5 Investigator Barley, told them he knew about Shakeem
6 Williams already. And Investigator Barley got that name
7 from Ricardo Richardson because Ricardo was the one who
8 had talked to Shakeem and Hakeem, didn't know anything
9 about Christian Richardson. He just happened to be there
10 when the officers got there, and that was how they were
11 able to get him. But nobody volunteered any information.
12 They gave the least amount of information as they could at
13 first. And the only time that they gave anymore
14 information was if the officer had information and asked
15 them about it, but they weren't volunteering anything.
16 And I'll tell you that right now. They gave him just
17 enough, and the officer said that's not unusual. It's
18 just like when your children get in trouble, they don't
19 tell you everything at first. They tell you just enough
20 they. Know they're in trouble. They tell you just enough
21 so the spanking won't be that bad. But the more you ask,
22 then you might get information, and that's what happened
23 in this particular case.

24 Here, you know, I know it's been said that we gave them
25 a plea agreement, or plea offer, for Hakeem and Christian

1 Richardson. And it's not that the State don't think what
2 they did was bad because it is. You know, normally I
3 would say, you know, when you're trying the devil you have
4 to go to hell to get your witnesses. You know, here
5 though, it seems like it's more fitting to say you had to
6 go to the school yard to get your witnesses because that's
7 what it feels like. We had to go to — these boys should
8 have been in Darlington playing football this past year
9 and going to school. But instead, they're in jail because
10 they followed somebody older, and that's what happened.
11 But it's not to minimize what they did because that was
12 terribly wrong, but they did have the decency to admit
13 what they did. No — and they told honestly. And even
14 from that witness stand the judge will tell you to — it's
15 your duty to judge the credibility and believability and
16 observe the demeanor of the witnesses.

17 Now Investigator Barley said that every time he
18 interviewed them they were very nervous, afraid. And if
19 you observed them on that witness stand yesterday and
20 today, you can see for yourselves their demeanor. They
21 were not leaders. They were followers. And they didn't
22 tell Christian Richardson act like he was horrified
23 yesterday and said he knew that Lewis Williams was in a
24 gang and he was afraid that he was gonna get him and
25 that's why they didn't tell. Now Hakeem didn't say it at

1 first. He said he was his cousin; but then he finally
2 said he was afraid, and he was even afraid to say he was
3 afraid. He kept saying, well, you know how it is on the
4 streets. And what he was referring to was, when you
5 snitch you got people coming back at you. And he knew who
6 his older cousin was and he knew what his older cousin was
7 part of and capable of, and that's why he was afraid.

8 The Defense wants you to think that these boys had an
9 opportunity to get together and practice what their
10 statements were and things of that nature, but I submit to
11 you if that was the case then their statements would have
12 been more consistent but they weren't. And I tell you the
13 reason they were not is because they have been separated
14 since June 6th, 2008, when they were picked up at Hakeem
15 Costa's house. They've not been together. Now I know
16 Mr. McLaurin has said, well you know, he asked Sergeant
17 Hennigan, well you know, can't you pass notes and then
18 this happens and that they give notes. Well, you know, I
19 submit to you that's on TV. That ain't happening at the
20 detention center. Hakeem is in the juvenile area totally
21 separate from the general population. Not one time have
22 they been in the same area. They don't exercise together.
23 They don't eat together. In fact, everybody had their
24 meals in their own little room so to speak right in their
25 own pods. They don't go out for breakfast or lunch or

1 dinner or snacks. They're right in their own area. As
2 Sergeant Hennigan said, that just doesn't happen.

3 Ladies and gentlemen, I can go on and on and on and
4 this is a very serious case and that's why I would hope
5 that you find the defendant Lewis Williams guilty. It is
6 a very serious case not only because he had them old up,
7 five innocent people, but he used the others to do what he
8 was too cowardly to do. And as I said before, the Judge
9 will charge you about the hand-of-one is the hand-of-all.
10 I submit to you Lewis Williams is just as guilty as
11 Shakeem who held the gun on each one of those victims. He
12 is just as guilty as them going into their apartment
13 without consent while holding a gun on them because he
14 provided the gun, he knew about it, he waited for. And in
15 fact, when they were taking too long he went in and
16 checked on it himself to try to get them to come on out of
17 there because they were taking too long. All of the
18 victims said there was a fourth person. Some gave more
19 description than others. Some did not have as good a
20 vantage point to see, but they told you what they saw. It
21 was never any doubt from the night of this incident that
22 there was a fourth person and Sergeant -- and Investigator
23 Barley, I'm giving him a promotion, did his best to find
24 who that fourth person was. Now he could have stopped
25 because he had three people by then. He could have

1 stopped his investigation, but he didn't. He kept pushing
2 and pushing and pushing because it wasn't right to let the
3 fourth person go. And even though on that -- even that
4 first statement Hakeem gave, Hakeem Costa gave, he talks
5 about the fourth person and it's amazing but the
6 description he had fit the defendant but he didn't want to
7 tell the defendant's name. Now on the stand he said he
8 knew the whole time it was the defendant. That's not
9 something made up. We would ask that you look at that.

10 Now we have the defendant's alibi witness, Ms. Rosa
11 Williams, and said, oh, she's -- she is his aunt. She
12 could have -- she could have been -- she could have been
13 the alibi for Shakeem or Hacos-- I mean, Hakeem but she
14 didn't, you know, didn't do that 'cause she wasn't asked
15 to do that. Well, you know, it's because it's Lewis who
16 is on trial here today. But now the interesting thing is,
17 now she remembers clearly like it was yesterday, you know,
18 that they watched a movie for six hours. She remembers
19 that clearly. And now they didn't go anywhere, he was
20 there, and this and that. And you know, just out of the
21 blue she had all this recollection. And she knew this
22 case was pending for over a year, but not one time did she
23 go to the police and tell them. Okay, well, she said she
24 didn't go to the police, didn't think to go to the police.
25 Okay. But the interesting thing is she came up here in

1 April with David Lewis -- with Lewis David's momma to
2 Investigator Barley's office, sitting in the office then.
3 She had all this great information that was going to get
4 her nephew off of this hook but she didn't say a word.
5 You know, ladies and gentlemen, I ask you, that's a little
6 suspect. All of a sudden now she comes to court and is
7 going to give this great testimony. And she could have
8 done it in April, but she didn't do that. And she said,
9 well nobody ever talked to her. Okay, guess you can kind
10 of halfway buy that. But when she comes here sitting in
11 his office, still didn't tell him anything and I submit to
12 you, you know why? Because it just wasn't that way. She
13 don't have any clue where Lewis David Williams was on that
14 night as the man on the moon.

15 Now I know I've said a lot. It's because I feel so
16 strongly about this case. I would just ask that you
17 review all the evidence you have received and review the
18 testimony that's come before you. And once you've had an
19 opportunity to do that we would ask that you find the
20 defendant guilty on, as charged, of armed robbery,
21 burglary first, and possession of a weapon during the
22 commission of a crime of violence. Thank you.

23 THE COURT: Jurors, I'm gonna give you a choice.
24 It will take me about 45 minutes to charge you the law in
25 this case. Because the case behind you has been ended by a

1 plea of guilty I will let you do this. I'll charge you
2 today and we'll stay with the case today. Now once I
3 charge you you got to stay together. I'll charge you
4 today and we'll decide the case today or I'll wait till in
5 the morning to charge you at 9:00. So suppose you do
6 this, now majority rules on this. When you decide the
7 case it must be unanimous, totally unanimous, but I'll let
8 majority rule on this. Go to your jury room briefly and
9 don't talk about the case, don't talk about the case,
10 don't talk about the case. Just decide whether you want
11 to have me charge you and come right on back into the jury
12 room. I'm going to stay right here and wait on you.

13 (WHEREUPON, the jury was removed from the
14 courtroom at 3:18 p.m., and returned to the courtroom at
15 3:20 p.m.)

16 THE COURT: All right. Are we going to stay or
17 go home?

18 THE FORELADY: We're gonna go home.

19 THE COURT: Go home, okay. Do not discuss the
20 case among yourselves at all. Don't let anyone talk to
21 you about it. Don't have anything in the way of any
22 conversation. Hope you have a good night's rest. Would
23 you please come back at 9:00 and everybody be back 9:00 in
24 the morning. 9:00. Catch them the elevator. No one
25 leaving now but the jury. Have a good night's rest

1 everybody.

2 (WHEREUPON, the jury was removed from the
3 courtroom at 3:23 p.m., and the following proceedings
4 commenced in open court.)

5 THE COURT: Anything we need to put on the
6 record from the State standpoint?

7 MS. PARR: Nothing that I'm aware of, Your
8 Honor.

9 THE COURT: From Defense?

10 MR. MCLAURIN: Nothing from Defense. Your
11 Honor.

12 THE COURT: All right, 9:00 tomorrow.
13 (Court adjourned at 3:23 p.m. and resumed on June 18, 2009
14 at 9:06 a.m.)

15 THE COURT: We are waiting the arrival of the
16 defendant. Good morning, everybody.

17 THE BAILIFF: Judge, we're still missing one
18 juror also.

19 (Pause.)

20 THE COURT: Okay. Lawyers, you better start
21 thinking about that now, in terms of this juror that's
22 missing. We obviously can go to an alternate without any
23 problem. In addition to the defendant you might take a
24 look at your list. I think it's the individual from
25 Johnsonville.

1 (Roll call of the jury was done by clerk.)

2 THE DEPUTY CLERK OF COURT: Patrick Stone.

3 MR. MCLAURIN: 130.

4 THE COURT: 130, Patrick Stone. As soon as the
5 defendant gets here I'm going to be ready to roll,
6 lawyers, so be thinking, cogitating, ruminating, or
7 whatever. I do want to make a statement. I was apprized
8 by law enforcement that there's been some bickering back
9 and forth between the parties and sides or whatever. I
10 was told there was some bickering back and forth. You
11 better cut that out. I tell you what, if I have that
12 occur in my courtroom I'm going to send somebody with a
13 free trip to Effingham Hilton, and you might not like the
14 food at Effingham Hilton. So you better cut it out. If
15 you're in the courtroom and you had some bickering back
16 and forth you better cut it out.

17 Ms. Court Reporter, just put on the record that I
18 warned them and I don't give them but one warning, then
19 I'm gonna load the truck to Effingham. You officers got
20 it?

21 THE DEPUTY: Yes, sir.

22 THE COURT: Anymore bickering, don't ask me,
23 take them into custody.

24 THE DEPUTY: Yes, Your Honor.

25 THE COURT: Put them in the holding cell. I

1 don't care who it is.

2 THE OFFICER: Your Honor, I've been advised 25
3 minutes.

4 THE COURT: All right, lawyers, Ms. Clerk states
5 that -- the Clerk advises me that she talked to Mr. Stone
6 personally. His battery died in his vehicle. He's got
7 something in the way of a replacement and he is supposedly
8 on the way now. We don't have the defendant here so we
9 can just make a decision once the defendant gets here. I
10 want to go but we'll just see. Maybe they'll arrive at
11 the same time, the way things are going. If the defendant
12 gets here before the juror from Johnsonville I'm going
13 ahead so just be prepared. Look at the first alternate.

14 (Pause.)

15 THE COURT: Bring the jury out.

16 (WHEREUPON, the jury was returned to the courtroom at
17 approximately 9:42 a.m., and the following proceedings
18 commenced in open court.)

19 THE COURT: Good morning, jurors, let the record
20 show that juror number 130, Patrick Stone, is replaced by
21 Tiffany Cade.

22 Move down one chair, Ms. Cade. You're an official
23 member of the jury at this point, an official member of
24 the jury. All you jurors feeling well? Everybody feeling
25 okay? Jurors, please turn and face me and please give me

1 your attention. The State of South Carolina charges or
2 accuses this defendant with three separate offenses:
3 Armed robbery, burglary in the first degree, and
4 possession of weapon during the commission of a crime of
5 violence. You must separately and distinctly evaluate
6 these charges. You must separately and distinctly reach a
7 verdict on these charges, and the verdict must be
8 unanimous in regard to each one of the charges, totally
9 unanimous.

10 Madam Forelady, you're required to sign the verdict
11 form. Do not sign under any circumstance unless all
12 twelve agree to that charge. The indictment is not
13 evidence, does not prove anything in this case. It's
14 simply the charging paper that brings the matter for court
15 action. To this indictment and to all charges this
16 defendant has pled not guilty. That plea of not guilty
17 places the burden of proof upon the State of South
18 Carolina to prove the defendant guilty beyond a reasonable
19 doubt. The defendant is presumed to be innocent unless
20 and until the State has established guilt beyond a
21 reasonable doubt. A person charged with committing a
22 criminal offense in South Carolina is never required to
23 prove himself innocent. The defendant is presumed to be
24 innocent and that presumption of innocence remains with
25 the defendant at all times throughout the trial and goes

1 into your jury room and remains with the defendant there
2 unless and until you, the jury, remove the presumption of
3 innocence by evidence satisfying you of the defendant
4 beyond a reasonable doubt. This presumption of innocence
5 is the legal proof of innocence, and this presumption of
6 innocence is a very important constitutional principle.
7 The burden of proof is upon State of South Carolina to
8 establish guilt by evidence to your satisfaction beyond a
9 reasonable doubt.

10 What is a reasonable doubt? A reasonable doubt is the
11 kind of doubt that would cause a reasonable person to
12 hesitate to act. What is a reasonable doubt? I repeat
13 again for the sake of emphasis, a reasonable doubt is the
14 kind of doubt that would cause a reasonable person to
15 hesitate to act.

16 By the constitution and laws of the State of South
17 Carolina you, the jury, are the sole judges of the facts
18 and evidence in this case. I am not permitted to intimate
19 any opinion that I may have in this case as to the facts.
20 I tell you now I do not have an opinion in regard to the
21 facts, and I am not entitled to an opinion under the
22 constitution. I have made some trial rulings on matters
23 of evidence or objections in your presence. Please do not
24 derive any inference from any ruling I have made as to any
25 opinion or feeling that I might have on the facts. I

1 repeat again for the sake of emphasis. I am not entitled
2 to an opinion on the facts under the constitution.

3 In determining what the facts are in this case you of
4 necessity must pass upon the credibility of the witnesses
5 who took this witness stand. You're the sole judges of
6 the credibility of the witnesses. Credibility in the law
7 means believability. Can I believe this witness? Is this
8 witness credible? The value and weight to be given to
9 their testimony is in your sound discretion. You alone
10 must decide the force and effect and the truth of the
11 testimony. In making a determination as to the
12 credibility of a witness there are many factors that you
13 may and should take into consideration such as the
14 appearance and manner of the witness on the witness stand
15 itself known in the law as the demeanor of the witness.
16 Did the witness have an interest in the outcome of the
17 trial? Was the witness forthright or hesitant? Was the
18 witness' testimony consistent or did it contain
19 discrepancies? What was the ability of the witness to
20 know about the facts concerning which he or she gave
21 testimony? Did the witness have a cause or reason to be
22 biased or prejudiced in favor of the testimony that he or
23 she gave? Was the testimony of the witness corroborated
24 and made stronger by other testimony and evidence, or was
25 it made weaker and impeached by other testimony and

1 evidence presented. Remember, you are the sole judges of
2 the facts and evidence in this case and the believability
3 of any and all the witnesses.

4 As jurors you have the right to believe a small portion
5 of a witness' testimony and disregard the larger part, or
6 you may believe a larger portion of a witness' testimony
7 and disregard the smaller part. You may believe a
8 witness' testimony in its entirety or you may completely
9 reject a witness' testimony in totality, not doing that
10 arbitrarily but if you have sound reason in the record for
11 doing so. You may believe the testimony of a single
12 witness against many witnesses or many witnesses as
13 against the one. Most certainly you do not determine the
14 matter of credibility or believability merely by counting
15 the number of witnesses for either side. Throughout this
16 entire process you have but one single objective, and that
17 is, to seek the truth regardless from what source that
18 truth may come.

19 By the very same constitution and laws which make you
20 the finders of fact and evidence in the case, I am as the
21 trial judge made the sole and only instructor in the law.
22 Under the oath that you took you must accept as correct
23 the law as I charge it to you. In that regard, neither
24 you nor the Court should be concerned with what the law
25 ought to be in this state, but rather, what the law

1 actually is and what I charge you the law to be. The
2 defendant is entitled to every inference in his favor
3 which can reasonably be drawn from the evidence. When two
4 inferences may be drawn from the same set of facts, one
5 consistent with a verdict of guilty and one inference
6 consistent with a verdict of not guilty, the defendant is
7 entitled to the inference which is consistent with a
8 verdict of not guilty. You cannot find this defendant
9 guilty based upon suspicion, conjecture, or speculation no
10 matter how strong. A conviction can only be based upon
11 proof of guilt beyond a reasonable doubt. And if the
12 proof does not meet that standard you must find the
13 defendant not guilty.

14 There are two kinds of evidence in the law. They both
15 are equally good in the law. They are direct evidence and
16 circumstantial evidence. And on a contested factual issue
17 that you now decide in this case you may have some direct
18 evidence on that point and some circumstantial evidence on
19 that point, thus, a combination of the types of evidence.
20 Direct evidence, what is it? Direct evidence is the
21 testimony of a person who asserts or claims to have actual
22 knowledge of the fact such as an eyewitness.
23 Circumstantial evidence, what is it? Circumstantial
24 evidence is proof of a chain of facts and circumstances
25 indicating the existence of a fact. The law makes

1 absolutely no distinction between the weight or value to
2 be given to either direct or circumstantial evidence, nor
3 is a greater degree of certainty required circumstantial
4 evidence than of direct evidence. You should weigh all
5 the evidence in the case. And after weighing all the
6 evidence, if you're not convinced of the guilt of the
7 defendant beyond a reasonable doubt you must find the
8 defendant not guilty.

9 The defendant in this case has not testified. That is
10 his constitutional right. It is not a circumstance you
11 can take into consideration or even allow to enter into
12 your discussion in the jury room. Under the Constitution
13 of the United States and the Constitution of South
14 Carolina it is the defendant's constitutional right not to
15 testify. The burden of proof is upon the State of South
16 Carolina to establish his guilt by competent evidence
17 beyond a reasonable doubt. The fact the defendant did not
18 take the witness stand and testify in his own behalf does
19 not create any inference against him. The jury must not
20 permit that fact to weigh in the slightest degree against
21 this defendant. Nor should this fact enter into the
22 discussion or deliberations of the jury in any manner. I
23 repeat again, do not discuss that matter in the jury room.

24 The pending charges. Armed robbery is a statutory
25 offense. The statutes are passed by the general assembly

1 in Columbia and they are contained in this array of books
2 to my left called the Code of Laws of South Carolina.
3 Armed robbery, the defendant is charged with armed robbery
4 under Section 16-11-330 of the Code of Laws of South
5 Carolina. Section 16-11-330 provides: "Armed robbery is
6 defined as a robbery committed while armed with a pistol,
7 dirk, slingshot, metal knuckles, razor, or other deadly
8 weapon or while alleging either by action or words, he was
9 armed while using a representation of a deadly weapon or
10 any object which a person present during the commission of
11 the robbery reasonably believed to be a deadly weapon."
12 To convict the defendant of armed robbery the State must
13 prove the defendant: One, committed a robbery; two, while
14 armed with a pistol or other deadly weapon; or three,
15 while alleging either by action or words he was armed
16 while using a representation of a deadly weapon or any
17 object which a person present during the commission of the
18 robbery reasonably believed to be a deadly weapon.
19 Robbery is larceny from the person or immediate presence
20 of another by violence, intimidation, or by putting such
21 person in fear. A thing is in the presence of a person in
22 respect to robbery which is so within his reach
23 inspection, observation, or control that he could if not
24 overcome by violence or prevented by fear retain his
25 possession of it. Robbery is basically larceny compounded

1 or aggravated by intimidation or force used in the taking
2 of property from the person or in the presence of another.
3 Larceny is the felonious taking and carrying away of the
4 goods of another against the owner's will or without his
5 or her consent with the intent to appropriate them to
6 one's own use and to permanently deprive the owner of
7 possession of his property.

8 There are five elements the State must establish beyond
9 a reasonable doubt to prove larceny. Each of these
10 elements must be present to make out the crime of armed
11 robbery. The elements of larceny are: One, a taking;
12 two, the act of carrying the property away. This is
13 called asportation in the law. Asportation is the act of
14 carrying away. Three, of the personal property of
15 another. Four, without the consent or against the will of
16 the owner. And five, with the intent to steal. The
17 asportation of stolen property is an indispensable element
18 of larceny and can be established by the slightest removal
19 of the property with felonious intent. The defendant must
20 intend to permanently deprive the owner of possession by
21 converting the property to his own use.

22 In addition to the elements of larceny, the crime of
23 robbery requires two additional elements. These are:
24 One, the property must be taken from the person or
25 immediate presence of another; and two, the taking must be

1 accomplished by violence, intimidation, or by putting the
2 person in fear. This violence must be actual personal
3 violence or the threat of it. The degree of force used is
4 immaterial so long as such force or threat of force is
5 actually sufficient to overcome the victim's resistance.
6 This violence or intimidation must either precede or be
7 contemporaneous with the taking. Finally, to constitute
8 armed robbery the State must show the additional element
9 that the robbery was committed while armed with a pistol
10 or other deadly weapon.

11 What is a deadly weapon? That is factual matter that
12 the jury must decide or determine. You must answer that
13 question factually based on the evidentiary record before
14 you. A deadly weapon is any article, instrument, or
15 substance which is likely to cause death or great bodily
16 harm. Whether an instrument or object has been used as a
17 deadly weapon depends on the facts and circumstances of
18 each case.

19 Burglary, first degree. What is burglary first degree?
20 Once again, we go to the statutory laws of this state.
21 The defendant is charged with first degree burglary.
22 Section 16-11-311, Subsection A of the South Carolina Code
23 of Laws provides: "A person is guilty of burglary in
24 first degree if the person enters a dwelling without
25 consent and with intent to commit a crime in the dwelling

1 and either, one, when in effecting entry or while in the
2 dwelling he or another participant in the crime is armed
3 with a deadly weapon; or, or, the entering or remaining
4 occurs in the nighttime. Under the statute the State must
5 prove the following four elements in order to establish
6 burglary in the first degree. The State must prove each
7 element beyond a reasonable doubt. If the State fails to
8 prove any single element you cannot find the defendant
9 guilty of first degree burglary. One, entry; and two, a
10 dwelling. The State must show there was an entering; that
11 is, the defendant actually went inside the dwelling or
12 some part of it. However, entry is not confined to
13 intrusions of the whole body. The slightest entry is
14 sufficient, and it may consist of insertion of any part of
15 the body or any instrument under the defendant's control.
16 An entry may be accomplished, for example, by the
17 insertion of a hand, finger, foot, or an implement such as
18 hook or pole. No force need be used to gain entry.
19 Literally, entry is the act of going into the place. But
20 the word has a broader significance in the law of burglary
21 for an entry may be accomplished by merely putting through
22 a portion of the body into the dwelling. The place
23 entered must be a dwelling.

24 With respect to burglary Section 16-11-10 of the South
25 Carolina Code of Laws defines: "Dwelling house, as any

1 house, outhouse, apartment, building, or erection in which
2 there sleep a proprietor or tenant or person who lodges
3 there with a view to the protection of property. Two,
4 without consent. The entry must have been without
5 consent. Enters a dwelling without consent means to enter
6 without the consent of the person in lawful possession.
7 In addition to the normal meaning of entry without
8 consent, the phrase also includes entering by using
9 deception, artifice, trick, or misrepresentation to gain
10 consent to enter from the person in lawful possession.
11 Three, with the intent to commit crime therein. There
12 must have been an intent to commit a crime, any crime, a
13 felony or misdemeanor whether or not that crime was
14 actually committed. The mere entry into a dwelling
15 without consent is not sufficient to constitute first
16 degree burglary. There must have been an intent to commit
17 a crime once inside. Further, it is not sufficient that
18 the intent to commit a crime was formulated after entry.
19 To convict the defendant of first degree burglary you must
20 find that at the time he entered the dwelling the
21 defendant intended to commit a crime once they're in. The
22 defendant's actions after he entered the dwelling can be
23 evidence used to determine if he had the intent to commit
24 a crime at the time of entry.

25 Proof of intent necessarily rests on inference from

1 conduct. It does not matter that the intended crime was
2 not completed. Where the intent exists at the time of the
3 entering it is no defense that the intent was abandoned
4 after the entry because the entering with intent to
5 complete a crime to make -- completes the offense of
6 burglary. What does criminal intent mean in the law?
7 Criminal intent is a state of mind which operates jointly
8 with an act or omission in the commission of a crime.
9 Criminal intent is a mental state of conscious wrongdoing.
10 Criminal intent includes those consequences which: A,
11 represent the very purpose for which an act is done; or B,
12 are known to be substantially certain to result regardless
13 of one's desire. Intent may be shown by acts and conduct
14 of the defendant and other circumstances from which you
15 may naturally and reasonably infer intent.

16 Four, presence of an aggravating circumstance. If you
17 find the defendant entered a dwelling without consent and
18 with the intent to commit a crime therein, you must then
19 find the presence of at least one of the following
20 aggravating circumstances in order to convict a first
21 degree burglary. Only one of these circumstances needs to
22 be present. I repeat again, only one of these
23 circumstances needs to be present. The aggravating
24 circumstances are: One, while entering or while in the
25 dwelling the defendant or a co-participant either is armed

1 with a deadly weapon or the burglary was committed in the
2 nighttime. The entering or remaining occurs in the
3 nighttime.

4 The final charge is the third charge, possession of a
5 firearm during the commission of a violent crime. The
6 defendant is charged with possession of a firearm during
7 the commission of a violent crime. Once again, we go to
8 the statutory laws of the State. Section 16-23-490 of the
9 Code of Laws provides: "If a person is in possession of a
10 firearm or visibly displays what appears to be a firearm
11 during the commission of a violent crime and is convicted
12 of committing the violent crime is guilty of a violation
13 of this law." Under this law you must find the defendant
14 used a firearm and that he committed a violent crime while
15 in possession of the firearm, and I charge you under the
16 law of this State burglary and armed robbery, both are
17 defined as violent crimes under the law of the State.

18 Hand-of-one hand-of-all What is the doctrine of the
19 hand-of-one hand-of-all? The doctrine of hand-of-one
20 hand-of-all is the law of South Carolina. Under the
21 hand-of-one the hand-of-all theory one who joins with
22 another to accomplish an illegal purpose is liable
23 criminally for everything done by his confederate
24 incidental to the execution of the common design and
25 purpose. A principal in a crime is one who either

1 actually commits the crime or who is present aiding,
2 abetting, or assisting in the commission of the crime.
3 When two or more persons aid, abet, and encourage each
4 other in the commission of a crime, all being present,
5 each is guilty as a principal. Prior knowledge that a
6 crime is going to be committed without more is not
7 sufficient to make a person guilty of that crime. The
8 mere knowledge that another person's going to commit a
9 crime, even if the defendant is present when the crime is
10 committed, is not sufficient to convict the defendant as a
11 principal. Guilt as a principal is shown by actual or
12 constructive presence at the scene as a result of a prior
13 arrangement. The State must prove beyond a reasonable
14 doubt by competent evidence the theory of the hand-of-one
15 is the hand-of-all. A principal in a crime is one who
16 either in person perpetrates the crime or who being
17 present aids, abets, and assists in the commission of that
18 crime. When a person does an act in the presence of and
19 with the assistance of another, the act is done by both;
20 the act is done by all. Where two or more acting with a
21 common design or common intent are present at the
22 commission of a crime it matters not by whose immediate
23 agency that crime is committed because all will be guilty.
24 The hand-of-one is the hand-of-all Present means to be
25 sufficiently near to aid and abet and assist in the

1 commission of the crime.

2 However, mere presence at the scene is not sufficient
3 to convict one as a principal on the theory of aiding and
4 abetting. Intent is also a necessary element for there
5 must have been a common design or intent to commit the
6 crime, and the crime must have been committed pursuant
7 thereto with the person aiding and abetting by some overt
8 act. Intent may be shown by acts and conduct of the
9 defendant and other circumstances from which you may
10 naturally and reasonably infer intent. If two or more
11 combine together to commit an unlawful act and in the
12 execution of that criminal act a crime is committed by one
13 of the actors as a probable and natural consequence of the
14 acts done in pursuance of the common design, all present
15 participating in the unlawful undertaking are as guilty as
16 the one who commits the acts.

17 Identification. An issue in this case is the
18 identification of the defendant as the perpetrator of the
19 crime charged. The state of South Carolina has the burden
20 of proving identity beyond a reasonable doubt.
21 Identification testimony is an expression of belief or
22 impression by a witness. You may consider the opportunity
23 a witness had to observe the alleged offender at the time
24 of the offense and to thereafter make an identification.
25 It is for the jury to determine the accuracy of the

1 identification of the defendant. You must consider the
2 credibility of each identification witness in the same way
3 as any other witness. You can consider his or her
4 truthfulness as well as the capacity, opportunity, and
5 circumstances of the observation of the matters about
6 which he or she testified.

7 Alibi. The defendant in this case has raised a defense
8 of alibi. Alibi means the defendant was not at the scene
9 of the crime at the time it was committed but was
10 elsewhere and had nothing to do with it. The word alibi
11 is a Latin word and it means elsewhere. There's no burden
12 upon the defendant to prove that he was not at the scene
13 of the crime. There's no burden upon the defendant to
14 prove his alibi. The defendant need not prove he was
15 somewhere else. The burden is on the State to prove
16 beyond a reasonable doubt that the defendant was present
17 at the scene of the crime, actually participated in the
18 crime and was not somewhere else. Thus, the State has the
19 burden of proving beyond a reasonable doubt that defendant
20 was present and participated in the commission of the
21 crime. The State has the burden of disproving the
22 defendant's alibi defense.

23 Madam Forelady and members of the jury, I have three
24 verdict forms that I now present to you. Madam Forelady,
25 give me your special attention because you must sign the

1 form on the part of the jurors. Madam Forelady, do not,
2 do not, do not sign any form unless all twelve freely and
3 voluntarily agree to that verdict on that charge. Your
4 signature guarantees to the Court what you sign is, in
5 fact, a unanimous verdict by all twelve. All twelve
6 jurors must agree on the jury verdict. Unanimity is
7 mandated by the constitution. The order of presentation
8 has no significance. Of necessity I must give them to you
9 in some order. On the top of the form I have what we call
10 the caption in the law. It identifies the caption of the
11 case and the name of the defendant. Number one says not
12 guilty, and this relates to the charge of armed robbery.
13 If the jury unanimously, all twelve agreeing, all twelve
14 concurring, finds the defendant not guilty of armed
15 robbery, Madam Forelady sign number one which says not
16 guilty, sign above the line where we have typed
17 foreperson. The next, Number two says, guilty of armed
18 robbery. If the jury unanimously finds the defendant
19 guilty of armed robbery sign number two. And you can see
20 this relates to armed robbery. It says armed robbery.
21 The next form relates to burglary. Once again, number
22 one says not guilty. The jury unanimously, all jurors
23 concurring and agreeing finds the defendant not guilty of
24 burglary in the first degree then sign number one. Or
25 number two, guilty of burglary first degree. Place for

1 the foreperson to sign. And of course you must date it,
2 Madam Forelady, hopefully today. And finally, not guilty
3 in regard to possession of a weapon during the commission
4 of a violent crime; or two, guilty of possession of a
8 weapon during the commission of a violent crime, those
6 options.

7 Are all jurors feeling well? Why would I ask you that
8 question. Well, it is that I'm going to keep you together
9 now as you work on the jury verdict. If you're not
10 feeling well you need to tell me now so that I can use
11 Ms. Robinson. Anyone not feeling well raise your hand.
12 Lift your hand if you're not feeling well. Left your
13 hand.

14 (There was no response.)

15 THE COURT: Any juror anticipate any problems
16 staying with the case? Any jurors anticipate any
17 problems, lift your hand.

18 (There was no response.)

19 THE COURT: Slide your hand up.

20 (There was no response.)

21 THE COURT: Let the the record show no response.
22 I'm willing to put Ms. Robinson in your place. Tell me
23 now. I can't do it later, can't do it later. Once I send
24 you to the jury room it's over then. Now while you
25 deliberate, Madam Forelady, and members of the jury,